MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	136775/FO/2023
Date registered valid:	21 June 2023
Proposal:	Material change of use of land to form an extension to the domestic curtilage of 28 Chelsfield Grove together with the installation of 1.81 metre to 1.85 metre high timber fence
Address:	28 Chelsfield Grove, Manchester, M21 7SU
Ward(s):	Chorlton Park Ward
Applicant:	Mrs Lydia Kingsley
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	20 November 2023

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 31 July 2023

Standard consultations:
Printed: 14 July 2023 Expired: 4 August 2023

Neighbour notifications
Printed: 14 July 2023 Expired: 4 August 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 a modern two storey semi-detached dwellinghouse with a front dormer. The property is built with buff bricks and modern concrete blue roof tiles. The property has both front and rear gardens, with the front garden providing a driveway for in curtilage car parking.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

Residential estate in an irregular quadrilateral shaped piece of land located between Fallowfield Loop to the north, Metrolink Line to Didsbury to the west, Mauldeth Road West to the south and Withington Road to the East

Description of development

The applicant seeks a material change of use of land to form an extension to the domestic curtilage of 28 Chelsfield Grove together with the installation of 1.81 metre to 1.85 metre high timber fence

Consultations & Notification Responses

Notification letters were sent to the properties and addresses listed in appendix 1.

Public Comments – No comments or representations received.

Flood Risk Management Team – No conditions required.

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 several policies that are extant.

The relevant Core Strategy policies for this application are as follows:

SP1 – Spatial Principles
DM1 – Development Management 1

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.

The Principle – There is no statutory definition of the term "curtilage", however, according to the Technical Guidance for Householders (September 2019), the term curtilage is understood to be:

"… land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area." Page 7

In this application the applicant is seeking retrospective permission to retain a parcel of land located between the Fallowfield Loop and the rear garden of 28 Chelsfield Grove to form an extension to the domestic curtilage of 28 Chelsfield Grove together with the installation of 1.81 metre to 1.85 metre high timber fence.

The erection of the fence cannot therefore be permitted development under class A of Part 2 to Schedule 2 of the GPDO 2015 (as amended) because it is an essential part of the change of use.

The land sought can only be treated as part of the curtilage of a building if its use (as part of the planning unit comprising the building and the land occupied with it) is lawful.

If approved the application would confirm that use of the land is for domestic recreational and related purposes ancillary to the private residential use of the house and would be lawful and within the same planning unit.

There are no specific policies relating to extending the curtilage of a domestic dwellinghouse, however of relevance would policies SP1 and DM1 of the Manchester Core Strategy 2012 (Core Strategy) which seek to ensure that new development enhances or creates character, protects and enhances the built environment; and that the design, scale and appearance of the proposed development is appropriate to its context.

Therefore, matters that will require consideration, in order to assess the acceptability of the proposal is whether there is any impact on the visual or residential amenity of the neighbouring occupiers.

The property is located within a new housing estate of comprising of 62no. two & three storey dwellings, 4 studio apartments and 48no. flats on the former site of the Broughton Park Football Club approved under planning permission reference 060028/FO/SOUTH1/00

To the north of the site lies the Fallowfield Loop which is a former railway line now used as a 5.4 mile walking and cycling route that connects Chorlton Cum Hardy to Fairfield railway station which serves the Fairfield area of Droylsden in Tameside.

