

MANCHESTER CITY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

STATEMENT OF CASE ON APPEAL BY KHALED ALI AGAINST A REFUSAL OF A PRIOR NOTIFICATION APPLICATION FOR A LARGER HOMES EXTENSION, IN ACCORDANCE WITH PARAGRAPH A.4(3) OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 (AS AMENDED): 8 LINDSAY AVENUE, MANCHESTER, M19 2AG

1. REFERENCES

Planning Inspectorate: Appeal 6004548
City Council: 144805/PDE/2025
Location: 8 Lindsay Avenue, Manchester, M19 2AG
Appellant: Khaled Ali

2. PROCEDURAL MATTERS

- 2.1 The application was submitted to the Council under the prior notification procedure relating to householder permitted development rights, as established under Schedule 2, Part 1, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Paragraph A.1(g) of the GPDO allows for single storey extensions which project from the rear wall of the original dwelling by up to 6 metres in the case for this style of dwellinghouse, subject to a number of criteria.
- 2.2 The GPDO requires that details of such developments are first submitted to the LPA before the commencement of development – the prior notification process. This process has a number of stages. Firstly, the LPA may refuse an application for prior notification

where, in their opinion, the development does not comply with the conditions, limitations or restrictions applicable to development permitted by Class A. If it falls outside those requirements, an application for full planning permission would be required.

2.3 In circumstances where the LPA is satisfied that the proposal meets the conditions, limitations or restrictions set out in Class A, they are required to serve notice on any adjoining owners giving them the opportunity to make representations on the proposal. Where representations are received, the LPA must then consider the impact on the amenity of all adjoining premises. However, the requirement to serve notice on neighbouring owners or occupiers does not apply to situations where the LPA refuses an application on the basis that the development does not meet the conditions, limitations or restrictions of Class A. In those cases, planning permission would be required and consultation would be necessary as part of any application for planning permission.

2.4 In this case, the LPA refused the application on the basis that the proposal would fail to comply with the requirements of Class A.1, in particular A.1(j)(iii), i.e. that it would not constitute permitted development. Accordingly, as set out in sub-paragraph (4) of Condition A.4 of the GPDO, which states that Sub-paragraphs (5) to (7) and (9) do not apply where the LPA refuses an application under sub-paragraph (3), no consultations have been undertaken.

