

Planning

Growth & Development

Delegated officer report for planning application

Application no.	137193/NMC/2023
Date registered valid:	14 December 2023
Proposal:	Non-material amendment to planning approval reference 132078/FH/2021 to allow an additional first floor rear extension, alteration to first floor roof from flat to double pitched roof; alteration to ground floor roof from flat to a single pitch roof
Address:	23 Maine Road, Manchester, M14 4FS
Ward(s):	Moss Side Ward
Applicant:	Mr Abdul Salim
Agent (if any):	Mr Colin Williams Alpha Design
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Refuse
Date of recommendation:	5 January 2024

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
No neighbour notifications have been printed and sent.

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

This application relates to a two storey property on the end of a terrace of properties fronting Cyril Street. The property has a two storey outrigger at the side which appears to have been rebuilt with a flat roof, attached to which is a small single storey extension. The property has a yard to the rear and side of the outrigger. The applicant has confirmed that the property is in single family use.

This is a predominantly residential area. Adjoining to the rear is a terraced house fronting Cyril Street. The property has an original two storey outrigger with windows in the side elevation and a single storey extension also with side windows. To the north separated by an alley is a new build house on what was a cleared site. Facing the site across Maine Road are the front elevations of more modern houses with front gardens. To the south across Cyril Street is the front elevation of a two storey terraced property.

Listed building: No
Conservation area: No
Tree Preservation Order: No

Description of development

The applicant obtained planning permission in February 2022 (132078/FH/2021) for the following:

Erection of a single storey rear extension and installation of rear roof dormer

The applicant is now applying for a non-material amendment to that planning permission to allow for the following additions to the building:

- a) an additional first floor rear extension,
- b) alteration to first floor roof from flat to double pitched roof,
- c) alteration to ground floor roof from flat to a single pitch roof.

Consultations & Notification Responses

n/a

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.

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, the most relevant of which in this instance are:

- 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity and landscape.
- Green Infrastructure including open space, both public and private.
- Flood risk and drainage.

Saved UDP Policy DC1, Residential Extensions – Policy DC1.1 states that in determining planning applications for extensions to residential properties, the Council will have regard to:

- the general character of the property;
- the effect upon the amenity of neighbouring occupiers;
- the desirability of enabling people to adapt their houses in appropriate ways to meet changing household needs;
- the overall appearance of the proposal in the street-scene;
- the effect of the loss of any on-site carparking.

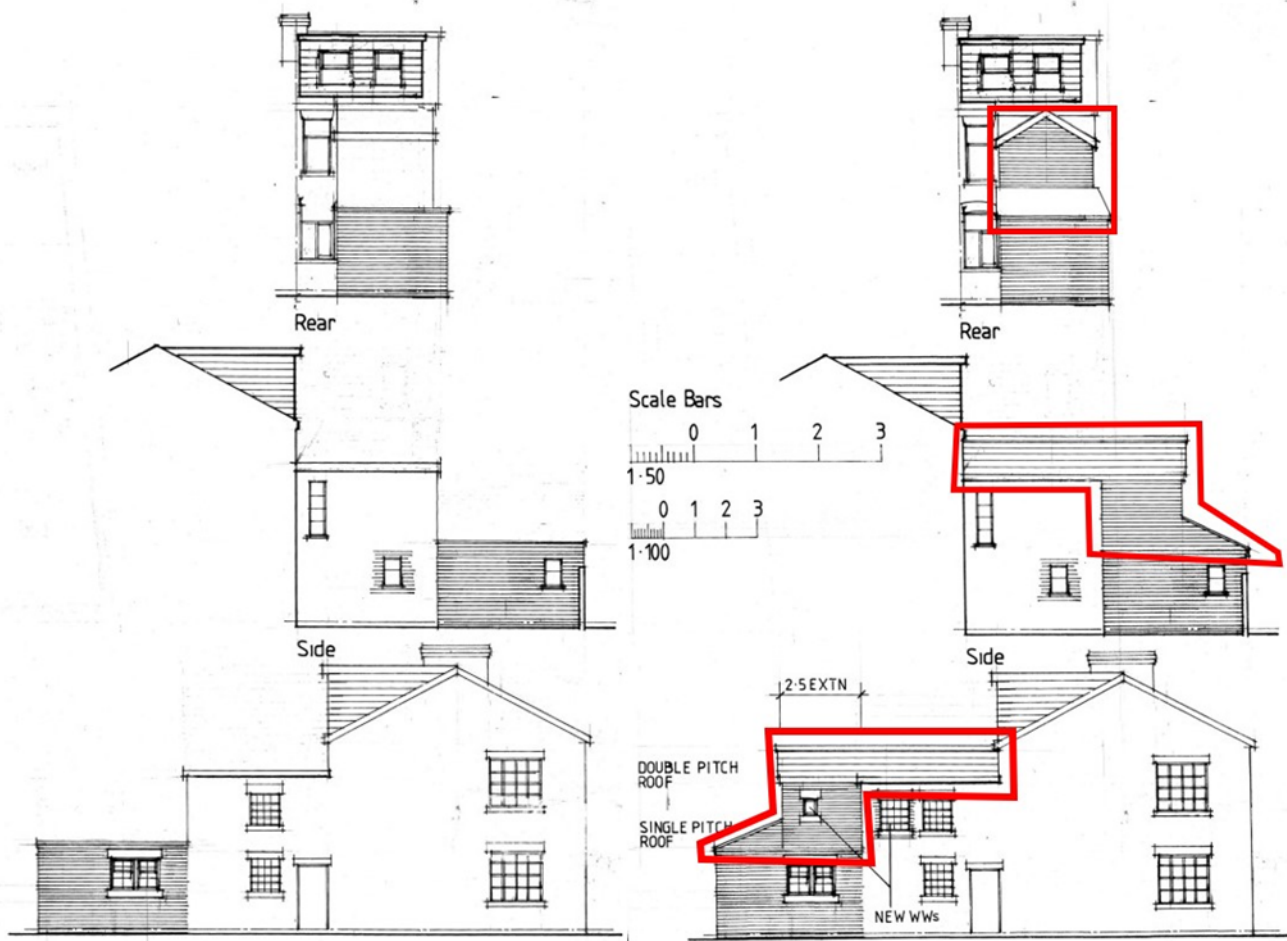
Issues

Section 96A of the 1990 Act (as inserted on 1st October 2009 by sec.190 of the Planning Act 2008) allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted.

The current application seeks a non-material amendment to the permission to allow for the following revisions to the scheme:

- an additional first floor rear extension,
- alteration to first floor roof from flat to double pitched roof,
- alteration to ground floor roof from flat to a single pitch roof.

Following a review of the proposed drawings it is considered that the changes are believed to be material through the introduction of an additional floor and pitched roofing. The previously approved and proposed drawings can be seen below side by side, with the proposed amendments edged in red:



The increase in height of the extension could give rise to impacts on residential and visual amenity which require further renotification of neighbouring properties. Therefore, the changes from the approved drawings are considered to be material in nature and cannot be determined via a section 96a application. As such the current application must be refused.

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: REFUSE

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

1) The proposed amendment relates to

- a) an additional first floor rear extension,
- b) alteration to first floor roof from flat to double pitched roof,
- c) alteration to ground floor roof from flat to a single pitch roof.

2) Following an assessment of the details submitted, it is confirmed that the proposed amendments are considered to be a material change. The City Council considers that the proposed changes would have an impact upon the character of the building, the amenity of neighbouring residents and the visual appearance of the area. As such the proposal cannot be determined as non-material under section 96A of the Town and Country Planning Act 1990.

Appendix 1 – List of consultees & neighbours notified.

N/A

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
Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Moss Side)
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA