

Application Number	Date of Appln	Committee Date	Ward
088925/FO/2009/S1	19th Feb 2009	25 th June 2009	Withington Ward

Proposal Erection of first floor rear extension to 7 and 9 Clifton Avenue in connection with re-configured internal layout

Location 7-9 Clifton Avenue, Fallowfield, Manchester, M14 6UD,

Applicant Mr Khalid Din, 79 St Anns Road, Heald Green, Stockport, Cheshire,

Agent Mr Farhan Rama, 4 Mallowdale Avenue, Fallowfield, Manchester, M14 6GT.

Members will recall that this application proposed the erection of first floor rear extensions at 7 and 9 Clifton Avenue in connection with a reconfigured internal layout, resulting in four rather than three bedrooms. The application was presented to the Committee on 28th May 2009 with a recommendation for approval. At this meeting concerns were expressed that the proposal would result in an over intensive use of these properties resulting in further 'studentification' of the immediate area. It was also queried how an application could be submitted for two separate properties. As such, Members requested deferral of the application in order to consider these matters, together with possible reasons for refusal and subsequent chances of success at appeal.

One application for two sites

There is no restriction as to how many sites can be included within one planning application. The only requirement is for applications to be made in accordance with article 4E of the Town and Country Planning (General Development Procedure) Order 1995 or regulation 3(3) of the Town and Country Planning (Applications) Regulations 1988 (As amended). These require planning applications to be made in writing in the form provided by the Local Planning Authority together with a plan identifying the relevant land together with all other relevant plans, drawings and information necessary to describe the development. There is no restriction on an applicant to include as many individual dwellings as desired in one application.

Intensification of use – 'studentification'

The occupancy of residential dwellings by students and the over intensive use of residential properties is a matter that has been raised by residents along Clifton Avenue previously and in particular, an application and related appeal at 17 Clifton Avenue. This application which also related to the addition of more bedrooms was dismissed at appeal. The Planning Inspector's conclusion is referred to later on in this report under the heading 'studentification'. Members should note however that costs were awarded against the Council in this case.

In this case, concerns have been expressed about the creation of one additional bedroom for each property by way of first floor rear extensions. It is believed that such development would encourage the use of the properties by more unrelated people and most probably by students. This in turn could intensify comings and going of either residents or visitors and put more pressure on on-

street car parking and adversely affect the character of the neighbourhood and the amenity of neighbours.

The current use of the property is a residential dwelling and the applicant's stated intention is that this use should continue. The application is not an application for a change of use to a house in multiple occupation.

It should also be noted that there is no specific planning policy that prohibits the occupation of residential dwellings by groups of students. The properties fall within Class C3 of the Town and Country Planning (Use Classes) Order 1987. This is defined as the use (a) by a single person or by people living together as a family, or (b) by not more than six residents living together as a single household (including a household where care is provided for residents).

A Court of Appeal case ruled that a pre-formed group of students occupying a house within formed a single household and therefore the use was within Class C3.

In addition, the facts of two enforcement cases relate closely to the present application. In each case the groups of students occupying the properties numbered more than six. In each of these cases, it was argued that the occupation of properties by students altered the character of the use of two dwelling houses. Each student had their own bedroom and shared a kitchen, lounge, toilets and bathroom. The Council argued that the provisions of Class C3(b) of the Use Classes Order meant that that any increase in the number of residents over six required planning permission, even if they lived as a single household. Conversely, the appellants asserted that correct test was to assess whether there had been a material change in the character of the properties such that their use had changed from dwelling houses to houses in multiple occupation. The Planning Inspector stated that there was no evidence to indicate the occupation of the properties by students had adversely affected the character of the surrounding area or undermined the amenity of neighbours. The area already had a significant number of properties occupied by students and in his opinion, the comings and goings of either residents or visitors to the property would be indistinguishable from others nearby. Moreover, the occupation of the properties by between seven and eight people was not materially different from their occupation by six people. Consequently, it was ruled that there had not been a material change of use of both properties and both enforcement notices were quashed.

In light of the above, it is considered that any grounds of refusal based on intensification of use/studentification would be difficult to sustain on appeal. The Head of Planning's recommendation has not therefore changed as is still to approve the application.

If the Committee are minded to refuse the application, the below reason is offered as a reason for refusal:

'The proposed extensions constitute overdevelopment and would by reason of increased levels of activity, lead to an overly intensive use of both properties. This in turn would have a detrimental impact upon the amenity of nearby residential occupiers. As such, the proposal would conflict with Policies DC1 and H2.2 of the Unitary Development Plan for the City of Manchester.'

Description

The application site relates to two, three bedroom, semi-detached properties separated by a driveway on the eastern side of Clifton Avenue. Both properties are within the same ownership and share a central driveway which leads to a pair of detached garages at the rear.

At present, both properties incorporate single storey extensions, with the extension at 7 Clifton Avenue having been constructed under permitted development rights and the extension at 9 Clifton Avenue having been granted planning permission in 2006 due to its slightly larger rear projection.

In terms of the site's immediate surroundings, the properties are situated within a predominantly residential area although Fallowfield District Centre is located just a short distance to the north-west. Clifton Avenue is made up of properties of various architectural styles, sizes and tenure, with many properties having been converted into flats, or houses in multiple occupation. Almost opposite the site is a vacant plot of land formerly occupied by St.John's Ambulance which has recently had planning permission for the erection of three, part three, part four storey block comprising of 33 apartments.

The proposed scheme relates to a small ground floor extension at 7 Clifton Avenue, together with the erection of first floor extensions to both 7 and 9 Clifton Avenue. The proposed extensions seek to provide an enlarged bedroom at ground floor level to 7 Clifton Avenue and one additional first floor bedroom to both 7 and 9 Clifton Avenue. The proposed first floor extensions are symmetrical in terms of scale and would project 3.6 metres from the rear wall of the original house, creating 4 bedrooms in total for each property.

Consultations

Local residents - 5 letters of objection have been received. These representations are summarised below:

- (i) It is puzzling that extensions at two different properties separated by a driveway are considered as one application.
- (ii) The existing windows on the properties will be overshadowed by the proposed extensions.
- (iii) The rear outlooks from the upstairs of 5 and 11 Clifton Avenue will be reduced.
- (iv) The application will constitute overdevelopment of what were originally three bedroom family properties. It is obvious that the landlord will have no qualms about changing the internal layout to increase occupancy.
- (v) To allow these extension will further unbalance the community and previous experience suggests that any form of extension will lead to an increase in tenants and further degradation of our community. Intensifying 'studentification' will drive many long-term residents out of the area.

(vi) Extra persons in small houses will add to the noise, refuse and drainage problems in the area.

(vii) There will be a loss of amenity space and the properties have small front gardens which are not big enough for groups of students to sit out when the weather is good.

(viii) The extensions will lead to further on-street car parking problems on Clifton Avenue.

Ward Members – The three Withington Members believe that as the developer has already extended the building once under permitted development rights, surely another extension would be classed as over development. Can the department not restrict over development to prevent the creep of yet more 'studentification'.

South East Fallowfield Residents Group - The extensions would constitute gross overdevelopment of the site and lead to increased overlooking and loss of visual amenity. In order to get a return on his investment, the developer would have to increase occupancy of the properties which would be detrimental to the area and unbalance the local community. Clifton Avenue is well past the tipping point and rebalancing of the community cannot begin whilst such applications are allowed.

Issues

Unitary Development Plan - There are no site-specific policies relating to the application site. However the following city-wide policies are relevant to this proposal:

Policy DC1 relates to residential extensions and requires that consideration be given to various factors, with particular regard given to the general character of the property and the effect upon the amenity of neighbouring occupiers.

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

Regional Spatial Strategy - In terms of regional policy, it is not considered that any policy is of particular relevance in this case.

In addition to the above, Central Government provides national planning guidance in the form of Planning Policy Guidance Notes (PPGs) and more recently on some planning issues, Planning Policy Statements (PPSs).

PPS1 'Delivering Sustainable Development' underpins the planning system and sets out the overarching policies on the delivery of sustainable development. 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.

South Manchester Strategic Regeneration Framework (SRF) – Part of this City Council policy relates to preventing the conversion of large houses, protecting local character and reducing the dependence on low quality rented housing. It should be noted however that it is believed the building is already rented out and there is nothing to suggest both properties will not or could not be returned to family accommodation. The current proposal relates to the erection of modest rear extensions and the creation of additional, ancillary accommodation to existing dwellings. As such, it is not considered that such policies are relevant to this proposal.

Principle - It is believed that the principle of the proposal is acceptable. The proposed extensions are modest in size and would have little impact in terms of visual amenity. The creation of one additional bedroom for each property is unlikely to have any significant impact upon residential amenity or lead to an over intensive use of each property.

'Studentification' - Objections have been received stating that Fallowfield and Clifton Avenue in particular are becoming unbalanced, with an increasing number of properties being let to students, or being used as Houses in Multiple Occupation (HMO). This is considered by some residents to have a detrimental impact upon residential character and residential amenity due to the intensive way that such properties are used. Residents have reported encountering problems with amongst other things, drainage, increased noise and disturbance and lack of on-street car parking.

Planning legislation however allows a property to be occupied by up to 6 unrelated persons, providing that the persons concerned are living as a household i.e no locks on doors, shared bills etc. The property subject to this application is not classed as being a House in Multiple Occupation and there is no policy that would restrict the property from being occupied by students or any other socio-economic group.

With regard to the character of the area and the occupation of properties by students, the Head of Planning would refer Members to the case of 17 Clifton Avenue, where the Planning Inspector allowed an appeal stating that:

'Clifton Avenue is not homogenous and some older houses have already been converted into flats. Consequently, whilst there is likely to be some increase in coming and goings. I am not persuaded that the impact of the increased activity would be so significant as to cause unacceptable harm to the character of the locality or to the amenities enjoyed by future residents of the proposed, or existing residents in the locality'

The current application is only four doors down from the above appeal site and it is considered that whilst each case must be assessed on its own merits, it refers to the same area and is therefore material to the consideration of this planning application. It should also be noted that the current proposal only relates to the addition of two extra bedrooms in total and relates to two, separate properties. Such development is not considered excessive with many similar extensions existing throughout the City. Moreover, the properties in question are still capable of being lived in by families and there is no evidence to suggest that this would not be the case either now, or at some future date.

Parking - It is not necessary in policy terms to provide additional parking as the proposal relates to the enlargement of an existing dwelling rather than the creation of a residential new unit. Such parking standards are therefore in line with City Council policy. Moreover, the property is located in a sustainable location and only a few minutes walk from the extremely busy bus route along Wilmslow Road.

Visual Amenity - It is not considered there would be any significant impact upon residential amenity. The proposed extensions are at the rear of the property and cannot be seen from the street. In addition, the way properties in the area are orientated, the rear boundary of both properties adjoin the rear garden of 8/10 Egerton Road which runs perpendicular to the site. The nearest window of any property that could view the proposed extensions is located approximately 39 metres to the south-east. As such, there are no concerns regarding overlooking or loss of privacy.

Residential Amenity - It is believed that the extensions would have no significant, negative impact on residential amenity. Whilst there may be some impact upon the existing first floor windows of each property in terms of outlook, the extensions do not project far enough to have any serious impact in overshadowing terms. Furthermore, the addition of one extra bedroom for each dwelling is unlikely to have a significant impact upon the amenity of nearby residents with regard to the intensity of use, and no more so than the existing usage of the property.

Drainage – This issue is not a matter that can be considered by the Planning Service and would be subject to Building Regulation approval. In any event, as the proposal relates to an existing dwelling, it is highly likely that existing drainage network for both properties would be utilised.

Refuse Storage - As the proposal relates to existing dwellings, the existing refuse storage arrangements would be unaffected and the occupants of the two houses would continue to use the existing refuse storage arrangement.

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 approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation APPROVE

Approve on the basis that the proposal accords with Policies DC1 and H2.2 of the Unitary Development Plan for the City of Manchester and there are no material considerations of sufficient weight to indicate otherwise. It is not considered that the proposed extension or elevational alterations will have a significant, detrimental impact upon the character of the area, or upon the amenity of nearby residential occupiers.

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.

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

2) 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.

3) 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 01, stamped as received on 13th February 2009.

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.

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: 088925/FO/2009/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:

Private Sector Housing (HMO Team)
Clifton Avenue Residents Association
2 Clifton Avenue, Manchester, M14 6UB
St. John Ambulance, St. John House, Egerton Road, Manchester, M14 6XX
13 Clifton Avenue, Manchester, M14 6UD
11 Clifton Avenue, Manchester, M14 6UD
9 Clifton Avenue, Manchester, M14 6UD
7 Clifton Avenue, Manchester, M14 6UD
5 Clifton Avenue, Manchester, M14 6UD
3 Clifton Avenue, Manchester, M14 6UD
8 Egerton Road, Manchester, M14 6YB

Representations were received from the following third parties:

Ward Councillors
Private Sector Housing (HMO Team)
Clifton Avenue Residents Association
3 Amherst Road, Manchester, M14 6UG
15 Clifton Avenue, Fallowfield, Manchester
12 Clifton Avenue, Fallowfield, Manchester, M14 6UB
8 Egerton Road, Manchester, M14 6YB

Relevant Contact Officer : Steven McCoombe
Telephone number : 0161 234 4607
Email : s.mccoombe@manchester.gov.uk