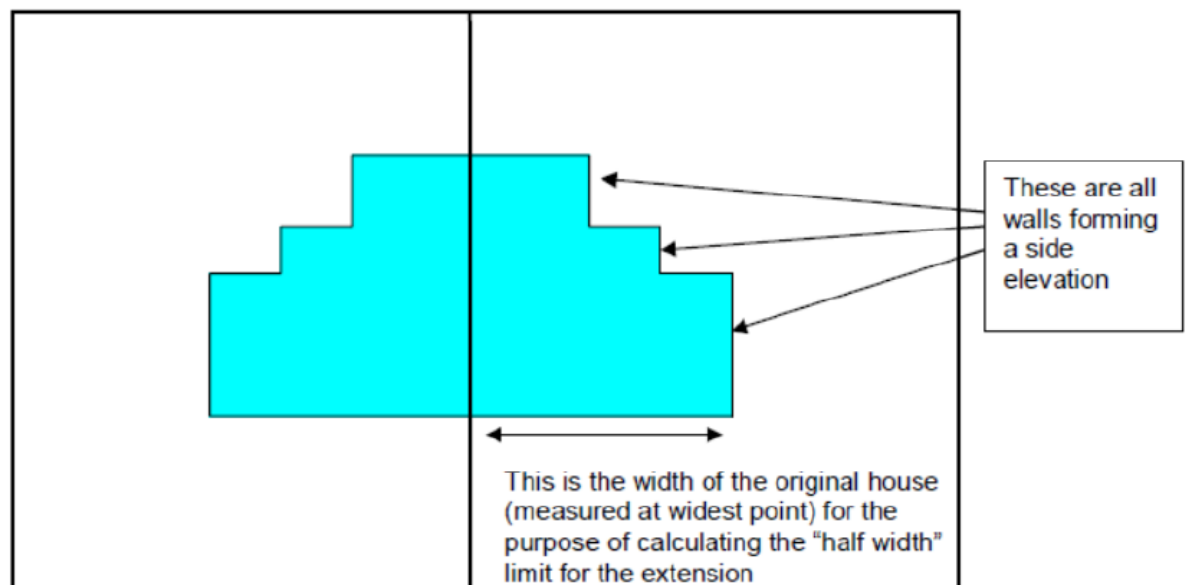
Main Issues

2.5 The main issue therefore is whether the development would be permitted development under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In particular, whether it would comply with Schedule 2, Part 1, Class A.1(j)(iii).

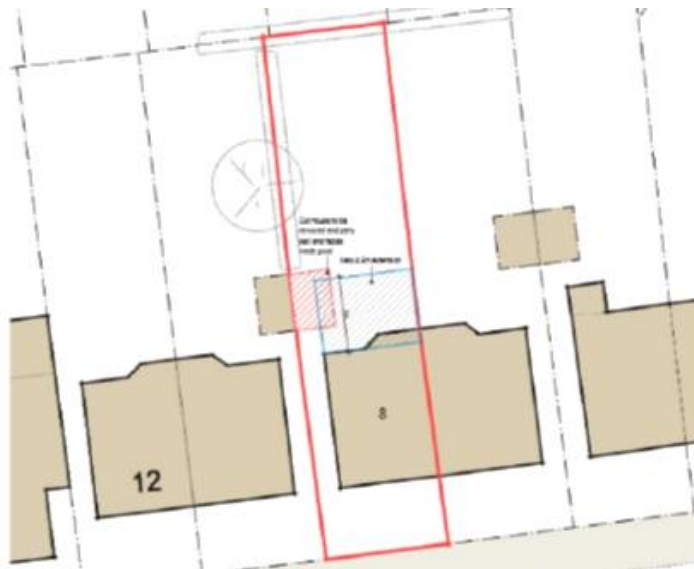
3. PERMITTED DEVELOPMENT

- 3.1 Class A, Part 1, Schedule 2, of the GPDO gives planning permission for the enlargement, improvement or other alteration of a dwellinghouse. It is subject to several limitations. The limitation in A.1.(j)(iii) states development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse.
- 3.2 The existing semi-detached dwelling has a single storey bay window to the rear that extends across the pair of semi-detached houses (nos. 6 and 8). The neighbouring properties on this part of Lindsay Avenue, Collingwood Road and Lytham Road feature similar bay window projections to the rear, as can be seen by the historic OS plan contained within the officer's delegated report. Article 2, interpretation (1) of the GPDO defines 'original' as (a) a building existing on 1st July 1948 as the building as existing on that date; or (b) in relation to a building built on or after 1st July 1948, as so built. There appears to be no dispute by the appellant that the rearward projection is part of the original dwellinghouse.
- 3.3 The Ministry of Housing, Communities and Local Government has published Technical Guidance (the "TG") entitled "Permitted development rights for householders" September 2019. This provides an explanation of the rules on permitted development for householders and pages 22-28 provide examples of extensions in relation to side walls.
- 3.4 The term "Side elevation" is not defined in the GPDO but is stated within the TG to be any wall that cannot be identified as being a front wall or a rear wall. The TG further states that houses will often have more than two side elevation walls. The Technical Guidance also provides an illustrative example of walls forming a side elevation, although this does not show the arrangement found at the application site. Nevertheless,

this demonstrates that fairly narrow sections of wall can be regarded as a wall forming a side elevation for the purposes of A.2.(b):



- 3.5 In this instance, the angled elevation of the bay window cannot be said to be a rear wall even though it is not entirely side facing, and nor does it run parallel to the boundary to the side of the property. However, given the fact that this angled wall cannot be classed as a rear wall or a front wall, for the purposes of assessing whether the proposal is Permitted Development or not, the wall can only be defined as a side wall.
- 3.6 The proposed extension subject of this appeal would extend to the side of the side elevation of the original bay window projection, this being part of the original dwellinghouse, and wrap around it to encompass it (as shown in the blue hatched area of the site plan submitted with the larger homes prior notification); as such limitation A.1(j) applies. The proposed extension would meet criteria (i) and (ii) of limitation A.1(j) but not (iii).



- 3.6 Limitation A.1(j)(iii) provides that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse. That is the case here, so the extension is not development permitted by the GPDO. For this reason, express planning permission is required for the extension.

4. COMMENTS ON APPELLANT'S STATEMENT OF CASE

- 4.1 It is noted that the appellant is not professionally represented in this case, but having reviewed the statement of case the LPA is concerned that he has used Artificial Intelligence (AI). It is noted that para. 9.3.13.1 of the *Procedural Guide: Planning appeals – England (For appeals relating to applications dated on or before 31 March 2026)*, states that:

9.3.13.1. If you use AI to create or alter any part of your documents, information, or data, you should tell us that you have done this when you provide the material to us.

- 4.2 Notwithstanding the above, the LPA would comment as follows on the appellant's statement of case.

Section 2

- 4.3 It is not the LPA's case that the bay window projection forms a "*side extension*", but simply that the side wall and window that faces diagonally into the rear garden cannot be defined as a rear wall for the purposes of the GPDO. It can only be defined as a side wall.

Section 3(a)

- 4.4 The "*visual and architectural reality*" of the bay window projection is that it features a side wall and window that faces diagonally into the rear garden.
- 4.5 In relation to the phrase "*The GPDO should be applied in a manner that reflects how a building is reasonably perceived as a whole*", it is not clear to the LPA as to what this actually means.
- 4.6 The LPA does not argue that there is more than one rear elevation of the dwelling, although there are clearly two rear facing walls of the main building and the bay window projection. In order for there to be two rear facing walls, there must be a side elevation/facing wall that creates the projection. This is abundantly clear on the face of the plan submitted in support of the original application.
- 4.7 It is noted that no appeal decisions have been provided by the appellant in support of the claim that "*...inspectors routinely have regard to how a dwelling "reads" in practice, particularly where bay windows or articulated rear projections are concerned.*"

Section 3(b)

- 4.8 The LPA does not argue that the bay "*...performs the function of a side elevation*".

- 4.9 It is agreed that the side wall “...*does not run parallel to the boundary...*”, but the LPA’s contention is that this means it cannot be defined as a rear wall (or a front wall) for the purposes of the GPDO. It can only be defined as side wall. By contrast, the rear facing wall of the bay window projection does indeed run parallel to the rear boundary, thereby making it a rear wall.
- 4.10 In relation to the phrase “*Treating such a feature as a side elevation would elevate geometry over substance and would lead to unreasonable outcomes for many traditional houses with rear bays*”, it is not clear to the LPA as to what this actually means.

