

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131091/FO/2021

Date registered valid: 17 January 2023

Proposal: Conversion of dwellinghouse into 5 no. self contained flats together with a two storey rear extension and associated car parking, bin store and amenity space

Address: 4 Rowsley Avenue, Manchester, M20 2XD

Ward(s): Didsbury West Ward

Applicant: Mr Andrew Leung

Agent (if any): Mr Liam Gooding LDM Surveyors

Case officer: Janine Renshaw-Livesey
Tel: 0161 234 4555
Email: janine.renshaw-livesey@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 14 February 2023

Application details

Type of application: Full Application Consent

Development type: Minor Dwellings

Date of site visit: 9 Feb 2023

Standard consultations:

Printed: 17 January 2023 Expired: 7 February 2023

Neighbour notifications

Printed: 17 January 2023 Expired: 7 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

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description Site/Building

The application relates to a large detached Victorian villa of red brick and terracotta roof tiles, set within a generous plot which includes a walled front and rear garden, driveway and double garage. The Eucalyptus tree in the front garden is subject to a tree preservation order.

Description of area

Rowsley Avenue is a short residential road connecting Barlow Moor Road to Darley Avenue within the Didsbury West ward. Rowsley Avenue comprises of predominantly large Edwardian Villa type family dwellings. The remainder are semi-detached family dwelling houses. The residential area is characterised by car parking and garden area facing the highway.

Description of development

Consent is sought to convert the property into 5 self-contained flats. On the ground floor would be a 2 x 2 bed flats, the first floor would have 2 x 2 bed flats and the second floor would have 1 x 2 bed flats. The proposal consists of a two-storey rear extension to create additional floor space.

All the flats would be accessed from the front of the property and part of the rear garden area provides car parking spaces for 5 vehicles. The applicant states that no trees would be effected

by the proposal. However, the removal of two trees would be required to implement the rear extension.

Site History

102158/TPO/2013/S2 Works to tree Approve

124846/FO/2019 Change of use from single dwellinghouse to five self-contained flats.

Returned.

125529/LP/2019 Certificate of lawful proposed development for the erection of a single-storey rear extension and alterations to garage roof. Refused.

126164/LP/2020 Certificate of lawful proposed development for the erection of a single-storey rear extension. Approved.

Consultations & Notification Responses

The occupiers of the surrounding properties were consulted, and three objections were received from local residents, raising the following concerns.

- The development would be out of character with the area.
- The proposal would increase comings and goings, creating noise due to heightened levels of activity at the premises.
- The increase in cars would impact on ecology and wildlife at the site.

Councillor Deborah Hilal objected to the proposal on the following grounds.

- Flats change the character of the road.
- Lack of car parking should more than 5 car parking spaces be required.
- Car parking at the rear of the site would create noise nuisance for the occupiers of the neighbouring properties.
- The area has a lack of family dwelling houses.
- Should the property be used as a HMO create uncertainty for local residents due to high number of transient occupiers.

The Highways Team- commented It would appear from the basic site plan provided that the existing vehicle access is being retained which leads to an area of on-site parking to the rear with five car parking spaces.

In relation to the above the following matters require clarifying:

o Car parking bay sizes

o Verification through vehicle swept path submission that the necessary vehicle manoeuvres can be undertaken when entering and exiting the development and when entering and exiting each parking space assuming that others are utilised.

o Electric vehicle charging (minimum 7kW) is required for each space in line with new building regulations.

It is not clear from the submission whether the existing boundary treatments are being retained and, in this regard, clarification is sought.

With regard to waste management no details have been provided in relation to waste transportation and collection and in this regard, details are sought. It is recommended the guidance is followed.

In relation to cycle storage, the submission provided insufficient details. We require clarification that secure and sheltered cycle parking is provided for each unit.

Insufficient access details have been submitted to allow us to provide any meaningful comments.