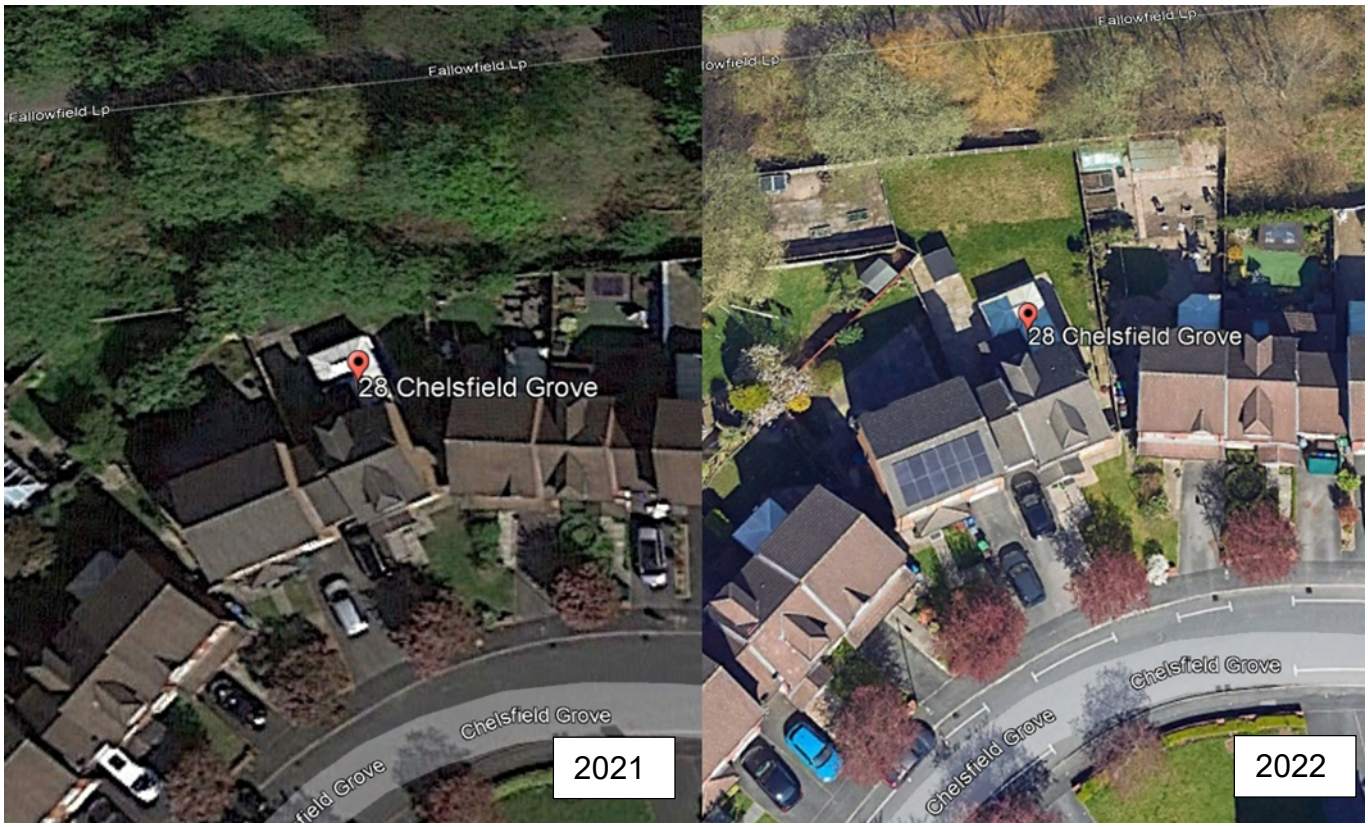


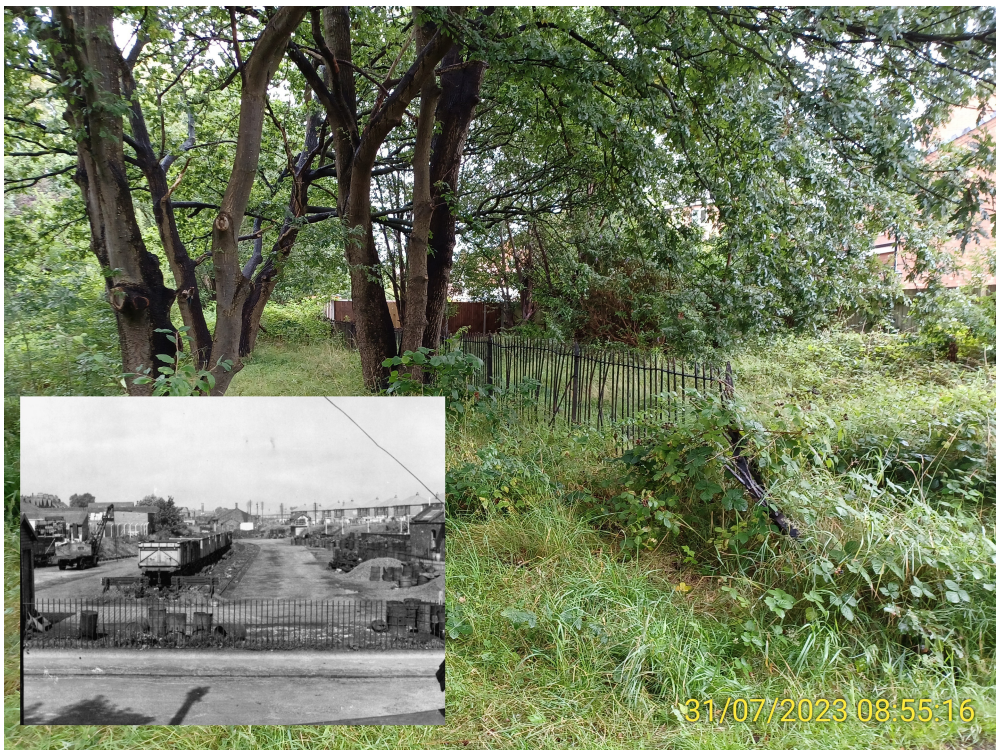
Image 1 Before (lhs) and After (rhs) taken of the property and its curtilage. Source www.google.com/earth

Image 1 provides a comparison of the site taken before and after the works, these images reveal that this property is not the only one to undertake this type of works. Photograph 1 shows the site as viewed from the Fallowfield loop which clearly shows a timber fence behind an iron railing that is partially screened by the existing green foliage. Photograph 2 which provides a clearer picture of the railing appears to show the original railway railings which would have formed a boundary between railway line and the land either side of the railway embankment. This would therefore imply that the extended curtilage that is subject to this planning application is outside of the curtilage of the Fallowfield loop.

A further map regression shows that the land in question was used a storage yard for the construction of the housing estate (image 2) and prior to that appeared to be an area of hardstanding for the football club that extends to the edge of the Fallowfield Loop and approximately where the fence is at present for 28 Chelsfield Grove.



Photograph 1 Site and Timber Fencing as viewed from the Fallowfield Loop looking towards the rear of the property.



Photograph 2 Original Railway Railings and insert of photograph showing railings at Wilbraham Road north side, Chorlton-cum-Hardy Station, Coal and goods sidings source from Manchester Libraries, Information and Archives identifier GB127.m18314- A E Landers- dated 1960



Image 2 During Construction Works of the housing estate (lhs) and car park/hard standing for the football club (rhs) taken of the property and its curtilage. Source www.google.com/earth

