

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135674/FH/2022

Date registered valid: 6 December 2022

Proposal: Erection of detached single storey outbuilding following demolition of existing outbuilding to provide additional living accommodation

Address: 26 Egerton Road, Manchester, M14 6XA

Ward(s): Withington Ward

Applicant: Mr Ansar Jawaaid

Agent (if any): Mr Ben Hall Studio Reform

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 13 July 2023

Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: 27 January 2023

Standard consultations:

Printed: 13 January 2023 Expired: 3 February 2023

Neighbour notifications

Printed: 13 January 2023 Expired: 3 February 2023

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



The application site relates to the rear garden of two storey interlocked semi-detached dwellinghouse. There is a small front garden which incorporates a driveway and a side gate which allows access to the rear garden.

Listed building: Not applicable

Conservation area: None

Tree Preservation Order: None

Description of area

The area is predominantly residential in nature and is popular with students and contains a high concentration of House in Multiple Occupation (HMOs).

This area of Egerton Road comprises of mostly semi-detached two storey properties with similar narrow plot sizes resulting in relatively spacious rear gardens and modest sized front gardens which provide space for some off-road car parking. At the rear the vast majority of properties in the area have some form of outbuildings in a range of sizes but would be considered incidental to the main dwellinghouses.

Description of development

The applicant is seeking planning permission to for a detached single storey outbuilding following demolition of existing outbuilding to provide additional living accommodation.

Consultations & Notification Responses

Local Residents/Public Opinion – One representation was received objecting to the proposal due to concerns with an increase in occupancy at the site and should be no more than 6 persons and that the Council cannot continue to fail to enforce citizen friendly policy and the standing national regulations on balanced neighbourhoods.

Cadent Gas Ltd - No objection

MCC Flood Risk Management – No objection

The LLFA approve and recommend the following Informative is included within the Decision Notice.

The proposed outbuilding is within Flood Zone 2, floor levels should be set as per the FRA.

The site is within Flood Zone 2 and an Environment Agency Flood Warning Area. The applicant is encouraged to consider signing up for Environment Agency Flood Warnings - <https://www.gov.uk/sign-up-for-flood-warnings>

The applicant should design and construct drainage system to prevent the increased risk of flooding, to improve and protect water quality and ensure future maintenance of the surface water drainage system. We recommend considering green SuDS components to mitigate for any loss of permeable area.

Councillor Gavin White – Objects to the proposal due to concerns that it would represent an overdevelopment of the site and that the proposal is contrary to policies on garden development.

Councillor Chris Wills on behalf of Withington Ward Councillors – Object to the proposal as it is large addition to a property that sits in the middle of an area of high student density.

This proposed development will therefore exacerbate issues of over-saturation and overoccupancy and therefore contrary to policy H11.

Fallowfield Community Guardians – Object to the proposal, the outbuilding is large and covers half of the garden, this is an unacceptable loss of green space and natural drainage and is likely to result to the loss of wildlife and increase the risk of flooding.

The property used to be a family home and since it has become an HMO there have been numerous issues with noise, anti-social behaviour, and waste management.

The creation of a 3-bed house in the rear garden will lead to a further intensification of use and contrary to policy.

Withington Civic Society – Object to the proposal as it is contrary to H11 and fails to accord with the objectives of the NPPF.

Issues

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:

SP1 – Spatial Principles

DM1 – Development Management 1

EN1 – Design Principles and Strategic Character Areas

H11 – Houses in Multiple Occupation

The Guide to Development in Manchester SPD

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.

In particular NPPF states that in terms of design:

126. The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

And,

130. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

134. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design⁵², taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

135. Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

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-date development plan, permission should not normally be granted.

The main dwellinghouse is currently in use as a 9-bedroom House in Multiple Occupation (HMO) in accordance with its HMO Licence and prior to the start of the construction there has been detached single storey garage within the rear garden.

