

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138772/JO/2023

Date registered valid: 6 December 2023

Proposal: Variation of condition no. 2 (approved drawings) attached to planning permission 126617/FH/2020 (as amended by 127731/JO/2020) to allow for amendments to the design of the garage, the height of the boundary fencing and garden levels.

Address: 24 Kingston Road, Manchester, M20 2RZ

Ward(s): Didsbury East Ward

Applicant: Ms Tsang

Agent (if any): Mr John Allen Andrew Wallace Architects

Case officer: David Lawless
Tel: 0161 234 4543
Email: david.lawless@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 25 March 2024

Application details

Type of application: Variation or Removal of Condition

Development type: Householder

Date of site visit:

Standard consultations:

Printed: 18 December 2023

Expired: 11 January 2024

Neighbour notifications

Printed: 18 December 2023

Expired: 11 January 2024

Site notice

Posted: 20 December 2023

Expired: 13 January 2024

Press advert

Published: 2 January 2024

Expired: 23 January 2024

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

24 Kingston Road is a three storey mid-terraced property situated within the Didsbury St. James Conservation Area. At the front of the property there is a small garden, while at the rear there is a large garden area which also fronts onto Millgate Lane.

Listed building: No

Conservation area: Didsbury St James Conservation Area 1970

Tree Preservation Order: No

Description of development

In May 2020 the applicant obtained planning permission for the following under reference 126617/FH/2020:

Erection of a single storey rear extension and partial first floor infill rear extension; erection of a rear dormer; erection of a garage at end of rear garden, with associated elevational alterations, including rooftop photovoltaic panels.

Following that, in September 2020, under reference 127731/JO/2020, they obtained planning permission for the following:

Variation of condition no. 2, attached to planning permission 126617/FH/2020, to allow for elevational amendments to the rear elevation

The applicant is now applying for the following:

Variation of condition no. 2 (approved drawings) attached to planning permission 126617/FH/2020 (as amended by 127731/JO/2020) to allow for amendments to the design of the garage, the height of the boundary fencing and garden levels.

Consultations & Notification Responses

Local Residents – Four letters of objection have been received from two households, two of which were after the second round of consultation. The main points are outlined below:

- An alternative solution to the excessive height of the southern fence exists in the form of a lower timber fence and planted screening within the garden of No 24.
- The proposed fencing is unacceptably high from the perspective of no. 26 Kingston Road.
- The proposal has caused drainage issues given the changes in levels.
- The high fence would be visually oppressive to the residents of nos. 26 and 28 Kingston Road.
- The proposal is totally out of keeping with the area which is located in a conservation area.
- The high fencing is being proposed purely to provide privacy for the occupants of 24 Kingston Road, a height that has been dictated by the rise in garden levels.
- A more sympathetic solution (slatted fencing and landscaping) should be considered.

Didsbury Civic Society – No comments received.

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:

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) 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.

In addition to the above, Section 16 (*Conserving and enhancing the historic environment*) is of relevance:

Paragraph 196 in Section 16 states that in determining planning applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 206 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, such as grade I and II* listed buildings, should be wholly exceptional.

Paragraph 207 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

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 EN 3, *Heritage* – Throughout the City, the Council will encourage development that complements and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods, including those of the City Centre.

New developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment, the character, setting and accessibility of areas and buildings of acknowledged importance, including scheduled ancient monuments, listed buildings, registered parks and gardens, conservation areas and archaeological remains.

Proposals which enable the re-use of heritage assets will be encouraged where they are considered consistent with the significance of the heritage asset.

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.
- Effects relating to biodiversity and landscape.
- Flood risk and drainage.

Policy DC18, *Conservation Areas* – Policy DC18.1 states that the Council will give particularly careful consideration to development proposals within Conservation Areas by taking into consideration the following:

a) The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:

- i. the relationship of new structures to neighbouring buildings and spaces;
- ii. the effect of major changes to the appearance of existing buildings;
- iii. the desirability of retaining existing features, such as boundary walls, gardens, trees, (including
- iv. street trees);
- v. the effect of signs and advertisements;
- vi. any further guidance on specific areas which has been approved by the Council.

b) The Council will not normally grant outline planning permission for development within Conservation Areas.

c) Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance of character of the area.

d) Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.

e) Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

Issues

Principle of the Proposal – Given that approved schemes can often change due to unforeseen on-site circumstances, the principle of amending the original permission is considered acceptable. Notwithstanding this, consideration must be given to the potential impact upon existing levels of residential and visual amenity enjoyed within the vicinity of the site, as well as upon the character of the Didsbury St. James Conservation Area.