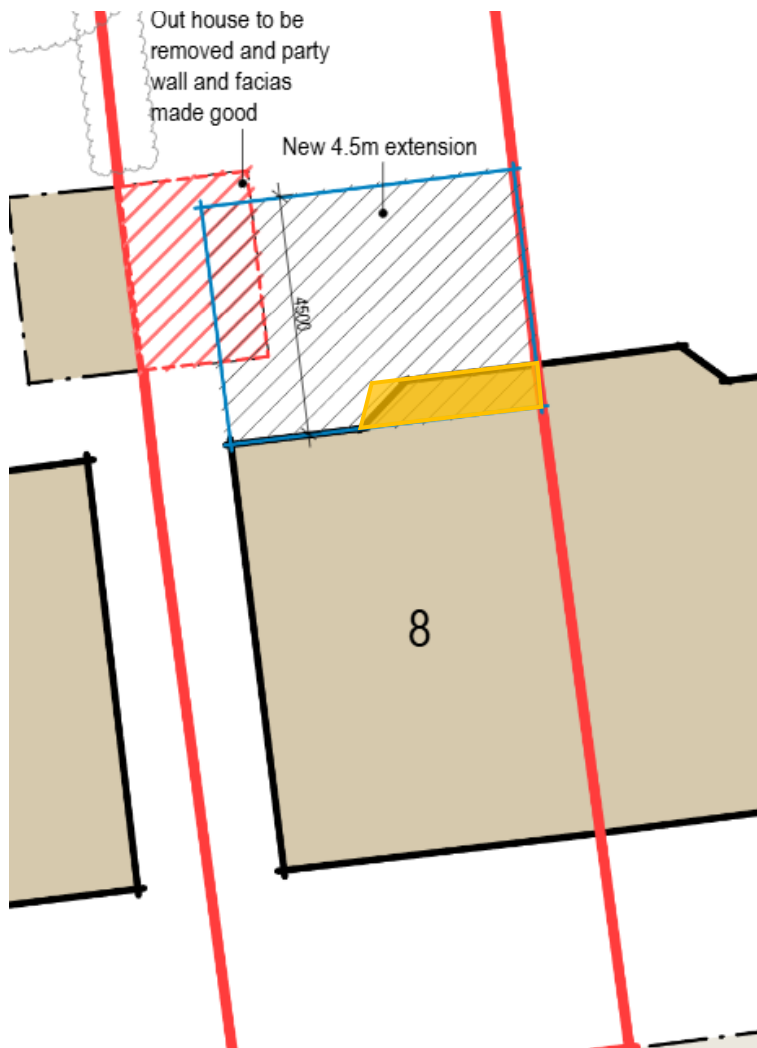
Section 3(c)

- 4.11 The appellant appears to accept here that the wall is “...*not strictly front or rear...*”; as set-out throughout the LPA’s statement of case, it must therefore be a side wall.
- 4.12 There is no scope within the GPDO for considering “...*architectural intent or visual perception*”. As stated above, the wall cannot be defined as a rear or front wall and simply must be defined as a side wall.
- 4.13 It is noted that no appeal decisions have been provided by the appellant in support of the claim that, “*Such an approach is inconsistent with both the purpose of Class A and established appeal practice.*”

Section 4

- 4.14 It is agreed that the bay window projection “...*forms part of the rear elevation...*”, but this would be the case with any rear ward extension/projection, however large or small it might be. However, for a projection to be formed, thereby creating two rear facing wall, there must be a corresponding side elevation/wall that links the two; it matters not that the side wall does not run parallel to a side boundary, for example, or the side elevation of the main part of a dwellinghouse.

- 4.15 Taking the appellant's argument to its logical conclusion, if the bay window projection at the appeal site had the shape shown shaded orange on the plan below, with a more obtuse angle, this angled wall could not be defined as a side elevation/wall. It is the LPA's considered view that this would be a preposterous conclusion.



Section 5

- 4.14 It is simply not the Council's case that "...originality alone..." "...determine(s) whether a wall constitutes a side elevation." Indeed, there is no dispute that the bay window projection forms an original part of the dwellinghouse.

5. PLANNING MERITS

5.1 As noted above, the LPA refused the application on the basis that the proposal would fail to comply with the requirements of Class A.1 of the GPDO; as such, an assessment of the proposal against local and national planning policies was not carried out.

5.2 However, if the Inspector agrees with the appellant – that the proposal does in fact comply with the requirements of Class A.1 – then an assessment will need to be made as to whether planning permission should be granted.

Relevant Policies

5.3 Policy SP1 of the Council's Core Strategy seeks to ensure that development in all parts of the city should make a positive contribution to neighbourhoods by creating well designed place that enhance or create character, making a positive contribution to the health, safety and wellbeing of residents, and by protecting and enhancing the built and natural environment.

5.4 Policy DM1 of the Council's Core Strategy seeks to ensure that development has appropriate siting, layout, scale, form, massing, materials and detail; that development should have regard to the character of the surrounding area, in terms of the design, scale and appearance of the proposed development; and that the Council should consider effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation, when assessing planning applications.

