MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	140093/FH/2024
Date registered valid:	5 June 2024
Proposal:	Erection of a single storey outbuilding in rear garden
Address:	4 Penketh Avenue, Manchester, M18 7DG
Ward(s):	Longsight Ward
Applicant:	Ms Maryem Muhammad
Agent (if any):	M Farooq Building Design Services
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse
Date of recommendation:	31 July 2024

Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: 19 July 2024

Standard consultations:
Printed: 10 June 2024 Expired: 1 July 2024

Neighbour notifications
Printed: 10 June 2024 Expired: 1 July 2024

Site notice
No site notice has been produced

Press advert
No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building and area

Application site relates to a two storey mid-terraced dwellinghouse with both front and rear gardens. The property is set within a cul-de-sac which forms a boundary with the Belle Vue Speedyway, which forms a largish footprint on a predominantly residential area.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant has applied for planning permission to retain a partially constructed outbuilding located in the rear garden of the property.

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local Residents/Public Opinion – Two representations were received objecting to the proposal both raising concerns regarding the visual appearance of the building and disturbance caused by the construction of the outbuilding. Objectors also raised concerns with the overall size of the building in the rear garden and its proximity to neighbouring boundaries.

Environmental Health – No comments to raise.

Issues
Planning History

Enforcement Notice: ENF/15574/23
Date: 25 October 2023
Time for Compliance: 6 months

APP/B4215/C/23/3333259
Enforcement Notice Appeal – Ground(s) (f) Section 174(2) of the 1990 Act
Start Date: 16/11/2023
Status: Withdrawn 29/01/2024

Local Policy

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant Core Strategy policies for this application are as follows:

Policy SP1 - Spatial Principles

DM1 – Development Management 1

The relevant UDP policies for this application are:

DC 1.1 – 1.6 – Residential Extensions

The Guide to Development in Manchester SPD

Places for Everyone Joint Development Plan – 2022 to 2039

On the 21st arch 2024, nine of the ten Greater Manchester Councils voted to adopt the Places for Everyone Joint Development Plan – 2022 to 2039 (PfEJDP); Manchester City Council is one of the Council's that has voted to adopt the plan. The PfEJDP has superseded parts of some of the policies contained within the Council's Core Strategy.

The relevant PfEJDP policy is as follows:

Policy JP-Strat1: Core Growth Area

National Policy

National Planning Policy Framework (NPPF) - The NPPF sets out broad national policies on themes such as housing, historic environment, town centres, design, climate change and the Green Belt.

Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which effectively balances economic, social and environmental factors.

The Principle

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise.

Paragraphs 2 and 47 of the NPPF reinforces this requirement and at paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up-to -ate development plan, permission should not normally be granted.

The proposal relates to an outbuilding within the rear garden that has been partially constructed, as shown in photograph 1. Whilst it is possible to construct an outbuilding as per the limitations and conditions set out in Part 1, Schedule 2, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, in this case the outbuilding requires planning permission due to its height and potential use.

Therefore, the outbuildings size, use and impact on both residential and visual amenity will be considered in the report below.



Photograph 1 Outbuilding as observed during site visit.

Size, Use and Impacts on Residential and Visual Amenity–

The application site lies within a predominately residential area, which also contains Belle Vue Stadium, National Basketball Performance Centre, leisure centre and St Peters High School.

Located within the rear garden there are limited views of the outbuilding from the public highway in particular Stanley Grove as it would only been seen from the side of the property and at the front it would be mostly hidden behind the existing timber gate and ginnel (side passageway).

The partial built outbuilding occupies a space approximately over half the size of the rear garden close to the four boundaries of the neighbouring properties of 2 and 6 Penketh Avenue and 195 Stanley Grove. In the case of the later property the outbuilding appears to have been built on or very close to the shared boundaries. Concerns have been raised by neighbours over its size and proximity to their boundaries.

The proposed drawings indicate that if completed it would have a lean to roof with a maximum height of 2.841 metres. The outbuilding measures 5.723 metres in width and a length of 4.865 metres, this combines to from a gross floorspace of 27.84 square metres. The size of the outbuilding would and could be argued already has limited the amount of useable private garden space for a dwellinghouse. Having regard to that is a family dwellinghouse it is unlikely that the remaining outdoor space meets the basic needs of the current or future occupiers. The outbuilding has severely limited the amount of space available to accommodate a range of garden activities including leisure activities, drying of laundry, outdoor storage or planting areas.

Whilst the size of an outbuilding, in comparison to the dwellinghouse, may be an important consideration but it is not by itself conclusive. However, the physical size of buildings could be a relevant consideration in that they might represent some indicia as to the nature and scale of the activities to be carried on in the proposed outbuilding.

The outbuilding is shown to be a store on the submitted drawings, however, no further details have been provided as to why a store of such a size is required for a family dwelling.

As such there are concerns regarding the true purpose of the outbuilding and whether it was to be used as additional ancillary living accommodation, it especially seemed unclear as to why the outbuilding for a store is required.

Therefore, the development if approved would have a harmful effect on the character and appearance of the area and amenity of the current occupiers, contrary to Policies SP1, EN1 and DM1 of the Manchester Core Strategy Development Plan Document 2012 (CS) and guidance within the National Planning Policy Framework (the Framework). Collectively, these policies and guidance seek, amongst other things, to ensure development creates well designed places, has regard to the character of the surrounding area and is sympathetic to local character.

Conclusion/Fall Back Position - Under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the applicant could build a similar outbuilding with a maximum height of 2.5 metres; this providing it was to be used incidental to the enjoyment of the dwellinghouse, and not include some form of primary accommodation, as was indicated on the earlier plans submitted as part of this planning application. This would be considered the fall-back position, the fallback is a material consideration in the decision-making process, of which the PD rights given by the Order comprise an element. Thus, when deciding a planning application, it may be argued with some effect that a development carried out to slightly reduced dimensions or at a marginally lesser level, or perhaps in a revised location nearby, could be implemented using permitted development rights. The weight to be given to such a material consideration varies according to whether what could be built using the GPDO would have a

broadly similar or worse impact to what is proposed; and the reasonable likelihood or possibility that, if permission were refused, permitted development rights would in fact be resorted to.

Whilst a scheme could be developed that could meet the other limitations in Class E, the GPDO does not grant planning permission for the provision of an outbuilding for use for purposes ancillary to the house, or to provide facilities ancillary to the house. The same applies to mixed ancillary and incidental uses or facilities. Therefore, even if a slightly smaller, but similar floorspace building was constructed under the fallback, it would likely fail the test to be considered incidental to the main dwellinghouse.

Other Legislative Requirements
Equality Act 2010
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations
This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved polices of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Refuse

Article 35 Declaration

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The outbuilding has resulted in the loss of private amenity garden space, the size and proximity of the outbuilding also has a detrimental impact on the amenity of both the current and future occupiers of the property.

As such, the proposal is considered to be contrary to Policies SP1, EN1 and DM1 of the Core Strategy and advice given in the Guide to Development in Manchester, Manchester Residential Quality Guidance and National Guidance.

2) The size of the outbuilding has the appearance of a physically separate unit of residential accommodation, which is out of keeping with the character of the area; its residential design and internal layout has all the characteristics and potential to incorporate the facilities so that it may be occupied as an independent form of residential accommodation, rather than being incidental or ancillary to the primary building.

The relationship of the proposed additional living accommodation to that of the principal building, increases the potential for noise, activity, and disturbance that would be detrimental to the living conditions of the existing and future occupiers of the main property, and that would result in harm to the character and appearance of the surrounding area, and the living conditions of neighbouring properties.

As such, the proposal is considered to be contrary to Policies SP1, EN1 and DM1 of the Core Strategy and advice given in the Guide to Development in Manchester, Manchester Residential Quality Guidance and National Guidance.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

193 Stanley Grove, Longsight, Manchester, M18 7DL
8 Penketh Avenue, Manchester, M18 7DG
2 Penketh Avenue, Manchester, M18 7DG
1 Penketh Avenue, Manchester, M18 7DG
197 Stanley Grove, Longsight, Manchester, M18 7DL
191 Stanley Grove, Longsight, Manchester, M18 7DL
3 Penketh Avenue, Manchester, M18 7DG
6 Penketh Avenue, Manchester, M18 7DG
199 Stanley Grove, Longsight, Manchester, M18 7DL
195 Stanley Grove, Longsight, Manchester, M18 7DL

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Historic Landfill Site 250m Buffer -
Historic Landfill Site 250m Buffer -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: NORTH AREA