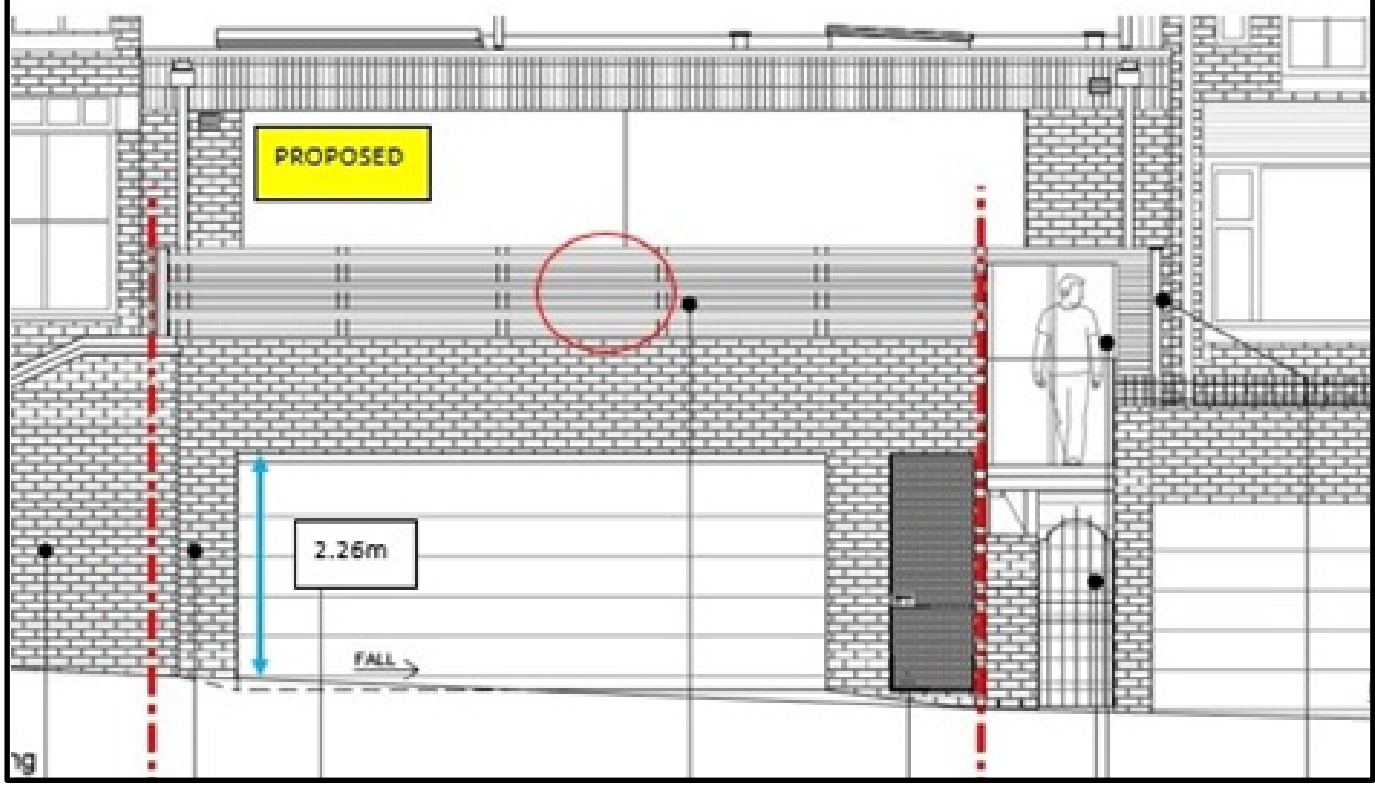
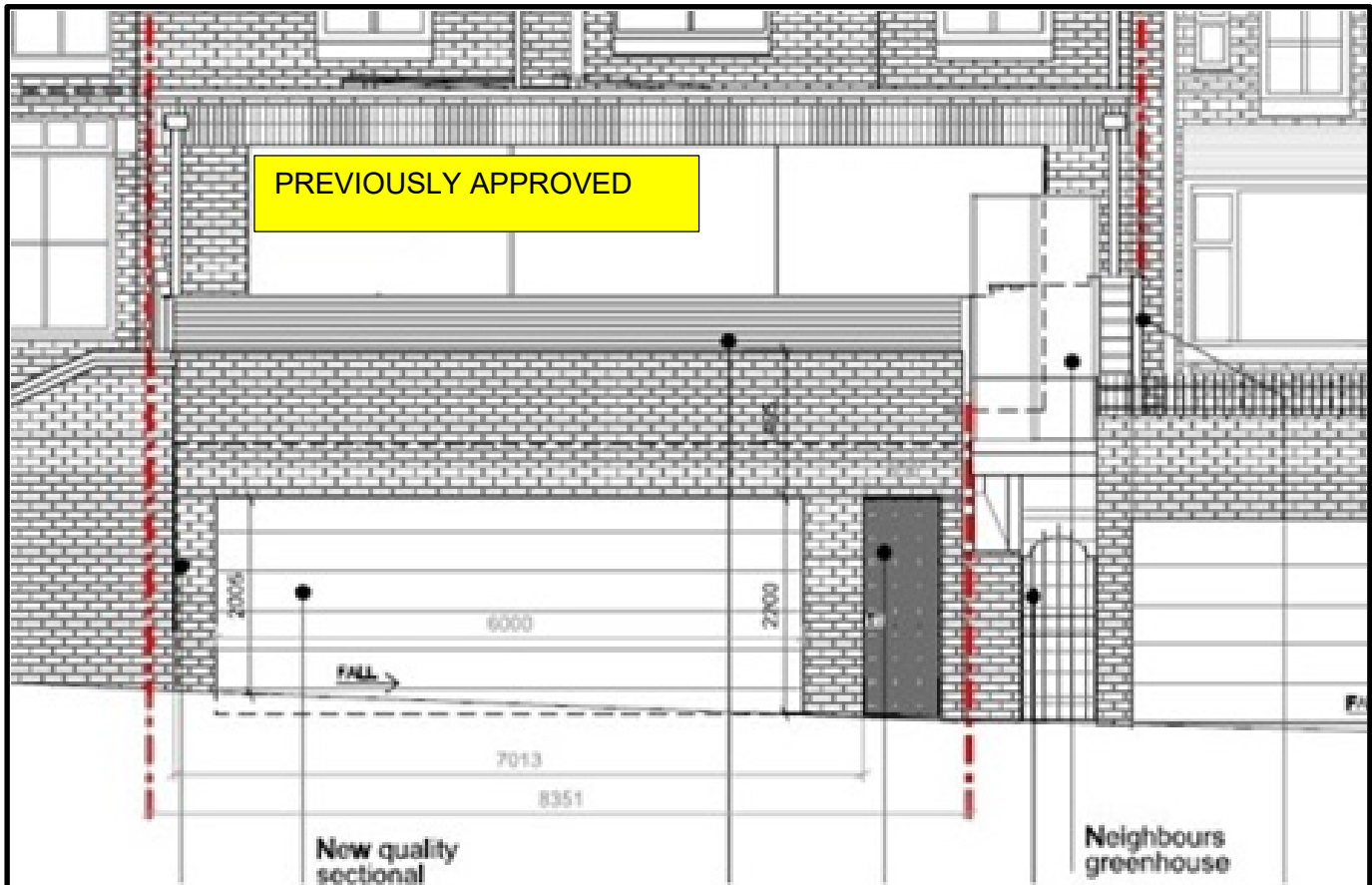
Appearance of the Rear Garage – The applicant has stated that the reason for amending the design of the garage is due to the risk of water ingress from water running down Millgate Lane, as indicated by the red arrow in the photo below.



