

DELEGATED REPORT

Report by Helen Pressley	Date of report: 04/07/2023	Ref: 69401/FUL
Registration: 09/05/2023	LDfC: 01/06/2023	Expiry Date: 04/07/2023
Site Visit: 12/05/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIRD

Proposal: Single storey rear extension with external staircase and new access door to first floor

Location: 36 Albion Street, Radcliffe, Manchester, M26 1BH

Description

The application relates to a detached property located on Albion Street. The premises has an existing E shop use at ground floor, and residential use at first floor. The residential use is currently accessed through the shop. To the rear of the shop there is a single storey rear extension, and yard area. The yard area contains a shipping container and the boundary is depicted by wooden fencing. Residential properties bound the site.

Planning permission is sought for the partial removal of the existing single storey rear extension and for the construction of a new extension that projects approximately 7250mm from the rear elevation of the existing dwelling. New external access stairs are also proposed to access the first floor residential unit.

The plans also show re-siting of the existing shipping container however this has not been included within the description of development.

Relevant Planning History

56349 - Single storey extension at rear; new boundary wall - Approved with Conditions 28/06/2013

58120 - Erection of two storey building on existing vacant land between 32 & 36 Albion Street to create 2 no. self contained flats and erection of 3 no. single storey storage buildings at the rear - Withdrawn by Applicant 21/01/2015

68423 - Proposed two storey building with retail E(a) to ground floor and storage space above E(c) - Approve with Conditions 03/10/2022

Publicity

Neighbour letters sent 11th May 2023. No representations received.

Statutory/Non-Statutory Consultations

Environmental Health - Contaminated Land - no comments to make regarding contaminated land or air quality.

Borough Engineer - Drainage Section - No response.

United Utilities (Water and waste) - No response.

Environmental Health - Pollution Control - No objections raised.

Waste Management - No response.

Traffic Section - Condition requested in relation to highways works required to facilitate the development, and storage of building materials. Recommendation for refusal for the shipping container shown on the plans.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
H3	Incompatible Uses in Residential Areas
H3/1	Assessing Non-Conforming Uses
H3/2	Existing Incompatible Uses
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
EC4/1	Small Businesses

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.

Principle

UDP Policy EC4/1- Small Businesses considers that proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

UDP Policy H3 - Incompatible Uses in Residential Areas seeks to restrict the development of incompatible uses in areas which are primarily residential in nature and where possible will seek to resolve existing conflicts. This is further supported by Policies H3/1 - Assessing Non-Conforming Uses and H3/2 - Existing Incompatible Uses that consider factors such as noise, vibration, smell, fumes, smoke, soot, ash, grit, dust, visual intrusion, traffic generation and parking arrangements, and hours of operation, and seeks to implement measures to control these where possible to minimise areas of conflict and potential nuisance.

The proposal relates to the extension of an existing small commercial business to increase the retail sales area of the shop. The development would be in keeping with the scale of the existing business and would be accommodated within the applicant's ownership. Subject to details the proposals would comply with the above policies.

Layout and Design

In addition to Policy EC4/1, Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

The extension would be single storey and the scale and size would be in keeping with that of the existing 2 storey premises. The proposal seeks to use brick and block work to match the existing property. The steps to access the first floor would be located externally, with a pathway running across the top of the flat roof. Flat roof extensions and outbuildings are visible to the rear of the terraced properties visible from the site. The extension would result in the partial demolition of the existing rear outrigger which has become dilapidated and run down over time and the appearance of the site would be improved by the proposal.

As such, the proposed extension and steps are considered to be acceptable and would comply with EN1/2 and EC4/1.

Amenity

Supplementary Planning Document 6 provides guidance on aspect standards between residential properties. Given the residential character of the locality it is considered this guidance would be a reasonable guide in this case.

The immediately adjacent site to the side of the property is currently occupied by an electricity substation but application 68423 - Proposed two storey building with retail E(a) to ground floor and storage space above E(c) has been approved. Pre-start conditions are yet to be discharged but layout of this development has been taken into account in any event.

