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Brooklands Ward	Application Number 080749/FO/2006/S2	Date of Appln 18th Oct 2006	Committee Date 12th Apr 2007
Proposal	Retrospective planning application for erection of two storey detached house with further accommodation in the roof space and conservatory to the rear		
Location	7 Verdure Avenue, Brooklands, Manchester, M33 3PP,		
Applicant	T Cummins 91 Grove Lane, Timperley, Cheshire, WA15 6PN		
Agent	NTJ Design 6 Lindsay Court, New Road, Lytham St Annes, FY8 2SR		

Description

This application was deferred from consideration by the Planning and Highways Committee meeting held on 15th March 2007 to allow Members to visit the site. This application was previously presented to the Wythenshawe Area Committee (WAC) meeting of 25th January 2007, where it was also deferred from consideration to allow a site visit by the WAC. The application site was visited by Members prior to the WAC meeting on 22nd February 2007. The WAC reconsidered the application and recommended its refusal on the grounds that the house, as constructed, is excessively high. The WAC also considered that the height of the house should be reduced to that of the previously approved house.

The application site is situated in a predominantly residential area. The streetscene within the immediate vicinity of the site comprises of detached 2-storey dwellinghouses.

The site was previously the subject of planning application (069075/FO/2003/S2) for the erection of a two storey dwellinghouses following the demolition of existing property was withdrawn on 19th January 2004. Planning permission was subsequently granted on 20th May 2004 under application 071044/FO/2004/S2 to construct a two storey detached 4 bedroom dwellinghouse.

The applicants commenced construction works in respect of the authorised development and following the demolition of the original dwellinghouse in Spring 2005. Although construction works relating to the house have been completed, they fail to relate to the authorised development for the following reasons:

i. Building height - As a result of changing ground levels there is a variation in the ridge height to the house, i.e. the ridge height ranges from 8.8 metres (28ft 11in) to 8.9 metres (29ft 2in) as it extends from the respective boundaries with No. 5 and No. 9. This represents an increase of 1.5 metres (5ft) in the ridge height when compared to the original planning permission. The two storey outrigger to the rear of the house has been constructed to a height of 7.5 metres (24ft 7in) compared to 7 metres (23 ft) in respect of the original approval.

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- ii. Siting - The reduction in the width of the building has been accompanied by a marginal increase in the distance of the house from the respective boundaries with Nos. 5 and 7, i.e. 1.24 metres (4ft) and 3.13 metres (10ft 3in) respectively.
- iii. Garage - The revised development omits the previously approved integral garage situated within the two storey front outrigger with access from Verdure Avenue. The garage has been replaced with a dining room and a bay window to its front elevation.
- iv. Additional living accommodation - The original planning permission related to the formation of a 4 bedroom house. The revised layout provides four bedrooms at first floor level with 3 en-suite bathrooms and two further bedrooms within the roof space. The inclusion of the two additional bedrooms has necessitated the raising of the ridge height as set out in (i) above and the incorporation of circular windows to the respective 2 storey front and rear elevations of the 2 story outriggers. Window openings have been increased and reconfigured within the respective side elevations, i.e. habitable room windows to the ground floor and second floor with pairs of bathroom windows positioned centrally at first floor level.
- v. Conservatory - The applicants have commenced the construction works in respect of rear conservatory. These works involve the construction of a base wall, which projects by 3.6 metres (12ft) from the rear wall of the two storey outrigger. Upon its completion the conservatory would expand across the width of the 2-storey outrigger and have a central ridge height of 3.2 metres (9ft 10 in).

Consultations

Local Residents - 19 letters of objection have been received and are summarised below:

- i. The almost completed residence bears no relation to the original application for a 4-bedroomed detached house with garage, which received no objections from neighbours and local residents.
- ii. Height and appearance - The building now has a height and appearance which is overbearing and visually obtrusive. It is out of keeping with surrounding single
- iii. Loss of Privacy - The original proposal showed 2 windows on each side of the property, the new building now has 4 on each side of causing loss of privacy to neighbours.
- iv. Loss of Amenity space - The building now obscures views from No. 5 Verdure Avenue taking away amenity space contrary to policy WW7.
- v. Height - The recent proposal shows the height of the ridge tiles to be the same as No.9 and slightly higher than No.5 when it is considerably higher. The proposal also inaccurately suggests that the base of the building is lower than the road level. However, the building is actually built at road level.

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vi. Siting - The drawing of the conservatory shows it to be some distance from the rear boundary, but this is not actually so.

vii. Scale and massing - The new retrospective application provides little detail and utilise 2 different scales making certain areas of the building appear smaller and the area of the amenity space larger. These drawings are deliberately misleading and deceptive. No actual measurements are provided and no detailed guidance given on materials used in loft bedrooms is given.

viii. Unauthorised works - Concern is expressed that the City Council did not act to prevent such a "large deviation from the original proposal". The developer appears to have decided to ignore the City Council's democratic process to build what he chooses once planning permission is granted. Attention is drawn to the various recent planning appeals in this locality, which have dismissed by the Planning Inspectorate on the grounds that the development would have a harmful effect on the character and appearance of the area and conflict with UDP policy WW7 and DC7a1.

ix. It is considered that measures are taken to ensure that the developer returns to the original plan and undertakes a development which reflects the character of the streetscene and local area.

Brooklands Residents Action Group - Have written to support residents objections to the unauthorised development and request that the developer is required to return to the original plan.

Issues

Unitary Development Plan (UDP) - There no site specific policies relating to the application site. However, the following policies are relevant:

i. H1.2 - States that the Council will seek to ensure that City's housing stock contains a wide enough range of housing types to meet the needs of people who wish to live in Manchester,

ii. H2.2 - States that the Council will not allow development which will have an unacceptable impact on residential areas. The matters that the Council will consider, amongst other things, the scale and appearance of the development, traffic generation and road safety

Guide to Development in Manchester 2: Draft Supplementary Planning Document - The Guide aims to support and enhance the on going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of development we all want to see in Manchester.

Specific reference is made to policy 3.1 Character and Context which states that:

i. Design should respect and be informed by location;

ii. High quality design is a vital attribute of successful neighbourhoods. Quality development is seen as being distinct from a particular style. When a design is of a sufficiently high quality , it will transcend style and help to create quality, richness and diversity.

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Wythenshawe Strategic Regeneration Framework - This document provides a strong vision for Wythenshawe over the next 10 - 15 years, guiding the improvement of public services for Wythenshawe residents and shaping future development. At the heart of the Strategic Regeneration Framework (SRF) is a vision for Wythenshawe as Manchester's Garden City, based both on Wythenshawe's uniqueness and the opportunities in the area. This brings together the positive aspects of Wythenshawes housing and green space with the continued growth of the areas economy and potential for further job creation, better quality shops and lifestyle facilities.

It is acknowledged that the SRF is not part of the adopted UDP for Manchester, but it is Council policy for Wythenshawe. The framework clearly follows the adopted UDP and is a much more current and specific document for the Wythenshawe area. The Wythenshawe SRF document will inform the Local Development Framework for the City of Manchester i.e. the replacement to the existing UDP.

Regional Spatial Strategy for the North West - Formerly RPG13, this provides planning guidance for the North West region. Since 2004, the RSS has formed part of the development plans; as such the weight to be attached to its policies has increased. It contains policies that address core principles of development including the following:

DP2: Enhancing the Quality of life - Ensuring development provides a high quality of life for this and future generations.

DP3 Quality in New Development - Ensuring that new development demonstrates good design and respect for its setting.

The North West Plan , Draft Regional Spatial Strategy (RSS) - Publicised in January 2006, this draft RSS document provides a framework for the physical development of the region over the next 15 to 20 years. Policy DP1 is relevant in its requirements to "make more sustainable, transparent decisions" and "ensure quality in development".

Planning Policy Statement Note 1 (PPS1): Creating Sustainable Communities

PPS1 encourages the promotion of urban and rural regeneration to improve the well-being of communities, improve facilities, promote high quality and safe development and create new opportunities for the people living in those communities. In addition to this PPS1 clearly outlines the importance of creating sustainable communities

Planning Policy Statement Note 3 (PPS3): Housing - Sets out the national planning policy framework for delivering the Government's housing objectives. PPS3 reflects the Government's commitment to improving the affordability and supply of housing in all communities.

Reference is particularly made to paragraph 10 (of PPS3) which states that the planning system should deliver:

- i. High quality housing that is well-designed and built to a high standard;

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ii. A flexible, responsive supply of land - managed in a way that makes efficient and effective use of land, including re-use of previously developed land, where appropriate.

Principle of the development - The demolition of the original house and its replacement with a new house was established through the planning permission granted under 071044/FO/2004/S2. This application seeks to address the implications of the unauthorised works and their affect in the amenity of local residents and the character of the area and impact on the streetscene.

Unauthorised development - The site was been inspected by the City Council and it is apparent that the works undertaken, so far, do not relate to the approved drawings. The departures to the approved scheme relate to the installation of additional windows and the incorporation of living accommodation in the roof space of the house resulting in the apparent raising of the roof height. The applicants were advised of that the development departed from the approved drawings on 10th July 2006. The site was subsequently inspected by the Senior Enforcement officer on 3 occasions between August and November 2006; two of the site visits were accompanied by the planning officer. It is understood that work continued intermittently at the site during this period.

Construction work has also commenced in relation to a rear conservatory. It would appear that the conservatory would ordinarily fall within the permitted development rights relating to a dwellinghouse, i.e. the legal entitlement to extend a dwellinghouse without the need to seek the authorisation of local planning authority. However, in this case, conservatory is unauthorised as it relates to dwellinghouse, which has not been constructed in accordance with the approved scheme.

Whilst recognising that the development is currently unauthorised, it is considered that the scheme may potentially receive planning permission if it were appropriately modified. In such circumstances the service of a "stop" notice would not be appropriate as the breach of planning control can be potentially rectified by another means, i.e. the submission and determination of a new planning application.

The service of a "stop" notice must be preceded by an enforcement notice which must then take effect over a specified time period. The City Council may be liable for compensation to the person against whom the "stop" notice is served, if they successfully appeal against the related enforcement notice. Furthermore, an enforcement notice may be quashed on appeal, if it only relates to the undertaking of development without planning permission.

This approach is consistent with the guidance within PPG18 "Enforcing Planning Control" (paragraph 5(3)), which states that that "in considering any enforcement action, the decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest". It also accords with the advice within Circular 8/93 "Costs in Planning and other proceedings" (paragraph 24), which states that "it will generally be regarded as unreasonable for a planning authority to issue an enforcement notice solely to remedy the absence of a valid planning permission, if it is concluded on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice".

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The developer of the site was therefore instructed to seek to regularise this situation through the submission of this new planning application, which includes full layout and elevational drawings relating to the house as constructed including details of the conservatory. An accurate streetscene drawing has been submitted to demonstrate the relationship of the new house to neighbouring houses in terms of its height, scale and massing.

Siting - The development reflects the siting of the original building, which is situated in a section of Verdure Avenue without a formal building line, i.e. the houses are positioned in a staggered formation. Given the positioning of the houses at Nos, 5 and 9 it is not considered that the dwellinghouses as constructed has an impact on the outlook from habitable room window to immediately neighbouring properties.

With regard to the siting to the dwellinghouses in respect of the side boundaries with No.5 (north-west) and No.9 (south-east), it should be noted that the distance between the side boundaries and the new dwelling houses has increased as a result of the implemented works. As the footprint of the dwellinghouse not appreciably changed as a result of amendments to its design, it is not felt that the impact of the siting of the building introduces new considerations in addition to those raised in respect of the original proposal.

It is recognised, however, that the inclusion of a conservatory to the rear of the house is a new and material consideration, since it results in an increase in the overall volume of the house and in the further extension of the built form into the rear garden area. However, the impact of the siting of the conservatory needs to be assessed against the positioning of the original building and its relationship to existing houses at Nos. 5 and 9.

The original dwelling houses was positioned 6 metres (19ft 8in) from the back of footpath (when measured from the centre of the boundary with Verdure Avenue) and an overall rearward projection of 5 metres (16ft 5in) beyond the furthest part of the rear wall to No.5. However, the constructed house has staggered elevation which partially relates the forward building line of No.5. The staggered rear building line draws the house away from the boundary with No.5, so that the nearest built form (beyond the rear building line of No.5) is 5.2 metres (17ft) from the north-west boundary. It should also be noted that the redevelopment of the site has resulted in the demolition of a detached garage adjacent to the north-west boundary. On balance, given the scale, height and siting of the conservatory, it is considered that the siting of the conservatory is within the margins of acceptability in relation to No.5.

With regard to the siting of the conservatory in respect of No.9, the new house (No.7), including its conservatory does not project beyond the rear wall of No.9. It is therefore not considered that the siting of No.7 has a detrimental impact upon No.9.

It is also recognised that the original house at No.7 projected substantially beyond the forward building line of No.9, a relationship reflected in the construction of the new house. However, given the orientation of No. 9, it is considered that the position of windows the south-east elevation of No.7, present some overlooking issues and its considered that these should be

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addressed through the provision of obscure glazing to all windows the south-east elevation. A condition is recommended to this effect.

Scale and massing - It is recognised that the constructed house is proportionately different to the houses it neighbours. However, the applicant has attempted to reflect some of the articulation and elevation detail found in the immediate vicinity, in an attempt relate the development to its surroundings. It is not considered that the revised design has, in elevational terms, significantly departed from the original approval in terms of its bulk and massing. However, it is recognised that the increase in the roof height has affected the relationship of the house to the streetscene.

It is considered that the proportions may have been further emphasised by the use of brick work within the elevational treatment, which contrasts with the brick and cladding to neighbouring houses. However, it considered that the new house, as constructed, has sufficient design quality to secure an appropriate visually relationship to the streetscene without introducing a pastiche replica of existing building styles.

Height - The increased height of the building has facilitated the introduction of additional bedrooms within the roof space thereby affecting the proportions of the building and affected its relationship to the streetscene. The height of No.7 is further exacerbated by the use of gabled elevations which contrast with the hipped pitched roofs to neighbouring properties. The height of the building is emphasised further by the proximity of its siting in relation to the back of pavement, which is closer than the original building.

The impact of the change in roof height is particularly noticeable in the relationship with No. 9, due to the distance between these 2 houses and the existence of expansive sloping roof to an integral garage extension to No.9 positioned adjacent to the common boundary. The height of No.7 is not considered to be so pronounced in relation to No.5 and when approached from the north-west side of Verdure Avenue.

However, as the roof slopes away from Verdure Avenue, it is considered that the impact on the streetscene is not substantial enough to warrant refusal, particularly given the balance between elevational brickwork and the expanse of the roof.

There is a disagreement regarding the height of the 2-storey rear outrigger and a letter has been received from the applicant's agent dated 15th January 2007, which confirms that 2-storey rear outrigger has been measured by his client's builders who have confirmed its ridge height to be 7.2 metres (23ft 7in).

Disabled access - Level access to the house should be achievable upon completion of finished ground levels. The house provides restricted access to ground floor rooms and the development does not meet the usual standards for disabled visitor access. However, the internal arrangements do not substantially depart from the previous planning approval.

Building materials - The development has been undertaken uses materials approved under planning application 071044/FO/2004/S2 .

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CONCLUSION

Whilst it is regrettable that the developer failed to undertake the development in accordance with the authorised scheme, the Circular advice states that Local Planning Authorities should consider the merits of granting planning permission in the same way as they would approach an application for a proposed development, the fact the development as constructed (and currently under construction in the case of the conservatory) should not influence the consideration of the application on its merits.

While this proposal differs from the previously approved development, it is not considered that these differences have such a detrimental impact on residential amenity, the character of the area or the streetscene to warrant the refusal of planning permission.

The Head of Planning notes the disagreement in the ridge height to the 2-storey rear outrigger, as measured by the applicant's agent and the Enforcement Officer. However, for the reasons outlined in the Committee report, it is again considered that the outrigger as constructed, does not adversely affect residential amenity to such an extent to warrant refusal.

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)/objectors/residents 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 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.

Head of Planning Recommendation APPROVE

on the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies H2.2, DC1 and other considerations of material weight including PPS1 and PPS3.

Wythenshawe Area Committee – REFUSE

on the grounds that the house, as constructed, is excessively high and is poorly related to the streetscene resulting in a harmful impact on the amenities of the area.

Conditions and/or Reasons

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1) The development hereby approved shall be carried out in accordance with the drawings stamped as received by the Local Planning Authority on 18th October 2006 and 21st November 2006, unless otherwise agreed in writing by the City Council as Local Planning Authority.

Reason - To ensure that the development is carried out in accordance with the approved plans.

2) Within 3 months of the date of this approval, all windows to the side elevations of the authorised dwellinghouse, adjacent to the respective boundaries with Nos. 5 and 7 Verdure Avenue shall be obscurely glazed and permanently maintained in such a condition unless otherwise agreed in writing by the City Council as local planning authority.

Reason

In the interest of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

3) Notwithstanding the provisions of Article 3 of, and Classes (insert Use Class as required) of Part 1 of Schedule 2 or as subsequently amended to, the Town and Country Planning General Development Order 1995 (as amended), no garages or extensions shall be erected other than those expressly authorised by this permission.

Reason

In the interests of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

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: 080749/FO/2006/S2 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 all held by the Planning Division.

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

Brooklands Residents Association
2 Brownwood Close, Brooklands, Manchester, M33 3RE
C/o 204 Brooklands Road, Sale, M33 3PH
4 Brownwood Close, Brooklands, Manchester
3 Brownwood Close, Brooklands, Manchester
32 Verdure Avenue, Brooklands, Manchester, M33 3PP
30 Verdure Avenue, Brooklands, Manchester, M33 3PP
28 Verdure Avenue, Brooklands, Manchester, M33 3PP
20 Verdure Avenue, Brooklands, Manchester, M33 3PP
18 Verdure Avenue, Brooklands, Manchester, M33 3PP
3 Verdure Avenue, Brooklands, Manchester, M33 3PP

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30 Cranleigh Drive, Brooklands, Manchester, M33 3PW
28 Cranleigh Drive, Brooklands, Manchester, M33 3PW
26 Cranleigh Drive, Brooklands, Manchester, M33 3PW
24 Cranleigh Drive, Brooklands, Manchester, M33 3PW
22 Cranleigh Drive, Brooklands, Manchester, M33 3PW
9 Verdure Avenue, Brooklands, Manchester, M33 3PP
8 Verdure Avenue, Brooklands, Manchester, M33 3PP
7 Verdure Avenue, Brooklands, Manchester, M33 3PP
5 Verdure Avenue, Brooklands, Manchester, M33 3PP
16 Verdure Avenue, Brooklands, Manchester, M33 3PP
14 Verdure Avenue, Brooklands, Manchester, M33 3PP
12 Verdure Avenue, Brooklands, Manchester, M33 3PP
10 Verdure Avenue, Brooklands, Manchester, M33 3PP
1 Verdure Avenue, Brooklands, Sale, M33 3PP
2 Verdure Avenue, Brooklands, Manchester, M33 3pp
4 Verdure Avenue, Brooklands, Manchester, M33 3pp
6 Verdure Avenue, Brooklands, Manchester, M33 3pp
31 Verdure Avenue, Brooklands, Manchester, M33 3pp

Representations were received from the following third parties:

J Wild, 2 Brownwood Close, Brooklands, Manchester, M33 3RE
Brooklands Residents Action Group, C/o 204 Brooklands Road, Sale, M33 3PH
M Corfield And P Boswell, 4 Brownwood Close, Brooklands, Manchester
C Loftus, 3 Brownwood Close, Brooklands, Manchester
The Occupier, 32 Verdure Avenue, Brooklands, Manchester, M33 3PP
E Sanders, 30 Verdure Avenue, Brooklands, Manchester, M33 3PP
A Couser, 28 Verdure Avenue, Brooklands, Manchester, M33 3PP
M Somerville, 20 Verdure Avenue, Brooklands, Manchester, M33 3PP
Mr And Mrs Brooks, 18 Verdure Avenue, Brooklands, Manchester, M33 3PP
The Occupier, 3 Verdure Avenue, Brooklands, Manchester, M33 3PP
M And R Tait, 24 Cranleigh Drive, Brooklands, Manchester, M33 3PW
K Hindle, 9 Verdure Avenue, Brooklands, Manchester, M33 3PP
The Occupier, 8 Verdure Avenue, Brooklands, Manchester, M33 3PP
T And L Dootson, 16 Verdure Avenue, Brooklands, Manchester, M33 3PP
M Beakey And L Smith, 14 Verdure Avenue, Brooklands, Manchester, M33 3PP
P Hill, 12 Verdure Avenue, Brooklands, Manchester, M33 3PP
Dr K Dixit, 1 Verdure Avenue, Brooklands, Sale, M33 3PP
D Norfolk, 2 Verdure Avenue, Brooklands, Manchester, M33 3pp
E And C Parry, 4 Verdure Avenue, Brooklands, Manchester, M33 3pp
D Campbell, 6 Verdure Avenue, Brooklands, Manchester, M33 3pp
J Hass, 31 Verdure Avenue, Brooklands, Manchester, M33 3pp

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