This has necessitated raising the floor of the garage and creating a small slope, all in an effort to prevent water flooding the garage floor.

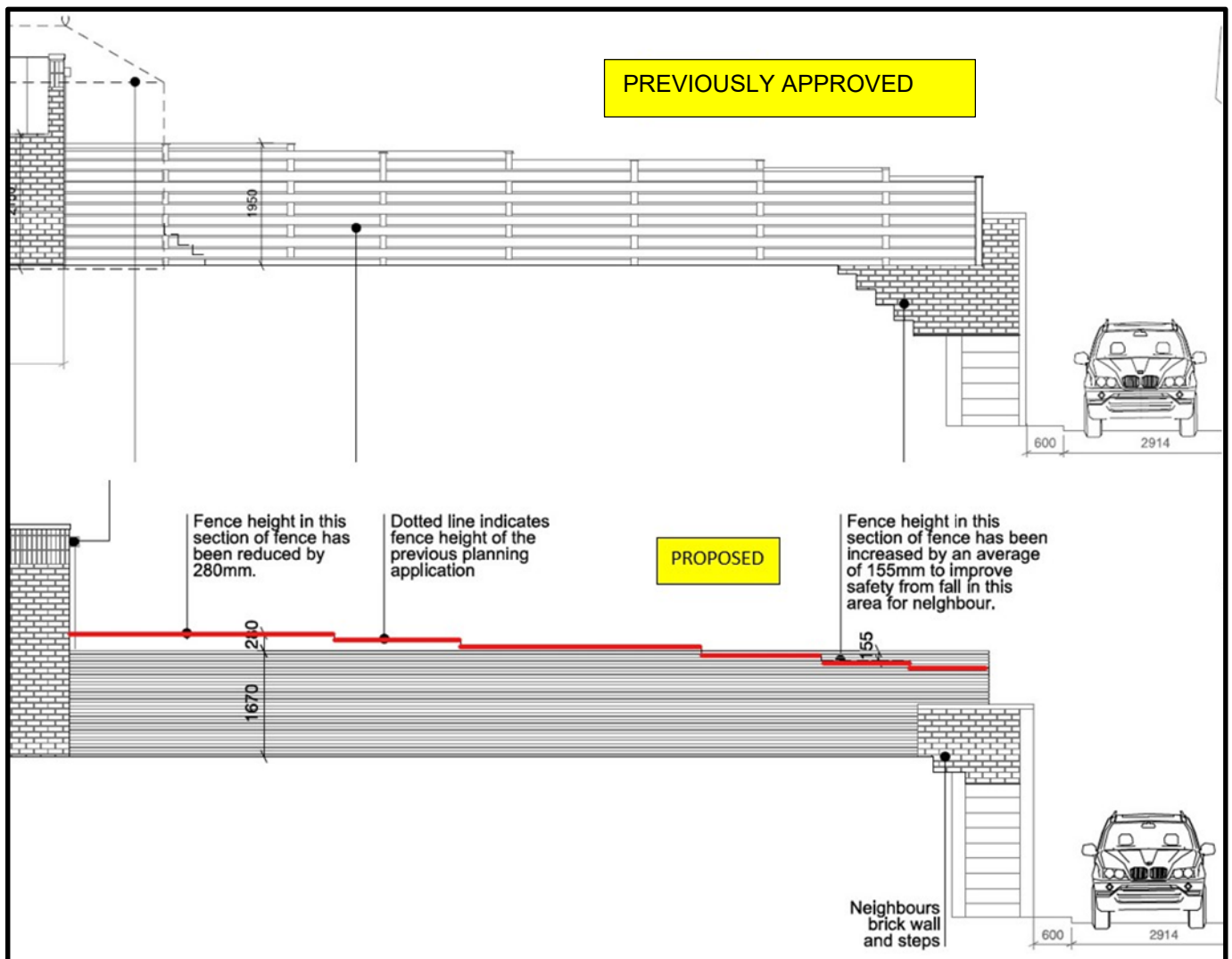
In doing this, as seen in the image below, the height of the garage door has been increased from 2 metres to 2.26 metres, with the rear fencing (red circle) also increasing in height. However, it should be noted that the overall, height of the garage would remain the same.

