

DELEGATED REPORT

Report by Claire Booth	Date of report: 19/02/2024	Ref: 70272/NON
Registration: 08/12/2023	LDfC:	Expiry Date: 05/01/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Non-material amendment following grant of planning permission 69104 (Erection of 1 no. replacement attached dwelling): Change windows and doors from white UPVC to black UPVC

Location: 11 Malvern Close, Prestwich, Manchester, M25 1PH

Description

Planning permission 69104 granted planning permission for the erection of a replacement dwelling on the site of the former property which formed the eastern end of the semi-detached pair incorporating nos. 9 and 11 Malvern Close, Prestwich.

The application seeks a non-material amendment to this permission by changing the colour of the windows and doors from white to black.

Relevant Planning History

69104 - Erection of 1no. replacement attached dwelling - Approve with Conditions 08/03/2023

68052 - Single storey rear extension; external alterations including new first window to side elevation and brick detail to side door - Approve with Conditions, 13/04/2022

New Drawing Number(s)

ZT22-196-04 - Rev A: Proposed Plans and Elevations

Plans Superseded

ZT22-196-04: Proposed Plans and Elevations

Relevant Legislation

Town and Country Planning Act 1990 - Part III Section 96A

National Planning Policy Framework (The Framework)

National Planning Practice Guidance (NPPG)

Publicity

Not applicable

Statutory/ Non-Statutory Consultations

Not applicable

Unitary Development Plan and Policies

H2/1 The Form of New Residential Development

H2/2 The Layout of New Residential Development

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Guidance

Paragraph 002 to section 17a of the National Planning Practice Guidance (NPPG) states

that:

'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990'.

Therefore, the purpose of the application is to seek the Council's determination as to whether the changes to the previously approved scheme are sufficiently material in their nature and in the context of the approved development so as to require a fresh planning permission or not. Non-material amendment applications are not an application for planning permission, do not result in the issuing of a new planning permission and relate only to the amendments sought.

Paragraph 008 to section 17a of the NPPG states that in making decisions on non-material amendment applications, the local planning authority should take into account:

'the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.'

Assessment of proposed change

The proposed amendments would result in a minor change to the colouring of the windows and doors of the property.

The proposed change would not result in a materially different development than that which has already been approved and would therefore not impact upon the design and appearance of the property or neighbouring properties.

It is also noted that if this property was already lived in a householder could change the colouring of their windows and doors without planning permission. On this basis, there are no objections to the proposed amendments.

Conclusion

Section 96A of the Town and Country Planning Act 1990 states that, 'A local planning authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.'

The assessment of the proposed development above clarifies that the proposed amendment would be minor in nature and would not extend beyond the scope of the original permission or have any impact upon visual amenity, the appearance and character of the site or residential amenity. As such, the proposed development constitutes a non-material amendment and it is recommended that the amended plans be approved.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The proposed amendment would be minor in nature and would not extend beyond the scope of the original permission or have any impact upon the visual amenity, the appearance and character of the site, residential amenity, parking provision or highway safety. The development would therefore still be in accordance with the

principles of the planning permission reference 69104 and the policies against which it was approved.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	19/2/24	DM	19/2/24