Should the planning application be approved it is required that a Construction Management Plan be conditioned which shall include, where appropriate the following details:

- The routing of construction traffic;
- Detail the vehicular activity associated with the construction including appropriate swept-path assessment;
- Details of the location and arrangements for contractor parking;
- The identification of the vehicular access points into the site;
- Identify measures to control dust and mud including on the surrounding public highway including details of how the wheels of contractor's vehicles are to be cleaned during the construction period;
- The details of an emergency telephone contact number for the site contractor to be displayed in a publicly accessible location;
- For large schemes a highway dilapidation survey including photographs and commentary on the condition of carriageway/footways on construction vehicle routes surrounding the site.

The applicant is advised that any requirements for licensing, hoarding / scaffolding, building maintenance and any associated temporary traffic management arrangements will need discussion and agreement with the council's Highways Applications and Network Resilience teams via Contact Manchester (Tel. 0161 234 5004).

The highways team requested a construction management plan condition should the proposal be supported.

Environmental Health commented, should the proposal be supported a construction management plan, noise attenuation, waste, air quality and external plant and equipment noise condition be attached to the consent.

West Didsbury Residents Association were consulted, and no representations were received.

Policy

Local Development Framework

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 - 2027.

'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.

Core Strategy

Policy SP1 (Spatial Principle) - refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well-being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 (Development Management) - states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Policy H6 prioritises housing that meets identified shortfalls, including family housing.

Policy H11 (Houses in Multiple Occupation) - states that changes of use from a C3 dwelling house to a C4 HMO will not be permitted where there is a high concentration of residential properties within a short distance of the application site falling within one or more of the following categories:

- o Exempt from paying Council tax because they are entirely occupied by full time students.
- o Recorded on Private Sector Housing's database as a licensed HMO.
- o Any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.

In cases where the concentration of such properties is significant but less high, the Council will examine property type and resident mix in more detail when considering an application for a change of use.

In parts of Manchester which do not have a high concentration of HMO/student housing but where the lack of family housing has threatened the sustainability of the community to the extent that regeneration activity with the specific intention of increasing the amount of family housing has taken place, there will be a presumption against changes of use which would result in the loss of a dwelling which is suitable for a family. Changes to alternative uses, including C4 and HMOs with more than six occupants, will only be acceptable where it can be demonstrated that there is no reasonable demand for the existing use. The approach above will also be used for change of use to a HMO which is classified as 'sui generis'. Notwithstanding the policy requirements set out above, all proposals for change of use of existing properties into houses in multiple occupation, and all proposals for conversion of existing properties into flats (which might not necessarily fall within Class C4), would be permitted only where the accommodation to be provided is of a high standard and where it will not materially harm the character of the area, having particular regard to the criteria in policy DM1.

Unitary Development Plan

Saved Policy DC5 Flat Conversions.

DC5.1 In determining planning applications to convert property to flats, the Council will have regard to:

d. general effects on the character of the neighbourhood, including the extent to which flat conversion schemes are a new or an established feature of the immediate area, avoiding the loss of

front gardens and the retention of existing trees and shrubs;

DC5.3 Notwithstanding policy DC5.2, the Council will normally refuse permission for any developments in this category which:

DC5.4 In determining applications of this kind, the Council will give particularly careful consideration to situations where a scheme is the first in a street of otherwise single family dwellings, the Council will give weight to the desirability of maintaining the character of the street in that respect.

National Planning Policy Framework

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role.

Section 4 provides guidance on the decision-making process and mirrors legislation in stating that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Section 5 refers to the need to deliver a sufficient supply of homes and states that strategic policies should be informed by a local need assessment and the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

Issues

Principle

The proposed development involves the conversion of a C3 dwelling into 5 two bed self-contained flats and therefore involves the loss of a family dwelling. The principle of the proposed development is therefore considered to be unacceptable.

Loss of a family dwelling

Core Strategy policies H1 and H6 and the supporting text to the housing policies identifies a shortage of family housing in the south of the City. As a family dwelling the property would have good access to local facilities, including shops, healthcare, schools, parks and public transport. Further its retention as a dwellinghouse would help to maintain the diversity of accommodation available in the area that is important in ensuring that communities remain sustainable. The proposed development would therefore be contrary to policies H1 and H6.

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.

The NPPF at paragraphs 2 and 47 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.

