



CAROLINE TAMWORTH PLANNING

Planning and Development

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL AGAINST MANCHESTER CITY COUNCIL'S REFUSAL OF HOUSEHOLDER
PLANNING APPLICATION 140290/FH/2024 FOR THE ERECTION OF
OUTBUILDING**

24 AMHERST ROAD, MANCHESTER, M20 4NS

APPELLANT'S STATEMENT OF CASE

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On Behalf Of

Mr M. Miah

CT:1232

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1.0 The Site

1.1 The appeal relates to a two storey semi-detached dwelling situated towards the southern end of Amherst Road, close to its junction with Mauldeth Road.

1.2 The dwelling is faced with brick and render and has a double storey bay window with a pitched roof above to the front elevation.



Front elevation of No. 24 Amherst Road



Rear elevation

1.3 There is a paved driveway to the front and a large, enclosed garden to the rear. Much of the rear garden area of the appeal site is surrounded by mature trees and vegetation. The rear garden areas of No's 36 – 40 Mauldeth Road bound the site to the north, the rear garden of No. 34 Mauldeth Road to the west and the rear garden area of the adjoining dwelling No. 26 Amherst Road to the south. The appeal site is set lower than the land and dwellings to the north.

1.4 A site location plan is provided at Document No. 1.

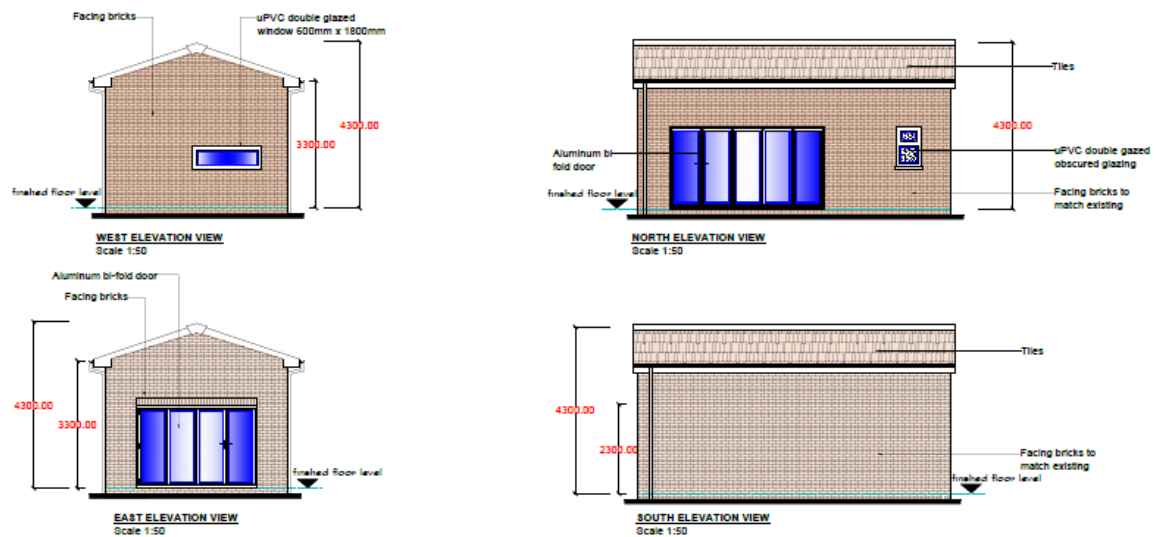
2.0 The Proposal

2.1 Householder planning permission is sought for the erection of the partially constructed outbuilding within the rear garden.

2.2 The outbuilding will provide ancillary domestic living space to be used by the appellant and his family for recreational activities and domestic storage. The building will be faced in

brick and have a tiled pitched roof. The northern and eastern elevations will contain aluminium bi-fold doors and a slimline horizontal upvc window to the western elevation.

2.3 The remaining garden area will be soft landscaped with grass and planting. The trees and vegetation around the site will not be affected as a result of the proposal.



Extract taken from plan PP171-1/23 prepared by AT A. Design



Partially constructed outbuilding

2.4 A copy of the plan submitted with the planning application are provided at Document No. 2.

3.0 Background & Reasons for Refusal

3.1 The appellant originally designed an outbuilding that met the criteria of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order as amended. At a later date, an alternative design with a pitched roof was considered by the appellant but planning permission not pursued as the intention was to build the original scheme that fell within permitted development rights. During the building of the outbuilding it became apparent that the height of the building under construction was too great to meet the criteria of permitted development.

3.2 A retrospective householder application for the partially constructed pitched roof building was submitted to the Council for consideration in June 2024. The application was refused under delegated powers on 23rd August 2024 for the following reasons:

1) The proposal, notably the overall height of the proposed outbuilding (4300mm) within 2m of the boundary, would cause an overbearing massing to the rear of the property harming the residential amenity of local neighbours and potentially having harmful impacts to external amenity spaces of other residents counter to policies DM 1, SP 1 and EN 1 of the Manchester Core Strategy; DC1 Extant UDP; JP-Strat9, JP-P1 of the Places for Everyone Plan and; Section 5 and 12 of the NPPF.

2) The proposal, notably the overall height of the proposed outbuilding (4300mm) within 2m of the boundary, would cause an overbearing massing to the rear of the property failing to remain subservient to the original dwelling and not in keeping with design and character of local properties and the wider development, harmful to the visual amenity of local residents in the area counter to policies DM 1, SP 1 and EN 1 of the Manchester Core Strategy; DC1 Extant UDP; JP-Strat9, JP-P1 of the Places for Everyone Plan and; Section 5 and 12 of the NPPF.

3) The development is in Flood Zone 3 with a vulnerability classification of 'More Vulnerable'. In accordance with the Flood Risk Assessment Guidance for Local Planning Authorities, the applicant has provided insufficient consideration of the NPPG Standing Advice for Flood Risk. This is counter to policies in DM 1 & EN 14 of the Manchester Core Strategy; and Section 14 of the NPPF.

3.3 A copy of the decision notice is provided at Document No. 3.

4.0 Planning Policy Context

4.1 The site is located within South Manchester and is unallocated for any primary purpose on the Core Strategy Development Plan Proposals Map.

4.2 The following policies of the Manchester Core Strategy are relevant:

- Policy SP1 - Spatial Principles
- Policy EN1 - Design Principles & Strategic Character Areas
- Policy EN14 - Flood Risk
- Policy DM1 - Development Management

4.3 Core Strategy Policy SP1 promotes the creation of neighbourhoods of choice where high quality and diverse housing is provided around district centres to meet local needs. There is an emphasis on accessibility, in particular walking, cycling and public transport and improving sustainable access to jobs, services and education.

4.4 Core Strategy Policy EN1 focuses on tackling climate change by reducing carbon emissions from new developments. The policy sets out requirements for energy efficiency, renewable and low-carbon energy, sustainable construction and adaptation to climate change.

4.5 Core Strategy Policy EN14 aims to minimise flood risks by guiding the location of new developments and promoting flood resilience through sustainable design and water management practices.

4.6 Core Strategy Policy DM1 addresses aspects such as, but not limited to, the design of development, impacts upon amenity, the adequacy of internal accommodation and outdoor space, vehicular access and parking.

4.7 The Council has also referred to Extant Unitary Development Plan Policy DC1 – Residential Extensions – within the first and second reasons for refusal. This policy allow extensions that complement the character of homes and neighbourhoods while safeguarding the amenities of both existing and future residents.

4.8 It is assumed that the Council will provide a copy of the relevant Plan policies as part of its appeal questionnaire.

4.9 Advice contained within Places for Everyone (PfE) and the National Planning Policy Framework (NPPF) is also relevant.

4.10 The Places for Everyone Plan aims to create sustainable, inclusive communities by providing housing, jobs, and infrastructure whilst protecting the environment. The plan

prioritises public transport, affordable housing, and green spaces to enhance quality of life for residents.

4.11 The following PfE policies are relevant:

- Policy JP-S1 - Sustainable Development
- Policy JP-S4 - Flood Risk and the Water Environment

4.12 The NPPF emphasises sustainable development, promoting economic growth while safeguarding the environment and protecting communities. The NPPF aims to streamline the planning process, encourage local decision-making, and ensure development meets the needs of present and future generations.

5.0 Justification

5.1 The Councils' first two reasons for refusal refer to concerns regarding the height of the proposed outbuilding and the perceived adverse impact that this may have on the amenity of the occupants of neighbouring properties and its relationship with the main dwelling.

5.2 No. 24 Amherst Road has the benefit of being eligible for development to be carried out to, and within the curtilage of, the dwelling under the provisions of the relevant classes of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order as amended.

Class E allows:

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or***
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas***

5.3 With the exception of its height, the building meets all other relevant criteria of the conditions set out at E.1.

5.4 The rear garden area of No. 24 is very large, extending from the rear of the dwelling by approximately 25m at its furthest point. The garden previously extended further, in line with that of No. 26 but a previous owner sold the western most section to No. 34 Mauldeth Road in order to extend their own garden plot. The width of the rear garden is approximately 10m. The footprint of the proposed outbuilding is 38.07m² and therefore ample garden area will remain following the proposed development.

5.5 With regard to the criteria relating to height, under Class E the maximum height allowed for a building with a dual pitched roof is 4 metres with an eaves height of no more than 2.5m. Guidance states that if the building is to be located within 2m of the boundary of the curtilage of the dwelling, which the western and southern elevations of the outbuilding are, then the maximum overall height of an outbuilding is limited to 2.5m.

5.6 There is a feasible fallback position whereby the appellant can build an outbuilding of the same footprint in the same position with a maximum height of 2.5m. If the outbuilding were to be reduced in footprint slightly to move it more than 2m away from the boundaries, then an outbuilding with a maximum height of 4m using householder permitted development rights could be constructed.

5.7 The proposed outbuilding has a ridge height of 4.3m and the height to the eaves is 3.3m.

5.8 If the outbuilding were not located within 2m of the boundary of the curtilage of the dwelling, and therefore the greater dimensions were applicable, then the proposed building would exceed the maximum overall height allowed by just 30cm and the maximum permitted eaves height by 80cm.

5.9 The northern elevation of the proposed building is located more than 2m away from the northern boundary with the rear garden areas of the dwellings on Mauldeth Road. Set within a large garden, heavily screened by mature trees and vegetation and at a lower ground level than the dwellings on Mauldeth Road these dimensions are relatively small and considered acceptable. In addition, the appeal site is set lower than the dwellings on Mauldeth Road, further reducing the visual impact of the proposed building.

5.10 Despite the outbuilding being of a greater height than that usually allowed within 2m of the curtilage boundary, its southern elevation is adjacent to established vegetation along the boundary which screens the building from the rear garden of No. 26 Amherst Road. The established vegetation will mean that only a small portion of the pitched roof of the outbuilding will be visible from within the rear garden of No. 26 Amherst Road or from the ground floor habitable room windows. As such, the proposed outbuilding will not be seen as an overbearing feature or have an adverse impact on the amenity of occupants when using their garden space. As such, the height is considered acceptable.



View of the outbuilding from second floor rear elevation window – established vegetation to boundary with No. 26 Amherst Road to the left

5.11 There is also established vegetation along the northern boundary of the site which provides screening between the appeal site and the rear garden areas of No's 36, 38 and 40 Mauldeth Road.



