

DELEGATED REPORT

Report by Jane Langan	Date of report: 01/12/2023	Ref: 70148/NON
Registration: 05/10/2023	LDFC: 20/11/2023	Expiry Date: 02/11/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Non material amendment following grant of planning permission 66631 - Alterations to side window reducing width of opening and installation of bi-fold doors; Existing ground floor windows to east side elevation to have cill cut down to floor level and new windows installed; Existing conservatory window to rear elevation to be removed and replaced with brickwork; Alterations to balcony screen with solid timber panel to be created using hit and miss timber battens with a solid black woven membrane between the timber slats

Location: 11 Oakley Close, Radcliffe, Manchester, M26 1DF

Description

The property is a detached house located at the top of a cul de sac. The neighbouring property to the east side is No.10, a detached house which sits at an angle to the site. To the opposite side is 28 Chapeltown Road, also a detached property and which sits set back from the site. The rear boundary of the site borders the top of a cul de sac and open land.

The application is for non material amendments to approval 66631 for a single storey rear extension with balcony above. It has been submitted following an enforcement investigation as the development has not been constructed in accordance with the approved plans.

The amendments include :-

- Reducing the width of the window opening to the east side elevation and installation of bi fold doors
- Two existing ground floor windows to the east side elevation to have the cill cut down to floor level and new windows installed
- The plans note an existing conservatory window to the rear elevation would be removed and replaced with brickwork
- The balcony was to have had a vertical panel timber screen attached to the inside of the parapet wall. Condition 3 of approval 66631 required it to be solid and 1.7m high from balcony floor level. The amendment proposes the timber screen to be attached to the outside of the parapet wall and it would comprise of hit and miss timber battens with a solid black woven membrane between the timber slats to create a solid panel. It would still be 1.7m high from balcony floor level.

Relevant Planning History

66631 - Replace part of existing conservatory with single storey rear extension with first floor balcony with glass balustrade above - AC 25/05/2021.

Publicity

A 10 day letter was sent to surrounding neighbours on 09//23. One response has been received from a nearby neighbour. Their concerns in summary are :-

- Maintain my objection to the proposed amendments relating to the side opening which would overlook my property. Bi fold doors were not on the original plans, it was to be fixed windows. I wish for the fixed windows to be in place and not any opening. This is what was on the plans, and what I agreed to. Opening doors is most intrusive. I am truly puzzled as to why the original plans were disregarded to such an extent. This conservatory already has an opening at the other end.

Statutory/Non-Statutory Consultations

None.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

H2/3 Extensions and Alterations

SPD6 Supplementary Planning Document 6: Alterations & Extensions

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Issues

The amendments to the previous approval would see a smaller opening to the side elevation of the extension and bi doors installed instead of windows. The conservatory would have a window replaced with brickwork. These amendments are considered minor and would not see a significant alteration to the scheme as previously approved. The alteration to the existing windows to the east side elevation to be cut down to floor level would be works that are in general permitted development. The attachment of the balcony screen to the outside of the parapet wall would not be a significant change. The screening would be hit and miss timber battens and the addition of the woven black membrane would see it provide a solid screen. A solid screen, and at 1.7m in height from the balcony floor level, is also controlled by condition 3 of planning permission 66631 and required to be maintained as such.

In terms of impact on the neighbouring property to the side of the proposal, No.10, then there would be no change in terms of privacy levels resulting in the change from windows to doors and the windows to be extended down are existing. The balcony screen would be solid and to a sufficient height to prevent overlooking.

The revisions would not significantly alter the approved scheme in terms of the design of the extension or adversely impact on the amenity of the adjacent neighbouring properties. The changes are then acceptable as a non material amendment.

A reminder regarding condition 3 of planning permission 66631 is added to this notice.

Response to neighbour objection - As noted in the above report it is not considered that there would be any significant change in privacy levels in the amendment from windows to bi fold doors. Whilst it is the case that a door can be accessed out it is into the applicants garden and not unusual, or unreasonable, to have side doors in a property. Changes from doors to windows and insertion of new at ground floor level can be carried out under permitted development and this is a material consideration. In conclusion there are not considered to be grounds for refusal of the amendments with regard to residential amenity.

Recommendation: Approve with Conditions

Conditions and Reasons:

The proposed amendment to alter the side window, reducing the width of the opening and installation of bi-fold doors, existing ground floor windows to east side elevation to reduced down to floor level and new windows installed, an existing conservatory window to the rear elevation to be removed and replaced with brickwork, balcony screen to be constructed of hit and miss timber battens with a solid black woven membrane between the timber slats to create a solid panel, as detailed in the application and on plan 002 Revision H, will not impact adversely on the character of the property or the residential amenity of the neighbours. The amendment will accord with UDP Policy H2/3 - Alterations and Extensions to Residential Properties and the associated Supplementary Planning Document 6 - Extensions and Alterations to Residential Properties and the originally approved scheme reference 66631 and as such can be treated as a non-material minor

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amendment to the approved plans.

Attention is drawn to Condition 3 of planning permission 66631 as below -:

Before the first occupation of the extension hereby permitted the 1.7m high panel to the balcony, as shown on the approved plans, shall be fitted and be solid and 1.7m high from the balcony floor level and be permanently retained thereafter.

Reason. To protect the privacy of adjoining occupiers and to accord with Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JL	01/12/23	DM	01/12/23