The proposal relates to an outbuilding within the rear garden that has replaced a previous but now demolished garage. The original drawings submitted with the application simply showed three rooms and a porch, following questions raised by the case officer the applicant's explanation shed light that the intended use of the space would be as a mixed-use space comprising of a gym, games room, kitchenette and communal work space for the residents of the main dwellinghouse.

At the time of the officers site visit construction had progressed to the point where all the exterior and internal walls, including front porch had been built.

As the outbuilding requires planning permission due to its size and potential use, its size, use and impact on both residential and visual amenity will be considered below.

Size, Use and Impacts on Residential and Visual Amenity – The application site lies within a predominately residential area, properties are mix of two storey semi-detached and terraced properties. The properties are sited in narrow plots, set back from the highway, with modest, open front gardens and relatively spacious rear gardens.

Located within the rear garden and there would be limited views of the outbuilding from the public highway as it would only be seen from the side of the property and partially hidden by the existing timber gate. The partial built outbuilding occupies a space approximately half the size of the rear garden close to the four boundaries of the neighbouring properties of 7 and 7a Beech Grove, 24 and 28 Egerton Road. In the case of the later property the outbuilding appears to have been built on or very close to the shared boundary.

The proposed drawings indicate that if completed it would have a dual pitched roof with a maximum height of 3.727 metres and an eaves height of 2.533 metres. The outbuilding measures 10.542 metres in width and a length of 6.055 metres, the porch measures 2.4 metres in width and 1.2 metres in length, this combines from a gross floorspace of 66.71 square metres. The size of the outbuilding would and could be argued already has limited the amount of useable garden space for a dwellinghouse. Having regard to the size of the property and that its HMO licence allows 9 persons it is unlikely that the remaining outdoor space meets the basic needs of the occupiers. There is not adequate space 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 despite its large floor space, would physically appear subservient to the original dwellinghouse and following questions raised by the case officer the applicant's explanation shed light that the intended use of the space would be as a mixed-use space comprising of a gym, games room, kitchenette and communal workspace for the residents of the main dwellinghouse due to a lack of space within the existing dwellinghouse.

However, the original submitted rear elevation showed the location of two-bathroom extractor fans and a kitchen extractor fan, yet the amended submitted floor plans show instead a changing and utility room. Questions were raised with the applicant again to 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 required a kitchenette and not only one but two bathrooms. The floorplan from the 2013 planning application reference: 101665/FO/2013/S1 shows that the utility room and kitchen are on the ground floor close to the rear entrance and would be a short distance walk to and from the outbuilding.

Secondly if the purpose is to provide additional facilities this would be at the detriment of the amount of outdoor space available to the occupiers. 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.

Flood Risk - The site is within Flood Zone 2 and an Environment Agency Flood Warning Area, during the course of the application, in response to comment received from the flood risk management team submitted a flood risk assessment (FRA). The FRA has been reviewed by the team and raised no objection provided that the floor levels set as per the FRA. Had the application been acceptable this would have formed a condition of the approval.

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, as already expressed, 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 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

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) Given the size of the proposed outbuilding it 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.

Informatives

- 1) The proposed outbuilding is within Flood Zone 2, floor levels should be set as per the FRA. The site is within Flood Zone 2 and an Environment Agency Flood Warning Area. The applicant is encouraged to consider signing up for Environment Agency Flood Warnings - <https://www.gov.uk/sign-up-for-flood-warnings> The applicant should design and construct drainage system to prevent the increased risk of flooding, to improve and protect water quality and ensure future maintenance of the surface water drainage system. We

recommend considering green SuDS components to mitigate for any loss of permeable area.

- 2) Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist. If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Appendix 1 – List of consultees & neighbours notified

MCC Flood Risk Management

5A Beech Grove, Manchester, M14 6UY
7A Beech Grove, Manchester, M14 6UY
24 Egerton Road, Manchester, M14 6XA
59 Egerton Road, Manchester, M14 6UZ
5 Beech Grove, Manchester, M14 6UY
57 Egerton Road, Manchester, M14 6UZ
Flat 4, 15 Royle Street, Manchester, M14 6RN
Flat 5, 15 Royle Street, Manchester, M14 6RN
Flat 1, 15 Royle Street, Manchester, M14 6RN
Flat 3, 15 Royle Street, Manchester, M14 6RN
Wardens Flat, Royle Court, Royle Street, Manchester, M14 6RP
61 Egerton Road, Manchester, M14 6UZ
Flat 8, Royle Court, Royle Street, Manchester, M14 6RP
Flat 5, Royle Court, Royle Street, Manchester, M14 6RP
Flat 41, Royle Court, Royle Street, Manchester, M14 6RP
Flat 39, Royle Court, Royle Street, Manchester, M14 6RP
Flat 36, Royle Court, Royle Street, Manchester, M14 6RP
Flat 34, Royle Court, Royle Street, Manchester, M14 6RP
Flat 31, Royle Court, Royle Street, Manchester, M14 6RP
Flat 3, Royle Court, Royle Street, Manchester, M14 6RP
Flat 27, Royle Court, Royle Street, Manchester, M14 6RP
Flat 25, Royle Court, Royle Street, Manchester, M14 6RP
Flat 22, Royle Court, Royle Street, Manchester, M14 6RP
Flat 20, Royle Court, Royle Street, Manchester, M14 6RP
Flat 18, Royle Court, Royle Street, Manchester, M14 6RP
Flat 16, Royle Court, Royle Street, Manchester, M14 6RP
Flat 12, Royle Court, Royle Street, Manchester, M14 6RP
Flat 1, Royle Court, Royle Street, Manchester, M14 6RP
28 Egerton Road, Manchester, M14 6XA
9 Beech Grove, Manchester, M14 6UY
Royle Court, Royle Street, Manchester, M14 6RP
24E Egerton Road, Manchester, M14 6XA
24D Egerton Road, Manchester, M14 6XA
24C Egerton Road, Manchester, M14 6XA
24B Egerton Road, Manchester, M14 6XA
Flat 5, 55 Egerton Road, Manchester, M14 6UZ
Flat 4, 55 Egerton Road, Manchester, M14 6UZ
Flat 3, 55 Egerton Road, Manchester, M14 6UZ
Flat 1, 55 Egerton Road, Manchester, M14 6UZ
Flat 2, 55 Egerton Road, Manchester, M14 6UZ
Flat 9, Royle Court, Royle Street, Manchester, M14 6RP
Flat 7, Royle Court, Royle Street, Manchester, M14 6RP
Flat 6, Royle Court, Royle Street, Manchester, M14 6RP
Flat 42, Royle Court, Royle Street, Manchester, M14 6RP
Flat 40, Royle Court, Royle Street, Manchester, M14 6RP
Flat 4, Royle Court, Royle Street, Manchester, M14 6RP
Flat 38, Royle Court, Royle Street, Manchester, M14 6RP
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Flat 28, Royle Court, Royle Street, Manchester, M14 6RP
Flat 26, Royle Court, Royle Street, Manchester, M14 6RP
Flat 24, Royle Court, Royle Street, Manchester, M14 6RP
Flat 23, Royle Court, Royle Street, Manchester, M14 6RP
Flat 21, Royle Court, Royle Street, Manchester, M14 6RP
Flat 2, Royle Court, Royle Street, Manchester, M14 6RP
Flat 19, Royle Court, Royle Street, Manchester, M14 6RP
Flat 17, Royle Court, Royle Street, Manchester, M14 6RP
Flat 15, Royle Court, Royle Street, Manchester, M14 6RP
Flat 14, Royle Court, Royle Street, Manchester, M14 6RP
Flat 11, Royle Court, Royle Street, Manchester, M14 6RP
Flat 10, Royle Court, Royle Street, Manchester, M14 6RP
7 Beech Grove, Manchester, M14 6UY
11 Beech Grove, Manchester, M14 6UY

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

Flood Zones Type 2 (low to medium risk) -

Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Wilmslow Road/Egerton Road)

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH AREA