*View of the rear gardens of No's 36 and 38
Mauldeth Road from second floor rear elevation
window – established vegetation to boundary
visible*

5.12 Again, due to the screening, only a small portion of the pitched roof of the outbuilding will be visible from within the rear gardens of No's 34, 36 and 38 Mauldeth Road or from the

ground floor habitable room windows of these dwellings and, as a result, will not be seen as an overbearing feature or have an adverse impact on the amenity of the occupants of these dwellings.

5.13 The rear garden of No. 34 Mauldeth Road is an exception in comparison to the length of the other rear garden areas along this section of Mauldeth Road, for the reasons stated above. The southern most part of the garden is bounded by very tall mature trees contained within the rear gardens of No's 1 and 3 Alan Road. These trees are shown on the photograph above. At present the southern most part of the garden at No. 34 Mauldeth Road contains a raised trampoline which sits behind the boundary fence shared with the appeal site. Due to the inevitable overshadowing of the mature trees, it is argued that the southern end of the garden is less likely to be frequently used, with the main activities such as children's play, sitting out, etc. more likely to take place within the original part of the garden immediately outside the rear entrance to the dwelling. Whilst of course different occupants may choose to use their garden spaces differently, it is maintained that the proposed outbuilding will be located far enough away from the rear elevation of No. 34 Mauldeth Road and the majority of its rear garden, which aligns with the size of other gardens along Mauldeth Road, to safeguard against any adverse impact in terms of privacy or perceived overbearing impact. The appellant is willing to plant a hedge to the western end of the garden behind the proposed outbuilding to increase privacy levels if the Inspector considers this necessary. The planting of trees along this section of boundary could be undertaken by the appellant at any time, regardless of the presence of the outbuilding.



Existing boundary fence between the appeal site and southern most part of the rear garden to No. 34 Mauldeth Road. Outbuilding visible to the left and mature trees within rear garden of No. 1 Alan Road visible in the centre

5.14 In view of the above, the proposed development is compliant with the provisions of Core Strategy Policies DM1, SP1 & EN1 of the Manchester Core Strategy and advice contained within the PFE Development Plan Document and the NPPF.

Flooding

5.15 The third reason for refusal refers to insufficient information having been submitted to demonstrate that the proposed development itself would not be adversely impacted by its location within flood zone 3 and that the proposed development would not lead to an increase in flooding elsewhere.

5.16 A Flood Risk Assessment was submitted to the Council in response to the objection received from the flood risk management department, However, the Council state that the information was not submitted in time to be considered. A copy of the Flood Risk Assessment report is provided at [Document No. 4](#). A further supporting letter from RIDA with regard to undefended flood levels, referred to by the Council, is provided at [Document No. 5](#).



Drainage channels installed

5.17 The report concludes at paragraphs 9.1 and 9.2 that:

“...subject to the proposed mitigation measures, the site can be developed in accordance with the provisions of the NPPF and the requirements of the Environment Agency and the local planning authority.

This report demonstrates that the proposal will be safe, in terms of flood risk, for its design life and will not increase the flood risk elsewhere”.

5.18 In view of the above, the proposed development is compliant with the provisions of Core Strategy Policies DM1 & EN14 of the Manchester Core Strategy and advice contained within the PfE Development Plan Document and the NPPF.

6.0 Conclusion

6.1 The proposed outbuilding will provide additional accommodation for use by the appellant and his family in connection with the existing dwelling. The outbuilding is well screened from surrounding properties by trees and vegetation which will assist in safeguarding the privacy and visual amenity of the occupants of neighbouring dwellings. The scale, massing and design of the building is appropriate to the site and will not appear intrusive or overbearing when viewed from the surrounding area. The rear garden area of the appeal site is large in size and is able to accommodate the proposed building comfortably whilst retaining ample amenity space.

6.2 The submitted Flood Risk Assessment report concludes that the development can be carried out without increased risk of flooding.

6.3 For the reasons stated above, the proposed development is compliant with local and national planning policy and it is respectfully requested that the Inspector allows the appeal.

October 2024