

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132492/P20A/2021

Date registered valid: 10 December 2021

Proposal: Prior approval application for the installation of 4 no. self contained flats to the roof of the existing building

Address: Poplar Court, 156 Moss Lane East, Manchester, M16 7DH

Ward(s): Moss Side Ward

Applicant: Raymond Boyle, Irish Anglo Properties (Hulme) Ltd, Poplar Court, 6 Moss Lane East, Manchester, M16 7DH

Agent (if any): Michael Dunn, Space Architecture & Design Ltd, Lake House, Blackmoorfoot Rd, Huddersfield, HD7 5TR

Case officer: Dave Morris
Tel: 0161 600 7924
Email: dave.morris@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 26.07.2022

Application details

Type of application: Prior approval - new dwellings to flats

Development type: Notifications

Date of site visit: 14 January 2022

Standard consultations:

Printed: 16 December 2021 Expired: 6 January 2022

Neighbour notifications

Printed: 16 December 2021 Expired: 6 January 2022

Site notice

Posted: 12 January 2022 Expired: 2 February 2022

Press advert

Published: 21 December 2021 Expired: 11 January 2022

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

This application relates to a modern part three, part four, part five storey block of flats. The building is situated on the south side of Moss Lane East and is of brick and timber cladding construction. The building is built around a large poplar tree. At the rear of the site is an enclosed car park and refuse storey.





Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The site is adjoined to the East by a modern terrace of four and three storey houses. Facing the site across Moss Lane East is Alexandra House a Council office building and a terrace of modern three storey houses. To the east across Pepperhill Street is an area of open space and to the south across Quinney Crescent are the front elevation of flats on Quinney Crescent and the gable elevation of a terrace of houses on Sewerby Street.

Description of development

This application seeks to determine if prior approval is required for the addition of a two, two storey extensions comprising in total four flats on top of the five storey part of the existing building, The extension would be constructed of a combination of render and rainscreen cladding.

The scheme has been modified in the light of comments made and a additional information submitted in respect of privacy and daylighting.

Consultations & Notification Responses

Local Residents

No representations received

Highways

-It is expected that the trips generated by 4 additional apartments will not impact local highway safety or operation.

1Access/egress points into the building are as existing. Limited information is provided regarding car parking. The submitted document titled Flood Risk Assessment notes that vehicle access is via two separate automated gates off Quinney Crescent to the rear with undercroft car parking. Detail is sought to confirm the number of car park spaces that will be available and how these spaces will be allocated.

-It is also recommended that the parking bays are formally demarcated. No information is provided regarding the provision of accessible spaces or EVC.

-It is noted that due to the high level of car parking on Quinney Crescent, sight lines from the Development car park may be impacted. To ensure sight lines are kept clear it is recommended that the Applicant funds some additional TROs. This will be via a S278 agreement with the Highway Authority.

-No detail is provided other than bins are stored in the car park. It is expected that arrangements for waste storage/collection are as existing and will not be impacted by the addition of 4 additional apartments.

-It is noted that some cycle parking is proposed but limited detail has been provided with the application. It is recommended that secure weatherproofed storage for 100% of the apartments is provided. This should be conditioned.

-It is recommended that dropped kerbs and tactile paving is installed across the vehicle access points, this is at the Applicant's cost and should be via a suitable agreement with the Highway Authority S278/S184.

-It is unclear if there is a travel plan for the development. It is recommended that a travel plan is produced for the site and if there is an existing plan then this should be updated to reflect to proposals.

-A Construction Management Plan should be provided

Flood Risk Management

The applicant should design and construct a 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 pursuant to policy EN17 of the Core Strategy

Issues

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 came into force on the 31st August 2020. This amendment conferred the right to construct up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building together with:

- any engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses
- works for replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses
- works for the construction of appropriate and safe access and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases
- works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

The right was conferred subject to conditions, compliance with these conditions is set out in the prior approval application submitted, see below for assessment of submission:

The current building was not granted by virtue of permitted development rights under Schedule 1, Part 3, Class M, N, O, P, PA or Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

a) above ground level, the building is less than three storeys in height;

The current building is not less than 3 storeys in height, it varies between three and five storeys in height.