In the case of this application, the principle of the proposed change of use is not considered acceptable and is in conflict with the aforementioned development plan policy and associated guidance.

It is considered that the proposed change of use of a house to flats would result in the loss of family sized accommodation, in an area where it is desirable to retain such properties, so to contribute to the Council's housing supply.

It is further maintained that the proposal would facilitate an over intensive use of the property and would lead to problems associated with increased levels of activity formed by people with different lifestyles and patterns of behaviour, increased noise, disturbance, waste storage demands and car parking requirements.

On this basis, the proposal is considered to conflict with policies DM1, SP1, H6 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF). There are no material considerations to indicate otherwise.

The principal issues are outlined further below.

Residential Amenity

Policies DM1 and SP1 of the Core Strategy indicate that consideration should be given to the effects of development upon the amenity, living conditions and the well-being of residents. The council has concerns in relation to the over-intensive use of the property as a consequence of unrelated people living together.

Whilst the City Council has no control over who can occupy a property, it can help prevent properties from being over intensively used, by restricting the number of occupants and the creation of certain types of accommodation.

Flat accommodation in particular, can often cause problems in residential neighbourhoods due to the levels of activity associated with unrelated people living together, as opposed to traditional family occupancy, which normally involves the manifestation of different patterns of behaviour and less frequent levels of activity.

A collective group of individuals with different lifestyles and different patterns of behaviour can result in frequent comings and goings, with associated noise and disturbance. This in turn can have an adverse impact upon the living conditions of neighbouring residential occupiers, to the detriment of their amenity.

The principal effects include, noise nuisance, negative impacts upon the physical environment and streetscape due to inadequate management of refuse storage and pressure upon local parking provision.

In this case, five car parking spaces are provided at the rear of the property unlike car parking provision at single family dwelling houses within the immediate vicinity where parking appears at the front of the properties. DC5.4 states, 'in determining applications of this kind, the Council will give particularly careful consideration to situations where a scheme is the first in a street of otherwise single-family dwellings, the Council will give weight to the desirability of maintaining the character of the street in that respect. Therefore, the proposal is considered to be at odds with the conformity of layout typical within the area and no other flats are present within the street, therefore the nature of the proposal is out of character within the street scene. Notwithstanding the relative accessible location of the property, car ownership by prospective

occupants cannot be precluded and may result in on streetcar parking. Furthermore, a concentration of car parking within the rear garden area would result in the reduction of amenity currently enjoyed by the local residents, due to heightened noise levels of comings and goings associated with car use in close proximity to neighbouring amenity space.

On this basis, the proposal is considered to conflict with policies DM1, SP1 and SP1 of the Manchester Core Strategy and DC5 of the Unitary Development Plan for Manchester and the National Planning Policy Framework (NPPF). There are no material considerations to indicate otherwise.

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:

Article 35 Declaration

Officers have attempted to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

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

1) The conversion of 4 Rowsley Avenue into 5 no. self-contained flats would result in the loss of family accommodation, thereby reducing the availability of family housing, and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H6 and H11 and DM1 of the Manchester Core Strategy (2012) and DC5 of the Unitary Development Plan, the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019).

2) The proposed use would result in an over intensive use of the property. The consequential increase in the levels of activity, noise, disturbance levels, waste generation and demand for parking, would have a detrimental impact upon the amenity of neighbouring residential occupiers, contrary to policies H11, DM1 and SP1 of the Manchester Core Strategy and DC5 of the Unitary Development Plan for Manchester.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
West Didsbury Residents Association

1 Rowsley Avenue, Manchester, M20 2XD
7 Oaker Avenue, Manchester, M20 2XH
5 Rowsley Avenue, Manchester, M20 2XD
Wardens Flat, Rowsley House, 3 Rowsley Avenue, Manchester, M20 2XD
Standwalk Limited, Rowsley House, 3 Rowsley Avenue, Manchester, M20 2XD
9 Oaker Avenue, Manchester, M20 2XH
6 Rowsley Avenue, Manchester, M20 2XD
Ashley House, 155 Barlow Moor Road, Manchester, M20 2YA
2 Rowsley Avenue, Manchester, M20 2XD

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