

DELEGATED REPORT

Report by Steven Gunn
Russell

Date of report: 27/04/2022

Ref:68167/FUL

Registration: 04/03/2022

LDfC: 12/04/2022

Expiry Date: 29/04/2022

Site Visit: 23/03/2022

Site Notice: N/A

Press Date: N/A

Objections: 0

Con Area: N/A

Adv Type: NONE

Reason for Delay:

EIA: NA

N/A

Dec Level: DEL

Stat Class: HOUS

Proposal: Single storey/first floor extension at rear

Location: 4A Queens Drive, Prestwich, Manchester, M25 0LB

Description

The application relates to a two-storey end terraced house on a residential street. There is an existing single storey kitchen extension at the rear. The attached neighbour has a single storey kitchen extension at the rear. The rear boundary has small trees and shrubbery on the neighbours side.

Planning permission is sought for a part single storey/ part two-storey extension that would project out 3m and have a hipped roof carried over from the existing roof, while the single storey section would have a Sukkah roof. Materials would match existing. There would be new first floor habitable windows proposed at the side (Queens Drive highway elevation) and rear (overlooking the rear of 16-18 Rochester Avenue).

The rear of the site would be very constrained with a separation of only 3.57m to the rear boundary, and although there are existing trees these are in the neighbours curtilage and cannot be relied upon for adequate screening.

Relevant Planning History

None relevant.

Publicity

Immediate neighbours notified by letter dated 21/03/2022 sent to 4 (four) neighbours. No representations were received.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions

N/A

Unitary Development Plan and Policies

NPPF National Planning Policy Framework

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.

Visual amenity - UDP Policy H2/3 and SPD6 seeks to achieve a high standard of design that compliments the original building, does not have a detrimental impact on the character or appearance of neighbouring properties, and protects the general street scene.

In terms of scale, design, and appearance the extension is generally in-keeping with the existing house. Situated at the side and rear, the extension would be readily visible from the public arena, although its design and scale is considered to be appropriate for this property and streetscene. Materials would match existing.

In this respect the extension complies with UDP Policy H2/3 and associated guidance in SPD6.

Residential amenity - UDP policy H2/3 and SPD6 seeks to reduce the impact of proposals on the residential amenity of neighbouring properties.

The extension is acceptable in relation to the attached neighbour as it complies with the '45-degree rule' within SPD6. However, in terms of overlooking and privacy to the rear, the 3.57m separation distance to the rear boundary from the extension is considered to be unacceptable and fails to comply with adopted guidance in SPD6. Although there are some small trees and shrubbery along the rear boundary, these are in the neighbours curtilage and cannot be relied upon for adequate screening.

There are new first floor habitable windows proposed at the side (Queens Drive highway elevation) and rear (overlooking the rear of 16-18 Rochester Avenue). There are no issues with the Queens Drive elevation, however the proposed two-storey rear elevation and habitable window would be only 10m from the neighbours ground floor habitable window, less than the 13m required in SPS11 to achieve an acceptable aspect standard to protect privacy. Additionally, the proposed two-storey rear elevation and habitable window would be only 3.57m from the shared boundary, approximately half the 7m required.

In terms of the general prominence and impact on daylight the extension is proposed to the west of the main house. The extension would have some impact on part of the rear gardens at No.14 and No.16 in the mornings.

Consideration was given to whether the applicant could amend the rear window to be obscure or a high-level window. However, this would not resolve the issue as it would result in an effective two-storey blank wall being less than 13m from the neighbours ground floor habitable windows, contrary to residential amenity. The extension would therefore be unacceptable and fail to comply with UDP Policy H2/3 and associated guidance in SPD6.

Highways – No changes proposed.

Conclusion – In consideration of the above, it is considered that the proposed development would be unacceptable in terms of the design, and sitting, of this development. It would have a significant detrimental impact on residential amenity affecting the neighbours. As such, the proposed development is therefore considered to be unacceptable and fails to comply with UDP Policy H2/3 and associated guidance in SPD6.

Communication – The LPA has contacted the agent to explain the issues and give the opportunity to submit a revised design. Unfortunately, a choice has been made not to submit any revised plans to the Local Authority despite concerns being raised. Additionally, there was no pre-application. NPPF paragraph 41 is clear when it states that "The more issues that can be resolved at pre-application stage.... the greater the benefits " and this is further clarified in terms of design in paragraph 132 which states that "Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests." Whilst the LPA cannot insist that this approach is undertaken, in this instance it is considered that this would have been beneficial.

The agent acting on behalf of the applicant was approached during the application process to make amendments to the proposal citing the following concerns:

- The proposed two-storey side extension would be detrimental to residential amenity of the neighbours to the west of the property.
- To achieve any planning approval the proposal would have to be reduced to single storey.

DELEGATED REPORT

However, no revised drawings were received, although the agent has stated a willingness to change the rear window to an obscure window and contended that the “density of the existing trees and the change in ground level should also be considered as these provide a high level of privacy to the neighbour”, that “no objections have been raised by the neighbours”, and that “the proposed first-floor extension would lie back to back with the kitchen outriggers of the properties to the rear” (windows would not be classed as habitable). Nevertheless, it is considered that although the obscure glazing would normally help it would not change the fact it’s still effectively a 2 storey blank wall less than 13m from the neighbours rear habitable windows – even if not quite directly opposite these are close enough to be a material consideration due to the impact on residential amenity as viewed from a slight angle between these houses. It is also considered that any difference in elevation is not significant and therefore not a material consideration. It is noted in relation to amenity distances SPD6 doesn’t give any allowance for trees providing a degree of natural screening, and therefore has a low weighting as the neighbour may wish to remove/ cut back the small trees/ shrubs at some point in future. As such it is considered that the proposed development should still be recommended for refusal.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development would be seriously detrimental to the residential amenities currently enjoyed by the residential occupiers at 16-18 Rochester Avenue, by reason of its size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan: H2/3 - Extensions and Alterations, and associated guidance in SPD6: Alterations & Extensions.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SGR	27/04/2022		