

## Planning

## Growth & Development

### Delegated officer report for planning application

**Application no.** 139291/JO/2024  
**Date registered valid:** 14 March 2024  
**Proposal:** Variation of Condition 2 (Specified Plans) attached to 127732/FO/2020 to allow removal of leylandii and replacement tree  
**Address:** 48 Overlea Drive, Manchester, M19 1QU  
**Ward(s):** Burnage Ward  
  
**Applicant:** Mr Billbas  
**Agent (if any):**  
**Case officer:** David Lawless  
Tel: 0161 234 4543  
Email: david.lawless@manchester.gov.uk  
  
**Recommendation:** Approve  
**Date of recommendation:** 18 April 2024

---

#### Application details

**Type of application:** Variation or Removal of Condition

**Development type:** Notifications

#### **Standard consultations:**

Printed: 22 March 2024      Expired: 14 April 2024

#### **Neighbour notifications**

Printed: 22 March 2024      Expired: 14 April 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/area**

The application site is the side garden (285sqm) to the west of No.48 Overlea Drive which has a conservatory attached to the extended dwelling. The land is situated close to the junction of 3 highways; Overlea Drive to the north, Barnfield Road to the east and Southholme Gardens to the south-west.

The garden is flat, laid to lawn and is bounded by tall conifers to the west and south and shrubs to the north fronting Overlea Drive.

In addition to the house to the east and road frontage to the north, the garden shares a boundary with landscaped amenity land to the west on the corner of Southholme Gardens, and the garden of 1-3 Southholme Gardens to the south.

Dwellings on Overlea Drive comprise of 2-storey inter-war, garden-fronted semi-detached or quasi-semi houses of traditional construction. The materials palette within the local area comprises of red-brown brick elevations with hipped slate or grey concrete interlocking tile roofs.

All dwellings have gardens at the front and rear bounded by either privet hedging or low timber panel and post fencing, and off-road parking either in-curtilage or in dedicated landscaped parking plots which are remote from the dwellings.

The site is approximately 304 metres east of the A34 Kingsway which gives access to local shopping at Green End Road to the north and shopping, schools and entertainment opportunities at the Parrswood Entertainment Centre to the south.

**Listed building:** No

**Conservation area:** No

**Tree Preservation Order:** No

## **Description of development**

The applicant obtained planning permission in November 2020 (127732/FO/2020) to erect a two storey dwelling to the side of no. 48 Overlea Drive.

They are now applying to vary condition no. 2 (approved drawings) in order to allow the removal of this leylandii tree, due to damage caused and risk of future damage, which was originally earmarked for retention on the approved drawings.

## **Consultations & Notification Responses**

**Local Residents** – No comments have been received.

**City Arborist** – No objection to the proposed removal and replacement of this tree. The tree in question would not support the necessary criteria for TPO status given its proximity to the boundary fence line and its limited visual amenity value from a public space. It is noted that a replacement tree is proposed in the front garden.



Please note that we are currently in nesting season and therefore all trees should be thoroughly inspected for nests or signs of nesting birds before carry out any works.

## **Policies**

**The National Planning Policy Framework (December 2023)** – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

**Places for Everyone joint development plan document for Bolton, Bury, Manchester, Salford, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan** – The Places for Everyone Plan (PfE) was adopted on 21 March 2024, as such the Plan and its policies are now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance.

**Core Strategy Development Plan Document** – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below

Policy SP1, *Spatial Principles*, - Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy DM1, *Development Management* – This policy states that all development should have regard to a number of specific issues, of which the following are of most relevance for which more detailed guidance may be given within a supplementary planning document:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Community safety and crime prevention.
- Design for health.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Green Infrastructure including open space, both public and private.
- Flood risk and drainage.

## **Issues**

**Principle of the Proposal** – As the tree has caused maintenance and drainage issues, due to its size and proximity to nearby dwellings, there is no objection in principle to its removal, particularly given that a replacement tree is proposed in a more suitable location, i.e. the front garden.