The proposed extension would project approximately 2550mm beyond the rear elevation of the proposed adjacent new build complying with guidance for single storey rear extensions contained within SPD 6. The ground floor of the adjacent new build would relate to a Class

E use, with the nearest door being associated with a store room. No ground floor side windows are proposed. The proposed access across the flat roof would have an ongoing view over the single storey flat roof of the proposed ground floor of 68423 and the existing single storey extensions of No. 32 Albion Road. The proposed access would be located approximately 8metres from the boundary with No. 32 exceeding the 7 metres required by SPD 6. Given the existing use of the adjacent site, the relationship with the proposed building approved under 68423 and the distances to the existing boundary with No.32 it is considered that the proposed steps/access and extension would not have a detrimental impact on the land or properties to the north east.

No ground floor side windows are proposed facing towards No. 38. The proposed extension would project approximately 3.8 metres beyond the rear of No. 38 as extended but due to the intervening highway the proposed extension would not impact on a 45 degree line as taken from the midpoint of the nearest ground floor window. The proposed access along the flat roof would be located approximately 15m from the boundary with no. 38 exceeding the 7 metres required by SPD 6.

The site is at a higher level than the properties on Rupert Street and as such it is considered an additional 3 metres should be added to any aspect standards to ensure there is no loss of privacy. The proposed steps would be a minimum of 8 metres from the rear boundaries of 35 and 33 Rupert Street which is below the 10 metres required by SPD 6. It is considered that the alignment of the staircase and the position of the access offers vantage points with views into the areas of private amenity space of the properties located to the rear. Given the extent of the access that is required above the flat roof, and the potential for the flat roof to be accessed and used as amenity space for the first floor residential use it is considered that this aspect of the proposal would have an unacceptable impact on the residential amenities of the properties to the rear.

The proposed stairs and access would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers of 35 and 33 Rupert Street by reason of the sub-standard distances between the proposed stairs/access and the rear boundaries of these properties. The proposed development therefore conflicts with Unitary Development Plan Policies EC6/1 - Assessing New Business, Industrial and Commercial Development Document 6: Alterations and Extensions to Residential Properties.

Highways and Access

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict.

Access to the shop for customers would remain unaltered as a result of the proposals, and the proposed rear access door could be used for delivery purposes and for the removal of bins from the bin storage area.

A new stepped access path to the rear of the property would be created and lead to a new first floor entrance which would serve the first floor flat above for separate access purposes.

Highways have confirmed that subject to details in relation to foundations, boundary treatments, bin storage, highways works abutting the site and slab levels that they would raise no objections to the proposed extension. These details could be dealt with by means of a pre-commencement condition if suitable.

As such, the proposed extension and stairs are considered to be acceptable and would comply with EC4/1, EN1/2 and HT6/2

Unauthorised works

The shipping container that is shown to be re-located on plans 03 Rev D and 01 Rev C has

not been included on the existing site plan, or existing elevations. The re-siting of this container has also not been included within the description of development. Whilst siting of a container has been shown on a previously approved plan for application 56349 the container that is currently located on site is in a different location to this previously approved application. There does not appear to be any planning permission in relation to the siting of a shipping container in the current location within the site. As such, the existing shipping container is considered to be unlawful.

Only side elevations, and a limited floor plan with no doors indicated have been submitted in relation to this shipping container. The shipping container is not shown on the existing site plan, existing floor plans or existing elevations. As such insufficient information has been provided to allow a full assessment of this element of the proposal in terms of visual amenity. The shipping container would however appear to be located within a more visually prominent location with no screening and this would not be acceptable in visual amenity terms as it would introduce a discordant and incongruous feature into the streetscene.

The siting of a container in this position is also likely to be unacceptable as it would appear to require the doors to either open up onto land outside of the applicant's ownership, or onto the adopted highway to the side of the site. This would adversely affect highway safety and/or have an adverse impact on existing highway conditions and residential amenity on the adjacent residential streets.

The existing fencing along the side boundary of the site also appears to fall outside of the limits of permitted development, as it is more than 2 metres in height and adjacent to the public highway.

These matters will be passed onto the enforcement team.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed stairs and access would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers of 35 and 33 Rupert Street by reason of the sub-standard distances between the proposed stairs/access and the rear boundaries of these properties. The proposed development therefore conflicts with Unitary Development Plan Policies EC4/1 - Small Businesses 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>
HP 04/07/2023			