5.5 Saved Policy DC1.1 of the Unitary Development Plan for the City of Manchester states that, in determining planning applications for extensions to residential properties, the Council will have regard to:

- a. the general character of the property;
- b. the effect upon the amenity of neighbouring occupiers;

- c. the desirability of enabling people to adapt their houses in appropriate ways to meet changing household needs;
- d. the overall appearance of the proposal in the street-scene;

5.6 Saved Policy DC1.2 states that extensions to residential properties will be allowed subject to compliance with other relevant policies of the Plan and the following criteria:

- a. they are not excessively large or bulky (for example, resulting in structures which are not subservient to original houses or project out too far in front of the original buildings);
- b. they do not create an undue loss of sunlight, daylight or privacy;
- c. they are not out of character with the style of development in the area or the surrounding street scene by virtue of design, use of materials or constructional details;
- d. they would not result in the loss of off-street car-parking, in a situation where there is so severe an existing on-street parking problem that unacceptable additional pressures would be created.

5.7 Saved Policy DC1.3 states that, notwithstanding the generality of the above policies, the Council will not normally approve:

- a. rearward extensions greater than 3.65m (12 ft) in length;
- b. 2-storey extensions with a flat roof, particularly those which would be visible from the public highway;
- c. 2-storey extensions to terraced properties which occupy the full width of the house;
- d. flat roofed extensions to bungalows;
- e. extensions which conflict with the Council's guidelines on privacy distances (which are published as supplementary guidance).

Impact on Neighbouring Amenity

- 5.8 The proposed extension will be constructed directly to the adjacent party boundary with 6 Lindsay Avenue and extend by 4.5m from the rear elevation. The maximum height is to be 4m and the height of the eaves will be 3m; whilst no elevational drawings of the development have been provided, from the description of the proposal it is apparent that the extension will have a sloping mono-pitch roof.
- 5.9 As can be seen on the photograph included in the appellant's statement, there is an existing boundary fence on the party boundary. However, the proposed extension will extend significantly above this fence, and at 4m in height at the rear elevation will project from just below the brick banding feature underneath the first-floor windows in the rear elevation. This is significantly higher than the top of the French doors/windows to the rear of the neighbouring/adjoining bay window projection, which serves a main habitable room.
- 5.10 Saved UDP Policy DC1.3 sets out that the Council will not normally grant planning permission for domestic, rearward extensions that are greater than 3.65m in length. In this instance, with a length of 4.5m, the unauthorised development clearly fails to comply with this policy.
- 5.11 With a maximum height of 4m and an eaves height of 3.5m, being constructed directly adjacent to the shared boundary, it is considered that the proposal will have a detrimental impact on the living conditions and amenity of the neighbouring occupiers. This impact is all the greater given the main habitable room window to the rear of no. 6; it is therefore considered that the proposal will have an unacceptable impact on the outlook from this main habitable room.
- 5.12 Similar to the appeal site, to the rear of no. 6 is a detached garage building and this layout likely means that the area directly behind the French doors/windows will be the

most used part of the garden. As stated above, the extension would rise significantly above the boundary fence and, given its depth, would dominate the most used part of the garden area. This overbearing 4.5m long and high blank wall (it is assumed) of the extension, would have a detrimental impact on the outlook and residential amenity of the occupiers of no. 6.

- 5.13 It is therefore considered that the proposed extension fails to comply with saved Unitary Development Plan policy DC1.1, DC1.2 and DC1.3, together with Core Strategy Policies SP1 and DM1, in that it will have an unacceptable impact on the outlook from no. 6 and the living conditions of existing and future occupiers of the property.

6. CONCLUSION

- 6.1 The LPA would respectfully request the Inspector to dismiss the appeal, concluding that express planning permission is required and that the LPA's decision to refuse the prior notification was well founded.
- 6.2 In the event that the Inspector disagrees with the LPA's position in relation to compliance with Class A.1 of the GPDO, it is respectfully requested that planning permission is refused for the development for the reasons set-out above.