Despite the amendments shown below, the overall design of the proposed garage is still considered acceptable.



Boundary Treatment with nos. 22 and 26 Kingston Road – From the objections received, the greatest concerns to neighbouring residents is the height of the fencing running along the side of the rear garden, particularly the side facing no. 26 Kingston Road.

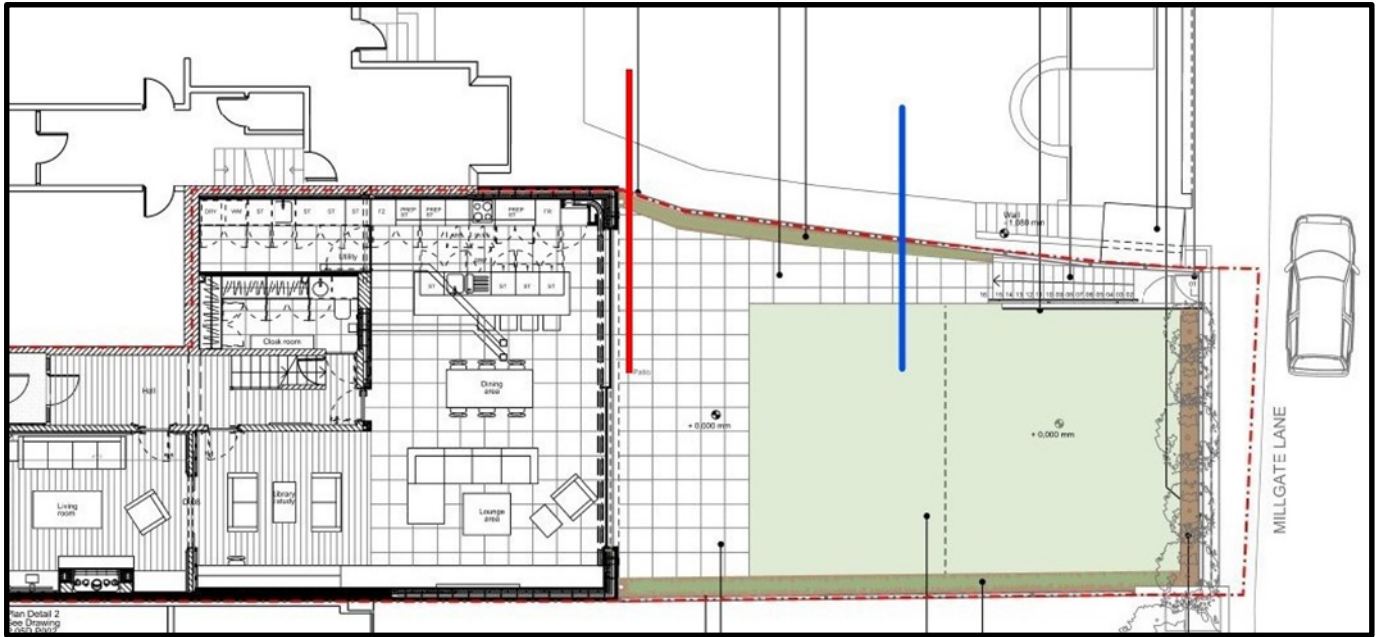
Fencing to no. 22 Kingston Road – The original permission included the erection of new fencing between nos. 22 and 24 Kingston Road, at a maximum height of 1.95 metres, stepping down in height until it terminated at the Millgate Lane end of the property. This application will see that fencing reduced to 1.67 metres in height, however, as it is not stepping down it will actually increase in height closest to the Millgate Lane, i.e. above the garage. The difference between the two can be seen below, with the red line showing the position of the previously approved fencing.