Residential Amenity – The retention of these works would have minimal impact on the streetscene. In terms of the choice of timber fencing this is considered to be appropriate for its location within a residential estate and it is not considered to be so incongruous to warrant the recommendation to refuse the application.

No Objections were received to this application.

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 polices 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 proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision. 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) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Location Plan

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.

Informatives

1) The applicant/developer should note the proposed fence line is directly adjacent to fluvial flood plain (Flood Zone 3b). Therefore, any future alterations within functional flood plain would be subject to Environment Agency and Lead Local Flood Authority scrutiny.

Appendix 1 – List of consultees & neighbours notified

MCC Flood Risk Management
Sustrans

36 Chelsfield Grove, Manchester, M21 7SU
20 Chelsfield Grove, Manchester, M21 7SU
34 Chelsfield Grove, Manchester, M21 7SU
32 Chelsfield Grove, Manchester, M21 7SU
30 Chelsfield Grove, Manchester, M21 7SU
2 Abbeystead Avenue, Manchester, M21 7DP
18 Chelsfield Grove, Manchester, M21 7SU
4 Abbeystead Avenue, Manchester, M21 7DP
24 Chelsfield Grove, Manchester, M21 7SU
26 Chelsfield Grove, Manchester, M21 7SU
22 Chelsfield Grove, Manchester, M21 7SU

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) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA