

## **DELEGATED REPORT**

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|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Jane Langan    | <b>Date of report:</b> 20/10/2023 | <b>Ref:</b> 70149/NON          |
| <b>Registration:</b> 06/10/2023 | <b>LDFC:</b>                      | <b>Expiry Date:</b> 03/11/2023 |
| <b>Site Visit:</b>              | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 1            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> NONE          |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> HOUS        |

**Proposal:** Non-material amendment following grant of planning permission 68073: Enlargement of approved window size to first floor rear elevation; 2 no. doors to ground floor rear elevation; Omission of new window to front elevation.

**Location:** 297 Bury New Road, Whitefield, Manchester, M45 7SE

### **Description**

The property is a mid terraced house. It has no front garden and leads directly on to the public footpath. To the rear is an enclosed yard beyond which is a public car park. The adjoining properties are 295 and 299 and have yards at the rear. Works to the site have been completed on a two/single storey extension at the rear. It is subject to an enforcement case as the roof was to have been a dual pitch and has been constructed as a flat roof and with a rear dormer. Window openings are also not as per the approved plans.

This application is for a non material amendment for the window/door openings. The amendment is for the windows to the first floor rear elevation to now be larger as they would both be to the bedroom with no ensuite. The ground floor rear elevation was to be a window and door off a dining room and there would now be two doors as there are two rooms, a dining room and a utility. As there would be no bathroom to the first floor at the front the additional window is now omitted.

### **Relevant Planning History**

67983 - Prior approval for proposed single storey rear extension - Prior Approval Not Required 09/03/2022

68073 - Two storey/single storey rear extension: Additional window to first floor front elevation - AC 30/06/2022

69618 - Variation of condition nos. 2 & 3 (approved plans) of planning permission 68073 (two storey/single storey rear extension & additional window to first floor front elevation): no longer adding front elevation window, 2 no. door access added at ground floor rear level - Refused 13/07/2023.

### **Publicity**

None required, however a nearby neighbour has made an objection and their concerns in summary are :-

- 68073 was approved, but planning permission 69618 was refused as they did not build to drawing and planning permission.
- This application does not resolve the refusal
- In this application under section "New plan/drawing numbers" the drawing P.002 is referenced, but only drawing P.001 is in the attachments - which is incorrect to how the building is constructed i.e. roof on 1st floor.

### **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 amendment would see larger windows to the first floor rear elevation and doors to the ground floor. The front elevation would now remain unchanged. The amendments are minor changes that 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.

The plans note the flat roof to be built pitched as per approval 68073. It is noted that there is a dormer to the rear roof slope and the plan notes it to be constructed under permitted development. There was no Lawful Development Certificate applied for to confirm this however it is the case that rear dormers can be constructed as permitted development. As such it may be that it is not expedient to take enforcement action on the dormer however this is a matter for the Enforcement Team to conclude.

### **Response to objection**

The plans note the works to construct the pitched roof are to be as approved under application 68073. This is not part of this application however is still a current enforcement case to monitor the works.

The agent has incorrectly noted the plan number P.002 on the form however the plan P.001 as submitted shows the works and is included/listed in this non material decision.

**Recommendation:** Approve with Conditions

### **Conditions and Reasons:**

The proposed amendment to enlarge the windows to the first floor rear elevation, addition of 2 doors to the ground floor rear elevation and omit the new window to front elevation, as detailed on plan P.001, 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 68073 and as such can be treated as a non-material minor amendment to the approved plans.

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| JL                  | 20/10/23    |                         |             |