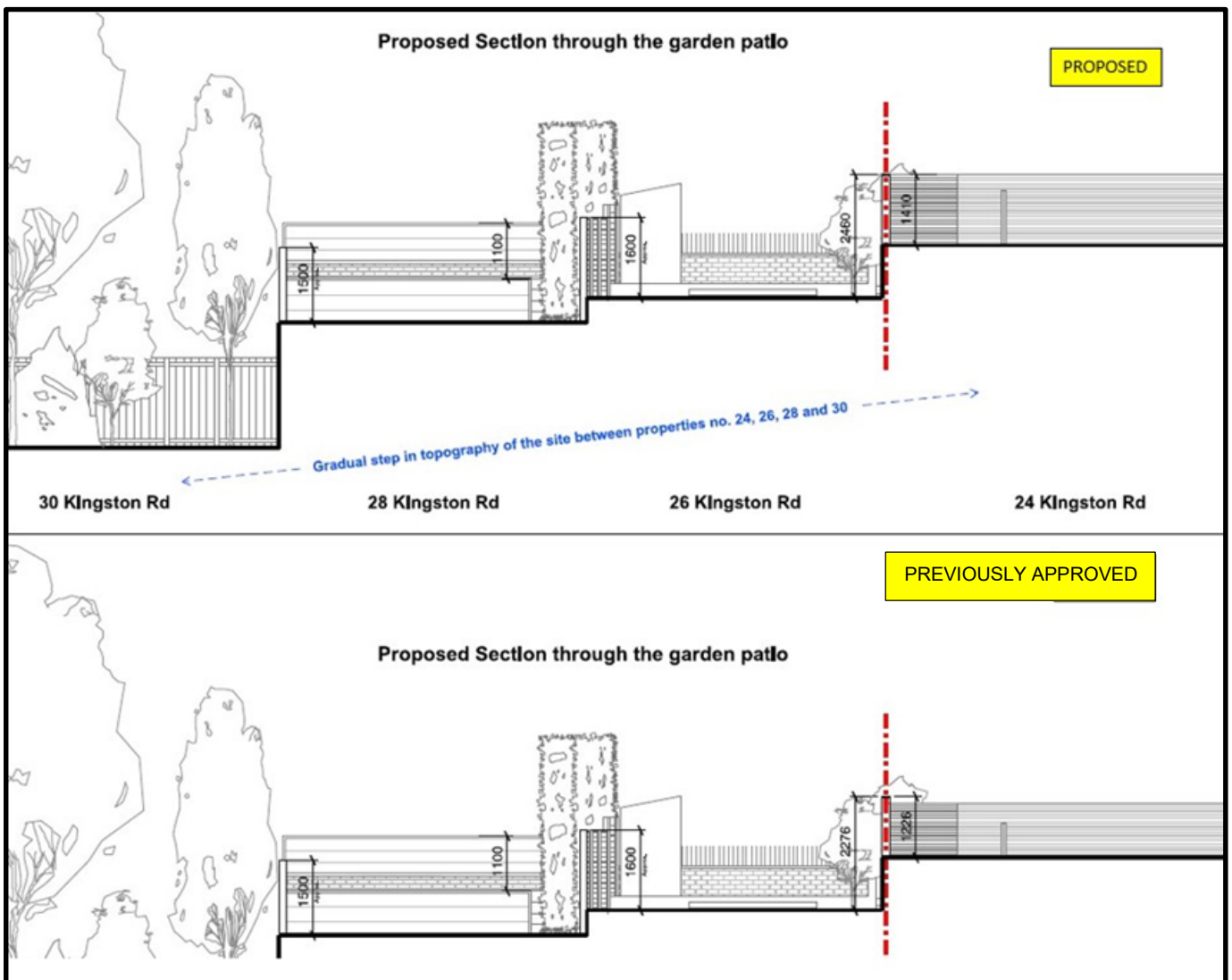
It is not considered that this amendment would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of no. 22 Kingston Road.

Fencing to no. 26 Kingston Road – The biggest increase to the height of the boundary fencing takes place along the common boundary between nos. 24 and 26 Kingston Road. This has been born out a need to raise the floor of the garage, which in turn has led to an increase in the garden levels by circa 400mm.

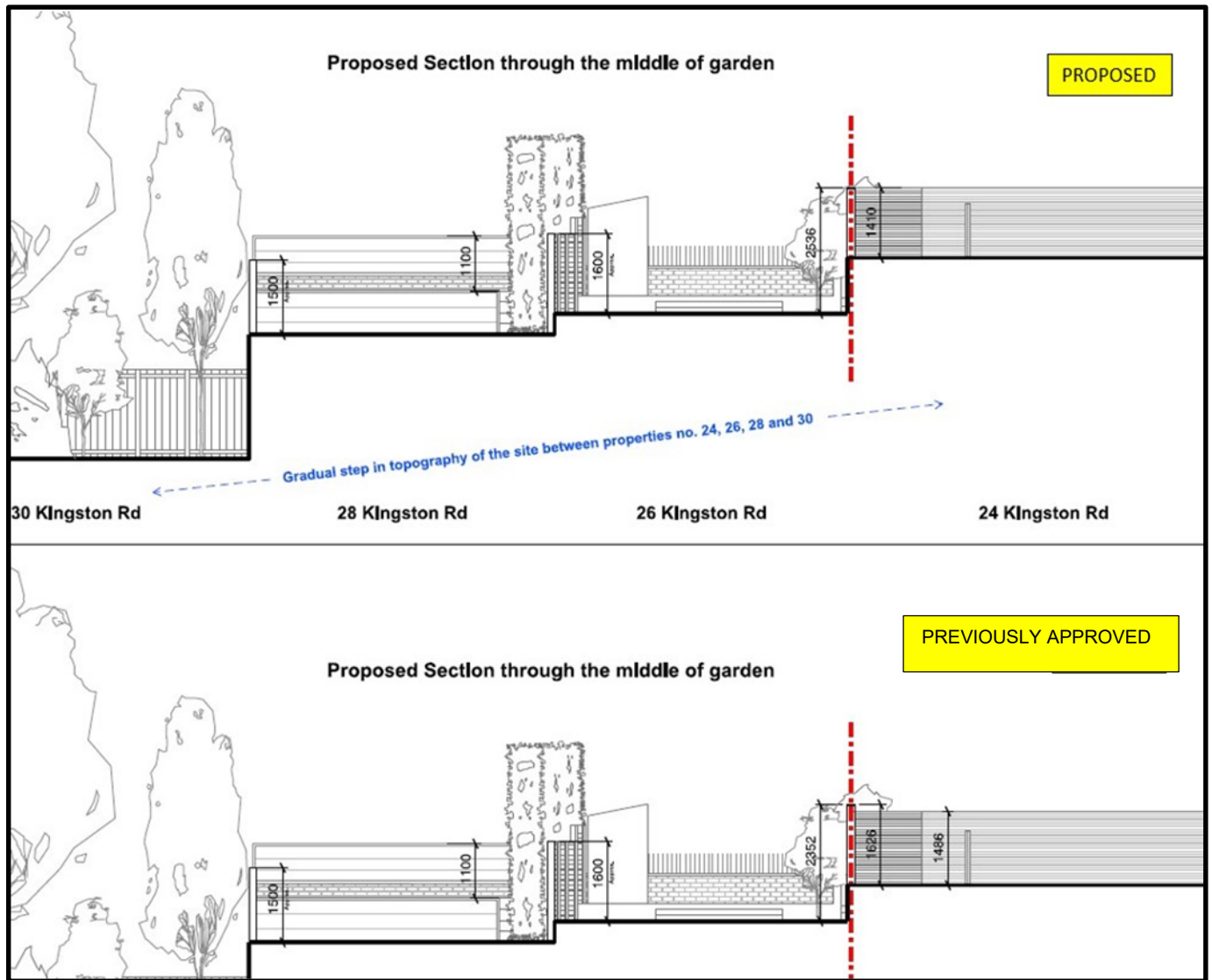
To demonstrate the differences in height the applicant has provided two cross sections, shown in the locations below, i.e. one through the patio (red line) and one through the middle of the rear garden (blue line).



The section through the patios shows that the fence would increase in height from 2.27m to 2.46m, when measured from the garden on no. 26 Kingston Road.



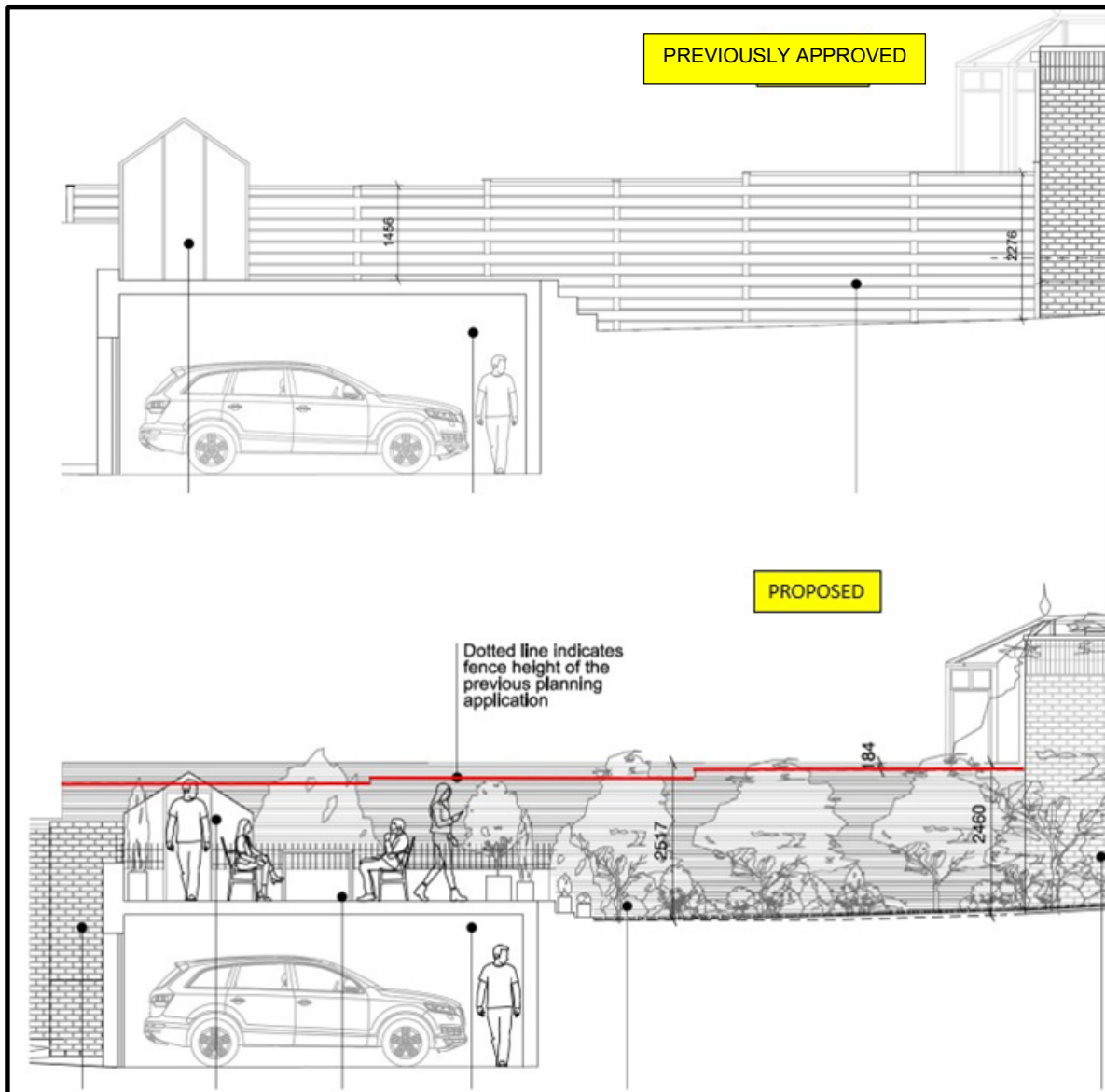
The section through the middle of the garden shows that the fence would increase in height from 2.32m to 2.54m, when measured from the garden on no. 26 Kingston Road.



Both sectional drawings show that the fencing above the garage, i.e. facing Millgate Lane, would also be raised in height.

The elevational drawings below also show the differences between the two fences, with the bottom image also showing the line of the previously approved fence (red line) overlayed on the currently proposed scheme.

While a boundary fence erected at circa 2.5m is not common, it is acknowledged that where neighbouring gardens step down from one another, a fence that might only be 1.6m in height when measured on one side (as in the case here at 24 Kingston Road) appears taller on the other side (26 Kingston Road). It should also be noted that the applicant does have a fallback position, i.e. utilising Permitted Development rights, which would actually result in the installation of a taller fence, if erected solely within the grounds of no. 24 Kingston Road.



Given the relatively modest increases in the height of this fence, it is not considered that this element of the proposal would have an unduly detrimental impact upon the existing levels of residential amenity enjoyed by the residents of no. 26 Kingston Road so as to warrant refusal of the application.

Impact on no. 28 Kingston Road – Given the distances between nos. 24 and 28 Kingston Road it is not considered that the proposal would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of that particular property.

Visual Amenity – Given the minimal changes to the design of the garage and the fact the boundary treatment would still be horizontally laid timber, it is not considered that the proposed extension would have a detrimental impact upon the levels of visual amenity enjoyed within the vicinity of the site.

Impact on Didsbury St. James Conservation Area – Policy EN3 of the Core Strategy, along with section 12 of the NPPF, states that consideration must be given to the impact of new developments on heritage assets. The requirement to preserve or enhance the Conservation Area is a key requirement within policy EN3 of the Core Strategy, saved UDP policy DC18, along with the objectives of the NPPF. As such, any new development must seek to retain the character of the area through careful detailing and, where appropriate, the use of compatible materials. In terms of informing the design and form of new development in the area, it is considered that

careful consideration should be given to the existing character of the conservation area including the size, mass and appearance (including materials) of the older buildings.

The Didsbury St. James Conservation Area, which lies nine kilometres south of the city centre, was designated in November 1970. It is centred on the historical core of Didsbury, at the junction of Wilmslow Road and Stenner Lane, and covers an extensive area. Most of the conservation area is on level ground, but there is a slope down Millgate Lane, Kingston Road and Stenner Lane where the higher land gives way to the lower level of the Mersey flood plain.

The buildings within the conservation area can broadly be categorised by the collection of large scale 19th Century villas, smaller earlier cottages and churches. Although remaining primarily residential in character, there are a number of other uses within the area that influence its character. The scale of buildings varies across the conservation area and includes large and prominent residences contrasted with lodges and cottages and there is also variety in plot sizes, building orientation and position and architectural styles. A great variety of building materials are used in the conservation area. Most common is red brick for walls and blue slate for roofs. Stone dressings, in conjunction with brickwork, are used extensively, and several buildings are built entirely of stone, notably the two churches.

Given the minor amendments to the proposed garage it is not considered that those works would have a detrimental impact upon the character and appearance of the Didsbury St. James Conservation Area. In terms of the proposed fencing, amendments to the fencing between nos. 22 and 24 Kingston Road, are also minimal and are not considered to cause harm to the conservation area.

The amendments to the fencing between nos. 24 and 26 are more substantial, though it is recognised that this increase is exaggerated by the change in levels between the two sites. However, given the variety of boundary treatments and heights seen at the rear of Kingston Road, together with the proposed timber boarding to the fence it is not considered that the impact upon the character and appearance of the Didsbury St. James Conservation Area is harmful would be so substantial so as to warrant refusal of the proposal.

Pedestrian and Highway Safety – It is still considered that the proposal will not have a detrimental impact upon the levels of pedestrian and highway safety enjoyed along Kingston Road and Millgate Lane.

Drainage – Concerns have been raised about the impact of the proposal upon existing drainage characteristics. The applicant has confirmed that suitable drainage has been designed and passed by both United Utilities and Building Control to ensure water would not impact any adjacent structures and would allow the garden to drain as it did previously.

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

Officers have worked with the applicant in a positive and proactive manner to resolve any matters arising in relation to dealing with the planning application.

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

1) The development must be begun not later than the expiration of three years beginning with the date of the original planning permission (126617/FH/2020) approved on 21 May 2020.

Reason - Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.

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

- a) location plan, received on 30 March 2020
- b) Drawing no. P.03GA.P000 (Proposed Ground Floor Plan), received on 6 December 2023
- c) Drawing no. P03GA.P000 (Proposed Lower Ground Floor Plan), received on 30 March 2020
- d) Drawing no. P03GA.P001 (Proposed First Floor Plan), received on 30 March 2020
- e) Drawing no. P03GA.P002 (Proposed Second Floor Plan), received on 30 March 2020
- f) Drawing no. P.03GA.E001 (Proposed North, South and West Elevations), received on 15 February 2024
- g) Drawing no. P03GA.E001 (Proposed West Elevation from Millgate Lane), received on 30 March 2020
- h) Drawing no. P03GA.E002 (Proposed South Elevation), received on 30 March 2020
- i) Drawing no. P.03GA.E003a (Proposed North Elevation), received on 13 August 2020
- j) Drawing no. P03GA.E005 (Proposed West Elevation), received on 30 March 2020
- k) Drawing no. P.03GA.S001 (Section AA), received on 15 February 2024
- l) Drawing no. P.02LD.P001a (proposed site plan), received on 13 August 2020
- m) Drawing no. P.03GA.E001 (proposed section – middle of garden), received on 22 March 2024
- n) Drawing no. P.03GA.E001 (proposed section – garden patio), received on 22 March 2024

o) Drawing no. P.03GA.D001 (proposed fence drawing), received on 2 February 2024

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

3) The materials to be used on external elevations shall match those on the external elevations of the existing building in colour, size and texture.

Reason - In the interests of visual amenity, pursuant to Policy DM1 of the Manchester Core Strategy.

4) The development shall include the installation of a proprietary gas protection membrane as approved under condition discharge reference CDN/20/0812, in order to alleviate any possibility of landfill gas ingress to the building.

Reason - The development site lies within 250 metres of a registered landfill site or in close proximity to a potential historical source of landfill gas, pursuant to policies DM1 and EN18 of the Manchester Core Strategy.

5) The replacement tree planting scheme as approved under condition discharge reference CDN/20/0812 shall be implemented not later than 12 months from the date the development hereby approved is completed. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with policies SP1, EN9 and DM1 of the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Didsbury Civic Society
The Croft, Millgate Lane, Didsbury, Manchester, M20 2SW
30 Kingston Road, Manchester, M20 2RZ
26 Kingston Road, Manchester, M20 2RZ
28 Kingston Road, Manchester, M20 2RZ
22 Kingston Road, Manchester, M20 2RZ
20 Kingston Road, Manchester, M20 2RZ

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
Conservation Area - Didsbury St James Conservation Area 1970
Historic Landfill Site 250m Buffer -
Area Team Boundary - Name: SOUTH AREA