

FINAL COMMENTS STATEMENT AND COSTS APPLICATION ATTACHED TO THE REFUSAL OF PLANNING PERMISSION FOR THE PROPOSED CHANGE OF USE OF THE DWELLING HOUSE (USE CLASS C3(a)) TO PROVIDE SHORT TERM MOTHER & BABY (3 MOTHERS) FAMILY ASSISTANCE HOME (USE CLASS C2) AT 38 RATHBOURNE AVENUE, MANCHESTER M9 6PN.

STATEMENT PREPARED BY: MR MIKE CARR MSc MRTPI, MAT DESIGN LIMITED

ON BEHALF OF: THE CHERRY BLOSSOM FAMILY

STATEMENT DATE: MARCH 2024

1. INTRODUCTION

This Final Comment Statement has been prepared by MAT Design Limited on behalf of The Cherry Blossom Family, and forms part of the appeal submissions against the refusal of planning application 136001/FO/2023 by Manchester City Council (The LPA) on 16/11/2023.

The development proposed in the planning application was for change of use of the dwellinghouse (Use Class C3(a)) to provide short term mother & baby (3 mothers) family assistance home (Use Class C2).

This statement also includes a claim for costs against the Local Planning Authority (LPA)

2. FINAL COMMENTS

The appellants final comments are concentrated on the 3 main elements that are set out in the LPA statement, which are reflected in the 3 reasons for refusal.

Overall, we do not consider that the 3 reasons for refusal or the evidence provided to support those reasons for refusal, stand up to any sort of reasonable scrutiny. We say this for the following reasons:

- ***The Principle of the Development*** – The lawful use of the property is a dwelling house that comprises 3 bedrooms, off-street parking and garden amenity space to the front and rear. We consider that is and was unreasonable that the LPA have failed to assess that the dwelling could be used by covers use by a single person or a family (C3(a), up to six people living together as a single household and receiving care C3(b) or for groups of people (up to six) living together as a single household C3(c).

We consider that the proposed development, to include 3 mums and their young babies and the care staff that are proposed, would result in an overdevelopment of the site, and that there is no reasonable evidence to support the contention by the LPA that the proposed development would be an intensification of the use of the premises, and as such it would create a congested, overcrowded environment, and erode the nature of the street.

In reality, and as per the evidence we provided in the allowed appeal APP/H4315/W/20/3265183 (paragraph 6), matters in relation to how the site could be used when balanced against the proposed development, are significant material considerations.

In this case, the young mums and their babies would not be allowed private cars (see the application submissions), so the only vehicle movements to and from the site, would be made by care staff. This is clearly less intensive than what could be lawful development.

When all material factors are considered in relation not the intensification of the use of the site, we do not consider this has any credibility and this contention by the LPA is not a conclusion that is supported by the evidence that was presented in the planning application.

- **Amenity/Noise** – The LPA say that the transient nature of use would lead to more comings and goings to the property on 24 hour seven days a week basis, which would give rise to increased levels of disamenity to residents. They also say, without evidence, that the proposed change of use signals a modification in the degree to which the site is visibly active.

Whereas it is reasonable to assert that a single dwelling house will make fewer entrances and exits to and from the site over the course of a day or week, a supporting housing unit with approximately on average 9 occupants (possibly more), has the potential to exert a much greater impact on the amenity of residents from comings and goings.

In addition, an increase in vehicular activity would take place by staff and visitors. The car parking layout is unacceptable and would increase demand on street car parking provisions within the confines of the small cul-de-sac. The proposed car parking layout allows for linear parking only which hinders the moveability of the cars leaving the site. With no restriction of people visiting the site. The potential therefore for noise and disturbance arising from the projected comings and goings is considered unacceptable in a residential area.

We consider that the LPA suggestions that the proposed occupancy and use of the property would result in the level of harm to residential amenity has no proper basis and is not supported by any evidence that conflicts with the submissions made as part of the planning application.

The reality is that there would be no vehicle movements made by the young mums or their babies, and that any traffic movements would be limited to the care staff. The anticipated traffic movements were clearly set out in the planning application and the suggestion that there would be comings and goings at all times of the day and night is not supported by evidence.

- **Loss of Family Accommodation** – The LPA contend that the proposed development would result in the loss of a family house in this area would conflict with this aspiration, undermine the regeneration objectives for the area and increase the threat of existing families being driven out of the area, or from being attracted to the area, due to a shortage of appropriate accommodation.

Whilst the effect of the loss of a single home on the overall mix and balance of housing in the area would be limited, it would nevertheless contribute to the short fall. To permit the conversion of the property to supported housing would lead to the consequential loss of family sized accommodation, in clear contravention of City Council policy aspirations, which would serve to contribute to the imbalance of the housing mix in the area and deviate from the long-term housing objectives of the City Council which focuses on diversity and choice in the housing market.

Policy H3 of the Core Strategy sets out requirements for new housing development in north Manchester and Policy H3 must be reasonably considered in conjunction with Manchester Core Strategy Policy H1 (Overall Housing Provision).

Policy H1 sets out that quite clearly sets out that this Policy should take account of the need to contribute to creating mixed communities by providing house types to meet the needs of a diverse and growing Manchester population. This includes elderly people, disabled people and people with specific support requirements such as the young mums and their babies.

In reality and given that there are no delivery plans to provide this sort of accommodation from the Council budget or the wider public purse, the private sector (with Government assistance) now have to pick up the pieces and seek to deliver this much needed type of accommodation.

Taking this into account, we consider that there is clear evidence that the proposed development would comply with the provisions of both Policies H1 and H3 and there is no evidence available that the loss of this single-family home would be detrimental to the overall housing provision for the City that is promoted by Policy H1.

For the LPA to ignore its own policy directions is entirely unreasonable, as it would be prejudicial to the life chances of the young mums and their children and be directly at odds with the LPA's Public Sector Equality Duty.

- **Standard of Accommodation** – The application site is a 3-bed semi-detached property, one of which is a box room, the first floor has one main bathroom to be used by residents and a shared shower room on the ground floor for both staff and residents. The ground floor comprises of an office and a lounge /kitchen area. Given the nature of the use and the number of staff and residents occupying the property, the accommodation would be cramped and would result in poor quality living accommodation for the intended occupiers.

As part of the planning application process, the LPA received specific advice in relation to the levels of internal accommodation that are required for such a use. This advice came from the Manchester City Council Supported Housing Team and set out what they understood the relevant standards of accommodation for the proposed use.

For reasons that have never been made clear or addressed in the LPA appeal statement, there has been a failure to recognise that the proposed is for a "Family Assessment Centre" and not a Mother & Baby Unit. As such, the level of accommodation needs to comply with the and adopted Department of Education "Residential Family Centres National Minimum Standards". A copy of those standards has been submitted with the appeal and confirm that the Family Assessment Centre meets those standards of provision.

In terms of reason for refusal 2, the LPA seeks to rely on the facts that the proposed development lacks en-suite facilities and shared communal space. However, when this is assessed against prescribed minimum standards that are set out in the nationally adopted standards for Residential Family Centres, there is no requirement for en-suite facilities. Furthermore, it is also clear from the submissions made at application and appeal stage, that

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the levels of shared communal (internal and external) are more than adequate to support proposed use of the property to provide the care that the residents require.

As such, we consider that the levels of accommodation comply with the prescribed national standards and also comply with the Policy provisions that are set out in Core Strategy policy H10 and saved Unitary Development Plan policy DC2.1

4. CONCLUSIONS AND COSTS

We consider that the proposed development complies with all the policy provisions that that the LPA seeks to rely on to justify the reasons for the refusal of the planning application.

We consider that Manchester City Council demonstrably failed to positively consider the merits of this planning application and introduced reasons for refusal that do not stand up to any sort of reasonable scrutiny and were likely borne out through public and political resistance that seemed to override the planning policy framework in this case.

We accept that LPA's have the power to refuse planning application for all sorts of reasons, However, those reasons must stand up to reasonable scrutiny and in this case, the LPA seek to use evidence that has no foundation or basis, when properly and positively addressed.

When one properly considers the provisions of Core Strategy Policy H1 and Section 5 of the 2023 NPPF, and the balanced against the stance taken by the LPA in this case, there appears to have been a concerted and unreasonable effort to refuse the planning application at all costs and for no reasonable planning reasons.

Policy H1 places a responsibility on the LPA to take account of the need to contribute to creating mixed communities by providing house types to meet the needs of people with specific support requirements. This requirement has been ignored by the LPA, which is to the detriment of those in need of this specific type of care.

In addition, we also consider that it is entirely unreasonable that the Council's own statutory consultees (The MCCSHT) seem to have wilfully provided the Planning Department with a misleading and incorrect response as to the level of accommodation needed for a Family Assessment Centre, meaning that reason for refusal 2 cannot be relied on or supported. This has directly compromised the material needs of the young mums and their babies who desperately need this sort of social service.

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We consider that if the LPA had properly assessed this planning application and applied the actual evidence provided against the adopted planning policy framework, then this appeal could have been avoided altogether.

NPPG paragraph 049 Reference ID: 16-049-20140306 sets out what type of behaviour may give rise to a substantive award against a local planning authority and sets out that LPA's are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.

In this case, examples:

- Preventing and delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations,
- Failing to produce evidence to substantiate each reason for refusal on appeal and,
- Relying on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

We consider that the evidence provided with the planning application and the appeal submissions, clearly set out as to why the LPA have acted unreasonably in this case, and how such an approach in this unnecessary appeal, then sought to prolong the length and complexity of the appeal by relying on inaccurate assertions about the impacts of the proposed development.

Taking all of the above into account, we would ask that the Planning Inspector makes a full award of costs against the LPA.