**Residential and Visual Amenity** – The removal of the leylandii at the rear of the site would not have a detrimental impact upon the existing levels of residential and visual amenity enjoyed within the vicinity of the site.

**Pedestrian and Highway Safety** – The proposed amendments to the scheme would not have a detrimental impact upon the current levels of pedestrian and highway safety enjoyed along Overlea Drive.

**Replacement Tree** – The planting of a replacement tree in the front garden is considered acceptable.

**Ecology** – An informative in respect of nesting birds would be attached to any approval granted.

## **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 policies 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:** Approve

### **Article 35 Declaration**

The local planning authority in making its decision has had due regard to paragraph 47 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has approved the application for the reasons set out in this delegated report. No concerns were raised on consultation or assessment of the application which is acceptable subject to the attached conditions.

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

1) The development hereby approved shall be carried out in accordance with the following drawings and documents:

The application form and the drawings received on the 13th August 2020:

- a) Location Plan T-0123-1-0001 and T-0123-1-0100
- b) Site Plan T-0123-1-0002 Existing
- c) Existing T-0123-1-0003 Ground Floor Plan
- d) Existing T-0123-1-0004 First Floor Plan
- e) Existing T-0123-1-0005 Second Floor Plan
- f) Existing T-0123-1-0006 Elevations
- g) Proposed T-0123-1-0201 First Floor Plan
- h) Proposed T-0123-1-0202 Second Floor Plan
- i) Proposed T-0123-1-0220 Sections

The drawings received on the 26 November 2020:

- j) Proposed T-0123-1-0200-Ground Floor Plan
- k) Proposed T-0123-1-0210-Elevations

The drawings received on 14 February 2024:

- l) Site Plan Proposed T-0123-1-0101 Rev B

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

2) The materials to be used on the external surfaces of the extension hereby permitted shall match those of the existing building in type, size, colour and texture, as stated on the approved drawings.

Reason: In order to ensure a satisfactory appearance in the interests of visual amenity in accordance with saved policies DC1.1, DC1.2 and DC1.4 of the Unitary Development Plan for the City of Manchester and the requirements of the National Planning Policy Framework.

3) Prior to first occupation, the ground, first and second floor WC windows, shall be obscurely glazed to a specification of no less than Level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent residential properties from overlooking or perceived overlooking in accordance with policy DM1 of the adopted Core Strategy Development Plan Document for the City of Manchester.

#### 4) DISCHARGED UNDER APPLICATION CDN/23/0195 AND CDN/23/0728

a) Before the development hereby approved commences, a report (the Preliminary Risk Assessment) to identify and evaluate all potential sources and impacts of any ground contamination, groundwater contamination and/or ground gas relevant to the site shall be submitted to and approved in writing by the City Council as local planning authority. The Preliminary Risk Assessment shall conform to City Council's current guidance document (Planning Guidance in Relation to Ground Contamination).

In the event of the Preliminary Risk Assessment identifying risks which in the written opinion of the Local Planning Authority require further investigation, the development shall not commence until a scheme for the investigation of the site and the identification of remediation measures (the Site Investigation Proposal) has been submitted to and approved in writing by the City Council as local planning authority.

The measures for investigating the site identified in the Site Investigation Proposal shall be carried out, before the development commences and a report prepared outlining what measures, if any, are required to remediate the land (the Site Investigation Report and/or Remediation Strategy) which shall be submitted to and approved in writing by the City Council as local planning authority.

b) When the development commences, the development shall be carried out in accordance with the previously agreed Remediation Strategy and a Completion/Verification Report shall be submitted to and approved in writing by the City Council as local planning authority.

In the event that ground contamination, groundwater contamination and/or ground gas, not previously identified, are found to be present on the site at any time before the development is occupied, then development shall cease and/or the development shall not be occupied until, a report outlining what measures, if any, are required to remediate the land (the Revised Remediation Strategy) is submitted to and approved in writing by the City Council as local planning authority and the development shall be carried out in accordance with the Revised Remediation Strategy, which shall take precedence over any Remediation Strategy or earlier Revised Remediation Strategy.

Reason - To ensure that the presence of or the potential for any contaminated land and/or groundwater is detected and appropriate remedial action is taken in the interests of public safety, pursuant to policies DM1 and EN18 of the Core Strategy.

#### 5) DISCHARGED UNDER APPLICATION CDN/23/0195

Before the development hereby approved commences, a scheme for the storage and disposal of refuse and details, including the location of a secure and ventilated bin store, shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation. New developments shall have refuse storage space for segregated waste collection and recycling.

Reason - In the interests of amenity and public health pursuant to Manchester Core Strategy policies DM1, SP1 and EN19.

6) The site shall be drained via separate systems for the disposal of foul and surface water.

Reason: To secure a satisfactory system of drainage and to prevent pollution of the water environment in accordance with policy EN14 of the Core Strategy and the National Planning Policy Framework

7) The electric vehicle charging point shown on revised drawings Proposed T-0123-1-0200-Ground Floor Plan and Proposed T-0123-1-0210-Elevations received on the 26th November 2020, shall be implemented and made ready for use prior to first occupation of the approved development.

Reason - To promote sustainable development and in the interests of securing a reduction in CO2 emissions, pursuant to policies DM1 and EN16 in the Manchester Core Strategy.

8) DISCHARGED UNDER APPLICATION CDN/23/0195

Prior to above ground works commencing, details, including the location within the curtilage of the site, of secure cycle parking for the development, shall be submitted to and approved in writing by the City Council as Local Planning Authority. The approved cycle parking shall be implemented in full before first occupation of the approved development and shall be retained and made available for use whilst the development is occupied.

Reason - To ensure there is adequate bicycle parking provision, pursuant to policies DM1, T1 and SP1 of the Core Strategy.

9) DISCHARGED UNDER APPLICATION CDN/23/0195

Prior to above ground works commencing, details, including a site plan and elevations, of the type and heights of boundary treatment for the development, shall be submitted to and approved in writing by the City Council as Local Planning Authority. The approved boundary treatment shall be completed in accordance with the agreed details before first occupation of the development hereby approved.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the development is located, pursuant to policies DM1 and EN3 of the Core Strategy.

10) In this condition "retained tree" means an existing tree, shrub or hedge which is to be as shown as retained on the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with policies EN9 and EN15 of the Core Strategy.

11) No works, including works to trees and shrubs shall take place during the main bird breeding season 1st March and 31st July inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason - To ensure the protection of habitat of species that are protected under the Wildlife and Countryside Act 1981 or as subsequently amended and to comply with policy EN15 of the Core Strategy.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the residential accommodation hereby approved shall not be used for any other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) other than the purpose(s) of C3(a).

Reason - In the interests of residential amenity, to safeguard the character of the area and to maintain the sustainability of the local community through provision of accommodation that is suitable for people living as families pursuant to policies DM1 and H11 of the Core Strategy for Manchester and the guidance contained within the National Planning Policy Framework.

### **Informative**

1) Nesting Birds - Please note that we are currently in nesting season and therefore all trees should be thoroughly inspected for nests or signs of nesting birds before carry out any works.

## **Appendix 1 – List of consultees & neighbours notified**

Neighbourhood Team Leader (Arboriculture)

31 Overlea Drive, Manchester, M19 1QY

50 Overlea Drive, Manchester, M19 1QU

2 Barnfield Road, Manchester, M19 1QG

3 Southolme Gardens, Manchester, M19 1LR

1 Southolme Gardens, Manchester, M19 1LR

29 Overlea Drive, Manchester, M19 1QY

## **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

Area Team Boundary - Name: SOUTH AREA