

List No. 3

Withington Ward	Application Number 084443/FO/2007/S1	Date of Appln 24th Sep 2007	Committee Date 10 th April 2008
Proposal	Erection of a two storey detached dwellinghouse on vacant land		
Location	Land Between 168-174 Ladybarn Lane, Ladybarn, Manchester, M14 6RW		
Applicant	Mir Investments (UK) Ltd, Mr I Mir, 33 Eastleigh Road, Heald Green, Stockport, SK8 3QR		
Agent	Mr Farhan Rama 4 Mallowdale Avenue, Fallowfield, Manchester, M14 6GT		

Description

Members will recall that this application proposed the erection of a two storey detached dwellinghouse on the former Derby Arms Public House car park.

The application was brought before the Committee on 13th March 2008 with a recommendation for approval. This followed an earlier Committee meeting on 14th February 2008 at which Members resolved to defer the application until a site visit had taken place.

At the last meeting concerns were raised about the proposal and Committee resolved to defer the application to enable officers to obtain further information in relation to the previous application at the site and car parking issues together with other matters raised in relation to the adjacent properties.

The previous planning permission (application 078744/FO/2006/S1) granted for the conversion of the Derby Arms Public House to residential did not include within the site edged red (i.e. the application site) the car park area. The plan submitted with that application has the car park area edged blue, which indicates that the same person owns both sites but has separated them for development purposes. As such the carpark did not form part of the scheme in any way.

The consent granted for the conversion of the former pub included the creation of the two flats within the building and this was the subject of an enforcement investigation in 2007. It was concluded that the consent and works were authorised and ward members advised accordingly at that time.

Other issues raised at the Committee meeting on 13th March 2008 related to the adjacent properties included the listed status of 166 and 168 Ladybarn Lane and the use of the car park area for carrying out maintenance to the gable wall of 168 Ladybarn Lane.

The properties addressed 166 & 168 Ladybarn Lane were initially included in the list of buildings of special architectural and historic interest by the Secretary of State for the area on 31st July 1972. However due to the amount of unsympathetic works that resulted in loss of original character the Secretary of State removed them from this listing in June 1994. The property is therefore no longer a listed building.

A letter was referred to at Committee concerning access to the car park to carry out repairs to the gable wall. The City Solicitor has advised that the letter

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contains permission for Mr and Mrs Wilson to go onto the Derby Arms Car park, however, such permission can be withdrawn at any time, for any or no reason, by the owner of the car park and it confers no legal or other rights over the car park whatsoever. The matter is a private one between the two landowners, and therefore is not a reason for withholding consent.

The application site relates to a rectangle plot of land, which is approximately 0.01 hectares in area and is located within a predominantly residential area and is bounded by residential properties on all sides, the area has a range of property types.

A terrace of three cottages, which are grade II listed, adjoins the south of the site. The north of the site is adjoined with a pair of two storey semi detached dwellings that are approximately 2 metres higher than the listed cottages. The rear of the site is adjoined by a former public house, which has been converted to residential use. The application site served as a car park for the public house, since the closure of the public house the site has been used by local residents to store bins, park vehicles and as a short cut to get from Exbury Street to Ladybarn Lane. There are no agreements or permissions for the use of this land between the owners of the land and the residents.

Ordnance survey maps that date back to 1893 show that prior to the site being used as a car park it had a residential use, as a pair of semi detached dwellings.

The proposal seeks to build a two storey, 3 bed detached family house, the plan form of the proposed dwelling has taken both of its neighbours building lines into consideration by stepping part of the proposed dwelling back, so it is in line with the listed cottages but then stepping part of it forward so that its in line with the semi detached dwellings on the other side, the same principle has been applied to the height of the proposed dwelling. The amended scheme includes one on-site car parking space and gardens to the front and the rear. A 2 metre wide passageway is retained to the south of the proposed new house.

A previous application for a detached dwelling was submitted in June 2006, the footprint of the proposed dwelling was considerably larger than the current application and as a consequence the scheme proposed to close up the alleyway, the application was refused on 18th July 2006. In brief the reasons for refusal were over development, by reason of the site coverage, lack of private outdoor amenity space, impact on neighbour, by reason of loss of daylight and finally it was considered that the design would be visually detrimental to the character of the area.

Consultations

Local residents - 7 letters of objection have been received, these representations are summarised below:

- i) The site is used for parking cars by for Ladybarn Lane residents and residents from the newly converted flats in the building that was previously the Derby Arms Public House.
- ii) The illegal parking referred is largely from the residents in the many flats that the former Derby arms has been converted into.

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- iii) If the site is developed, parking will become more of a problem.
- iv) The land should be allocated as a car park.
- v) The listed cottages (built in 1825) and the neighbouring properties to the right display period features not found regularly in the area. Interruption of the row of older properties with a newly built property would disrupt the visual effect and have a detrimental influence.
- vi) A new build property would not be in keeping with the period properties on either side. It would detract from their charm and the purpose for them being listed.
- vii) Fly tipping has only existed since the flats were Former pub was converted to flats.
- viii) The proposed property will overshadow the neighbouring property, as the height of the build is considerably taller than the listed cottages.
- ix) Until recently the window which runs along the side of my property has provided much needed light in what is otherwise a dimly lit room. This window is currently boarded up whilst we carry out some repair work though this will be completed imminently.
- x) There is an issue with the light available to the back gardens of the row of cottages, these are already blocked in on three sides so.
- xi) The 1m wide path which would be created would create access problems with regard to the alley that runs behind the row of cottages. Currently it is used as a route to dispose of garden waste by a number of the houses that back on to the alley. Having to take a wheelie bin up the lane and then turn into a 1m alley would prove problematic.
- xii) If this opening was closed there would be no way of bringing our wheelie bin to the front of the house.
- xiii) The site is used to store bins to allow rubbish collection from the surrounding properties.
- xiv) There will be a huge amount of disruption to us residents during the construction stages.
- xv) 176 Ladybarn Lane is a listed property with shallow foundations that have no cellars & concrete floors. 168 is underpinned and there is concern that any building work on this scale could impact on the stability of these listed houses.
- xvi)** If this planning request is taken further I would like to have the agreement from the applicant that they will agree to pay for an impartial engineers report to satisfy my concerns.
- xvii) Before we purchased 168 Ladybarn Lane in 1976, the vendor, Wilson's Brewery, gave us written permission to access the car park of the Derby Arms public house in order to carry out any repairs to the gable wall. (I have retained the relevant document from Wilson's Brewery, should you

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require copies). If the proposed building goes ahead on the former car park, our access to the gable wall would be greatly restricted and I am worried that we would be unable to carry out any necessary maintenance and repairs. This is particularly important given the age of my property.

xviii) The potential loss of value of our property is a further cause for concern.

Ward Councillors - Councillor Alison Firth, Audrey Jones and Simon Wheale have lodged the following objection:

- i) There is concern that the allocated garage may be turned into extra accommodation, therefore would like a restriction posed on the use of the garage.
- ii) Residents of Exbury Street who have very small gardens, use the carpark to store bins, should the land be development these residents will not have anywhere to store there bins.
- iii) The proposed new build would be in complete contrast to the type of development in the area.
- iv) The proposal constitutes over development of this site and is a case of creating high intensity housing, with little regard for the surrounding neighbourhood and the problems with parking this would create by taking away the existing car parking space.

Greater Manchester Police (Architectural Liaison Unit) - No problem with the principle of the proposal. However it is unclear as to whether the passageway to the side of the proposed new dwelling and no.174 Ladybarn Lane is a public right of way. The building of a dwelling in this location reduces the width of the passageway quite considerably. It is recommended that this passageway be gated, for example with alley gates, or if the passageway remains open it should be well lit.

The 1800mm wall enclosing the rear garden should be increased to 2100mm and the gate into the rear garden must be made from solid robust timber.

Head of Landscape Practice – No comments or objections to the proposal.

Head of Environmental Health - No comments or objections to the proposal.

Withington Civic Society – The proposal in principle to make better use of this vacant site is supported. However, the large and small gables are out of place and do not match. The footpath across the front of the site should be reinstated and rectified as appropriate.

Issues

The Unitary Development Plan (UDP) for the City for Manchester: There are no site specific policies relating to the application site. However, the following citywide policies are relevant to this proposal:

Policy H1.2 seeks to ensure that the housing stock contains a wide range of housing types to meet the needs of all people living in Manchester.

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Policy H2.2 states that the Council will not allow development that will have an unacceptable impact on residential areas. The matters that the Council will consider include the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Policy DC7.1 states that the Council will negotiate with developers to ensure that new housing is accessible at ground floor level to disabled people wherever this is practical and that family homes will be expected to provide safe areas within which children can play.

Policy DC19 states that the council seek to preserve and enhance the settings of listed buildings by appropriate control over the design of new developments in their vicinity.

Regional Spatial Strategy (RSS) - Policy DP1 encourages both the economic use of land and the development of brownfield land.

Policy UR1 identifies the sustainable regeneration of the region's urban areas as a clear priority. Emphasis is placed on the reuse of derelict land and buildings, the balanced distribution of good quality dwellings and access to employment and community facilities.

In addition to the above, central government provides national planning guidance in the form of Planning Policy Guidance Notes (PPG) and more recently on some planning issues, Planning Policy Statements (PPS).

PPS1 'Delivering Sustainable Development' sets out the overarching policies on the delivery of sustainable development through the planning system. Emphasis is placed on the need for good design to ensure, attractive, usable, durable and adaptable places

PPS3 'Housing' highlights that the majority of new housing should be located on brownfield land. The guidance also states that the planning system should deliver:

- High quality housing that is well designed and built to a high standard.
- A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas both urban and rural.
- A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
- Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key service and infrastructure.

The Guide to Development in Manchester (SPD) - This document offers design advice and sets out the City Council's aspirations and vision for future development and contains core principles to guide developers to produce high quality and inclusive design. The principles that development should seek to achieve, include, character and context, continuity, and enclosure, ease of movement, quality of the public realm, diversity, legibility and adaptability.

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Principle - It is considered that the proposed development is acceptable in principle and would pose no significant harm to the amenity of adjoining residents or lead to any negative impact on the character of the area. The building has been designed to resemble the footprint and scale of both neighbouring residential dwellings and will sit in the site without having an over-dominant or oppressive relationship with its surroundings.

Design - Concerns relate to the design of the proposed dwelling, the proposed building will be built using materials (i.e. natural slate and conservation velux windows) that will be sympathetic to the neighbouring grade II listed cottages and the areas general architectural context.

The current use of the site detracts from the street scene and character of the site as it is being used to store bins and park cars, there are further concerns from residents regarding fly tipping on the application site. In light of the current use it is considered that the proposed dwelling would vastly improve the appearance of the site and positively contribute to the character of the area and the setting of the grade II listed cottages.

Scale and Massing - Concerns have been raised by residents with regard to the height and overall massing of the proposed dwelling. However the height is aligned with both property heights therefore it is considered that the height and massing of the building is unlikely to cause any harm demonstrable harm to either the visual amenity of adjoining occupiers or upon the appearance and character of the area.

Residential amenity – The proposed dwelling has been designed to minimise any undue impact on residential amenity. Concerns have been raised about overshadowing and loss of light, particularly to the gable window on 174 Ladybarn Lane. The original application only left a one metre gap between this gable wall and the proposed dwelling. However, the amended plans show a 2 metre gap therefore it is not considered that there will be a significant impact on the level of amenity enjoyed by the occupants of 174 Ladybarn Lane or any other properties that are in close proximity to the application site.

As stated earlier the site is currently used to store bins and park cars, neighbours have raised concern that should the site be developed there will have nowhere to store their bins or park vehicles. However there is no agreement in place between the residents who use this site and the owners of the site, it is therefore not the landowners duty to allocate this land for such use. It is up to residents to store refuse bins within the cartilage of their property, and park vehicles in a designated parking place or on street where it is allowed.

Alleyway – Although residents use the application site to cut through from Exbury Street to Ladybarn Lane it is unclear as to whether the route is a Public Right of Way. Despite this the applicants do not propose to close it, following the advice from Greater Manchester Architectural Liaison Unit officer, the applicants have amended the proposal to show an alleyway that is 2 metres wide. The applicants have also provided lighting, so that the alleyway is well lit up. In addition due to the extra space given over to the alley way the applicant has removed the integrated garage.

Parking – The revised proposal does not have an integrated garage, instead it provides one off road parking space via a surface level driveway.

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Sustainability – The proposed development is within close proximity to local shops and services and public transport. The proposal also achieves an ecohomes pre-assessment of ‘very good’.

Disabled access – Level access is provided to both front and rear entrances to the proposed dwelling and includes a ground floor toilet facility. The proposal would be fully capable of DFA2 compliance to be occupied by a non ambulant disabled person.

Crime and Disorder - Greater Manchester Police have not raised any issues in relation to the ability of the scheme to achieve Secure by Design accreditation, (to be conditioned).

Residents are concerned about structural damage that may be caused to the adjoining properties during the building stages. If permission is granted any building work will be overseen by an engineer, who will require the work to meet current regulations. This is not a matter, which is within planning control.

Residents are also concerned about loss of value to their property, however planning legislation does not allow the planning authority to regard this as a material consideration when determining planning applications for consent.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person’s home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and country Planning Acts.

Recommendation

Approve on the basis that the proposal is in accord with the City Councils policies in particular policies DC7.1, DC19, H1.2 and H2.2 in that the proposed dwelling is a well designed accessible house in a sustainable location that respects its architectural context and there are no material considerations of sufficient weight to indicate otherwise.

Conditions and/or Reasons

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

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Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority: Drawing 01C, 03 stamped 24/01/2008.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy H2.2 of the Manchester Unitary Development Plan.

3) No development that is hereby approved shall commence unless and until samples and specifications of all materials to be used on all external elevations of the development have been submitted to and approved in writing by the City Council as local planning authority. The development shall be constructed only using the approved materials unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policy H2.2 of the Unitary Development Plan for the City of Manchester.

4) The hard and soft landscaping scheme approved by the City Council as local planning authority shown on drawing ref 01C stamped 24/01/2008, shall be implemented not later than 12 months from the date of commencement of works. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

5) The development shall not be occupied unless accreditation, confirming achievement of the Secured by Design standards in respect of the development has been issued by Greater Manchester Police, unless otherwise agreed in writing by City Council as local planning authority.

Reason - To reduce the risk of crime pursuant to Policy E3.5 of the Unitary Development Plan of the City of Manchester and to reflect the guidance contained in Planning Policy Statement "Delivering Sustainable Development".

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no garages or extensions or H2.2 shall be erected other than those expressly authorised by this permission.

Reason - In the interest of public amenity.

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7) The development hereby approved shall achieve a post-construction Building Research Establishment Environmental Assessment Method (BREEAM) rating of 'very good' or 'excellent' and at least three star sustainability rating under the code for sustainable homes for those elements of the development, which are residential in nature. A post construction review certificate shall be submitted to and approved in writing by the City Council as local planning authority before any of the buildings hereby approved are first occupied.

Reason - In order to minimise the environmental impact of the development pursuant to policies E1.5 and E1.6 in the Unitary Development Plan for the City of Manchester, policies ER13 and DP3 of Regional Planning Guidance for the North West (RPG13) and the principles contained within The Guide to Development in Manchester 2 SPD and Planning Policy Statement 1.

8) Details of the materials, including natural stone or other high quality materials to be used for the footpaths and for the areas between the pavement and the line of the proposed building shall be submitted to and approved in writing by the City Council as the local planning authority. Any works approved shall be implemented in full within six months, or as otherwise agreed in writing by the local planning authority, of any part of the development first being occupied.

Reason - In the interests of amenity and to ensure that paving materials are consistent with the use of these areas as pedestrian routes and in accordance with policy H2.2 of the Unitary Development Plan for the City of Manchester.

9) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interest of public health

Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 084443/FO/2007/S1 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

The following residents, businesses and other third parties in the area were consulted/notified on the application:

Chief Executive's Landscape Practice Group
Environmental Health
Director Of Housing
Environment & Operations (Refuse & Sustainability)
Steve Hobson, Crime Reduction Officer
Greater Manchester Police
Withington Civic Society
35 Exbury Street, Manchester, M14 6RF
37 Exbury Street, Manchester, M14 6RF

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41 Exbury Street, Manchester, M14 6RF
43 Exbury Street, Manchester, M14 6RF
45 Exbury Street, Manchester, M14 6RF
47 Exbury Street, Manchester, M14 6RF
129 Ladybarn Lane, Manchester, M14 6RQ
131 Ladybarn Lane, Manchester, M14 6RQ
133 Ladybarn Lane, Manchester, M14 6RQ
135 Ladybarn Lane, Manchester, M14 6RQ
137 Ladybarn Lane, Manchester, M14 6RQ
139 Ladybarn Lane, Manchester, M14 6RQ
156 Ladybarn Lane, Manchester, M14 6RW
158 Ladybarn Lane, Manchester, M14 6RW
160 Ladybarn Lane, Manchester, M14 6RW
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164 Ladybarn Lane, Manchester, M14 6RW
166 Ladybarn Lane, Manchester, M14 6RW
168 Ladybarn Lane, Manchester, M14 6RW
174 Ladybarn Lane, Manchester, M14 6RW
176 Ladybarn Lane, Manchester, M14 6RW
178 Ladybarn Lane, Manchester, M14 6RW
180 Ladybarn Lane, Manchester, M14 6RW
2 Beverly Road, Manchester, M14 6TG

Representations were received from the following third parties:

Alison Pryce and Jonathan Pryce, 166 Ladybarn Lane, Ladybarn, Manchester
steven byrne, 178 Ladybarn Lane, Ladybarn
IRENE NUNAN, 29 EXBURY STREET, FALLOWFIELD, MANCHESTER
Katherine Beacon (no address)
Mrs B Wilson, 168 Ladybarn Lane
Mr Giancarlo Lagonegro, 174 Ladybarn Lane
Ranee Brown, 39 Exbury Street, Ladybarn, Manchester, M14 6RF.

Relevant Contact Officer : Charenjit Kaur
Telephone number : 0161 234 4548
Email : c.kaur@manchester.gov.uk