(b) the building was constructed before 1st July 1948 or after 5th March 2018;

The building was constructed between 1 July 1948 and 5 March 2018. Planning permission was granted for the erection of the building in October 2003, reference 067922/FO/2003/S1.

(c) on 5th March 2018 the building was in a use other than—
(i) a use or mixed use within paragraph AA(2)(a) or (b); or
(ii) a use falling within Class C3 of the Schedule to the Use Classes Order;
The approved use of the building is as 34 C3 apartments

(d) the additional storeys are constructed other than on the principal part of the building;
The additional storeys shown on the submitted drawings are on the principal part of the building

(e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—
(i) 3 metres; or
(ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;
The scheme would meet this requirement.

(f) the new dwellinghouses are not flats and would they have a gross internal floor area of at least 37 square metres;
The scheme is for flats which would have a gross internal floor area of between 107 square metres and 123 square metres.

(g) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);
The scheme would meet this requirement

(h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;
The scheme would meet this requirement

(i) development under Class AA(1)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;
The scheme would meet this requirement

(j) development under Class AA(1)(a) would consist of engineering operations other than works within the existing curtilage of the building to—
(i) strengthen existing walls;
(ii) strengthen existing foundations; or
(iii) install or replace water, drainage, electricity, gas or other services;
No such works are required.

(k) in the case of Class AA(1)(b) development there is no existing plant on the building;
There is no plant on top of the existing building nor is there any on top of the rooftop extension proposed

(l) in the case of Class AA(1)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;
The scheme would meet this requirement

(m) development under Class AA(1)(c) would extend beyond the curtilage of the existing building;

The scheme would meet this requirement

(n) development under Class AA(1)(d) would—

(i) extend beyond the curtilage of the existing building;

(ii) be situated on land forward of a wall forming the principal elevation of the existing building; or

(iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or

(o) the land or site on which the building is located, is or forms part of—

(i) article 2(3) land;

(ii) a site of special scientific interest;

(iii) a listed building or land within its curtilage;

(iv) a scheduled monument or land within its curtilage;

(v) a safety hazard area;

(vi) a military explosives storage area; or

(vii) land within 3 kilometres of the perimeter of an aerodrome

The scheme would meet these requirements

The developer must apply to the local planning authority for prior approval of the authority as to—

(a) transport and highways impacts of the development;

Highways are generally satisfied subject to a conditions relating to Construction Management, Travel Plan, Cycle Parking, and Off Site Highway Works

(b) air traffic and defence asset impacts of the development;

There are no aerodrome safeguarding concerns subject to an informative relating to cranes and tall equipment

© contamination risks in relation to the building;

No response has been received from Environmental Health in this regard.

(d) flooding risks in relation to the building;

Flood Risk Management have requested that the drainage is designed to minimise the risk of flooding.

(e) the external appearance of the building, including—

(i) the design and architectural features of—

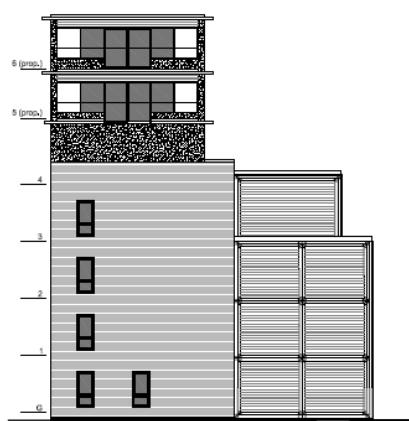
(aa) the principal elevation; and

(bb) any side elevation that fronts a highway; and

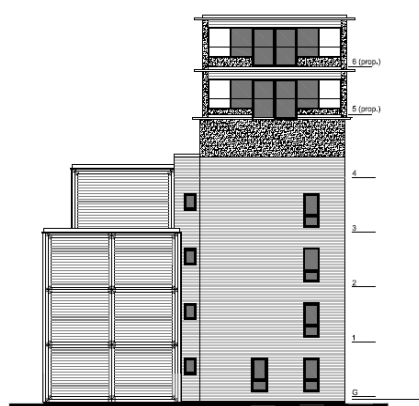
(ii) the impact of any works under sub-paragraph (1)(c) or (d) of Class AA



PROPOSED ELEVATION FACING MOSS LANE EAST



PROPOSED ELEVATION FACING SOUTH EAST



PROPOSED ELEVATION FACING NORTH WEST



PROPOSED ELEVATION FACING QUINNEY CRESCENT

In determining a similar prior approval application another Council have received advice from the Ministry of Housing, Communities and Local Government in relation to how external appearance can be assessed under legislation.

The MHCLG stated that it is down to the Local Planning Authority to interpret the regulations and use their planning judgement in considering applications for prior approval. It was also stated that the policy intention is that it is the narrower sense, so how the additional stories fit in with the existing building. Rather than whether the proposal fits in with the local vernacular. Appeal decisions on the new legislation are currently non-existent and case law has not been established. It is therefore open for decision maker to interpret the legislation and exercise their own planning judgement.

It is considered that the proposed rooftop extensions would disproportionately increase the scale and mass of the building which would harmfully unbalance the external appearance of the building. The extensions would cause the building to appear over scaled and excessively prominent within the context. This consideration relates to the external appearance of the building when viewed from the street and from neighbouring property.

The proposed increase in scale and selection of materials would be of detriment to the visual attractiveness of the building and would be unsympathetic to local character. The impact to the external appearance of the building is found to be unacceptable due to conflict with policy outlined at Section 12 of the National Planning Policy Framework.

Specifically paragraph 127 b, c and d which state that decisions should ensure that developments should:

- Be visually attractive as a result of good architecture and
- Be sympathetic to local character and history, including the surrounding built environment.
- 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.

Paragraph 130 goes further to state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The development therefore fails to pass the test outlined at Condition A.2 – (1) (e) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

(f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;

The scheme would comply in this regard

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;

In response to concerns raised by the Council the applicant submitted daylight and sunlight studies and the City Council is now satisfied that the development would not have an unacceptable impact in terms of daylighting and overshadowing.

The scheme has been modified to prevent any overlooking of the adjacent properties.

(h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;

There are no issues in this respect.

(i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;

Increase in residential use would be in a residential setting and would therefore be acceptable.

Conclusion

On the basis of the above it is considered that Prior Approval is required and refused due to the impact of the extension on the external appearance of the building, contrary to Part 20 Conditions A.2(1e and g).

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

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

1) Prior Approval is required and refused due to the impact of the proposed extension to the external appearance of the building, which is found to be unacceptable due to conflict with policy outlined at Section 12 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 - (1) (e) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

Appendix 1 – List of consultees & neighbours notified

Highway Services
MCC Flood Risk Management
Environment Agency

154 Moss Lane East, Manchester, M16 7DH
152 Moss Lane East, Manchester, M16 7DH
150 Moss Lane East, Manchester, M16 7DH
148 Moss Lane East, Manchester, M16 7DH
146 Moss Lane East, Manchester, M16 7DH
144 Moss Lane East, Manchester, M16 7DH
Flat 1, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 2, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 3, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 4, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 5, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 6, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 7, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 8, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 9, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 10, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 11, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
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Flat 30, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 31, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 32, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 33, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH
Flat 34, Poplar Court, 156 Moss Lane East, Manchester, M16 7DH

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) -

Historic Landfill Site 250m Buffer -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH