

### List No. 3

<b>Chorlton Ward</b>	<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>
	079794/JO/2006/S1	16th Jun 2006	18th Jan 2007

**Proposal** Retrospective variation of condition no. 3 attached to planning permission 066066/FO/SOUTH1/02 to allow the use of an alternative brick to the reclaimed brick specified, increase the height of the building, modify front entrance and provide balconies to rear roof lights

**Location** 27 - 27A Edge Lane, Chorlton, Manchester, M21 9JH,

**Applicant** J H Humphreys 8 Mardale Drive, Gatley, Stockport, SK8 4AW

**Agent** Design And Technical Service 101 Navigation Road, Altrincham, Cheshire, WA14 1LJ

### Description

This application was deferred by members at their meeting of 23rd November 2006 in order that officers could approach the developer with a view to changing the materials used in the roof of the development. This is a retrospective application relating to properties at 27 and 27A Edge Lane which is located on the south western side of Edge Lane, approximately 20 metres (66ft) to the south east of the junction with Wilbraham Road, within the Wilbraham Road/Edge Lane Conservation Area, which was designated in September 2005.

On 14 November 2002 the Planning and Highways Committee considered application 066066/FO/SOUTH1/02, which was for a three storey rear extension to an existing block of 7 flats and erection of a 3 storey block of 6 self-contained flats (resulting in a total of 13 flats) with associated car parking. The 3 storey block would replace an existing coach house at 27A Edge Lane.

Four letters of objection were received at the time with the main points of objection being loss of daylight to the rear windows of 29 Edge Lane, overlooking of the properties at Meadow Court and the development would not be in keeping with the group of 19th century buildings which they form part of. The demolition itself did not form part of the objections.

The report stated the development would be built in reclaimed brickwork with a grey slate roof to match the existing coach house which was being demolished. Committee granted permission in accordance with the recommendation and subject to conditions.

One of those conditions (no. 3) specified that development had to be carried out in accordance with specified drawings. One of those drawings (0175/07/11/A) contained an annotation detailing that the bricks and roof slates of the original coach house should be stored and reused in the new construction.

The development has been constructed, however condition 3 has not been complied with. The applicant did not comply with the annotation on drawing 0175/07/11/A, as he did not reuse the bricks or slates from the coach house in the replacement building or extension. It is claimed that insufficient bricks and slates could be salvaged for the development. The roof has been constructed

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using rectangular Spanish slates and Carlton Burden Weathered Bricks have been used for the coach house and extension. During investigations it also became apparent that the building was higher than approved and that the detail of the front entrance had changed. Measurements taken on site confirmed that the applicants admission the building was 0.6m higher(2 foot). Further that the developer has incorporated balconies into the two outermost roof lights on the rear elevation.

A further condition required the submission of materials for approval prior to the commencement of development. This condition has not been complied with.

The applicant therefore seeks retrospective consent for the colour and type of bricks and slates used in the development, the increase in height and the alterations to the coach house front entrance and the rear roof lights.

### **Consultations**

Local residents - 3 letters of objection were received. Details of these objections are summarised below:

- 1) Objections relating to the demolition of the coach house and it's replacement were overcome by the fact that bricks from the coach house were to be reused and supplemented by matching reclaimed bricks.
- 2) The application for variation of the plans stated that not enough bricks were salvaged. The objectors believe that no attempt was ever made to salvage the bricks.
- 3) The new bricks do not match the original bricks and is now detrimental to the character of the area..
- 4) When the original plans were approved, it was deemed important enough to specify the use of reclaimed bricks to harmonise the area. Subsequently, the area has been granted Conservation Area status. Surely the use of reclaimed bricks is more important than ever.
- 5) The building that replaces the coach house should be built of reclaimed brick so that it blends in.

When it became obvious that the building was indeed higher, revised plans were requested and the application was amended accordingly. Local residents were notified of these changes. To date one representation has been received. This letter refers to a further discrepancy between what was approved and has been built in respect of the roof lights which open to form a balcony which it is claimed will result in a loss of privacy and overlooking. The letter goes on to stress the impact that the development has had as a result of it not being built in the reclaimed brick and slate. Concern is also expressed about the appearance of an extension built as part of the same permission which uses the same bricks. He reinforces concerns that the materials used have a harmful effect on the character of the Conservation Area and that approval of the application will set a dangerous precedent

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E-mail to the Chair and members of the Committee and Ward Members- Members have received an email dated 14th December 2007 from Mr G Padden regarding this application. Much of the email is concerned with complaints about the conduct of individual officers. Those complaints are being investigated under the Council's complaints procedure. Members should take care to assess the application on its planning merits and should disregard allegations relating to the of the conduct of officers and the developer in coming to a decision on this matter.

Chorlton Civic Society - Given that the new building is bigger than that of the original coach house, the developer should have envisaged that not enough bricks would be available to reclaim. The proposal can only be seen as what it is an application to build a semi-modern, unsympathetic building using modern materials in a Conservation Area and we strongly urge you to reject it.

John Leech MP - Once again a developer has ignored planning conditions and used new bricks to cut costs. The modern materials are out of keeping with the Conservation Area and therefore the application should be refused. When a wall was knocked down in West Didsbury (Tripps Mews) in the Conservation Area, the Planning Department insisted on it being rebuilt, using matching brick. Given that this is now a Conservation Area, surely the same tough position should be taken. If this is not the position taken by the Planning Department, surely a significant financial contribution to enhance the Conservation Area would be appropriate.

Ward Members- objections have been received by the following Ward Councillors:

Cllr Newman - The original plans were agreed in 2002 and one of the conditions was that reclaimed brick would be used. The work on this only began in September 2005, a matter of days after the area was declared a Conservation Area. The developer should keep to agreed conditions regardless of the area, but it is particularly vital that conditions are kept in a Conservation Area.

Cllr Gallagher - Considers it regrettable that they didn't keep the original brickwork which they agreed on the original plans and opposes this plan until the matter of bricks and slates is resolved.

Cllr Stevens - The applicant proceeded without permission to use new bricks out of keeping with the requirement of planning. This new application flies in the face of requirements on Conservation Areas to encourage sympathetic development in keeping with the style of this area. She most strongly opposes this application.

City Solicitor - Planning permission runs with the land and decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The applicant's previous behaviour is not a material consideration in determining this application.

### **Issues**

Unitary Development Plan - The main policies in relation to development of this kind are H2.2, H2.7 and DC18.

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Policy H2.2 seeks to prevent development which will have an unacceptable impact on residential areas for example by way of, amongst others, appearance.

Policy H2.7 requires new housing developments to be of a high standard of design and make a positive contribution towards improving the City's environment.

Policy DC18.1 seeks to preserve and enhance the character of its conservation areas by considering issues such as the relationship of new structures to neighbouring buildings and spaces, the effect of major changes to the appearance of existing buildings and the desirability of retaining existing features, such as boundary walls, gardens and trees.

Regional Spatial Strategy (RPG13)(2003) - Policy DP3 states that new development must demonstrate good design quality and respect for its setting, including the integration of new development with surrounding land use taking into account the setting, quality, distinctiveness and heritage of the environment and the use of sympathetic materials. Policy ER3 states planning authorities and other agencies in their plans, policies and proposals will identify, protect, conserve and, where appropriate, enhance the built heritage of the Region, including those features and sites (and their settings) of historic significance to the North West including conservation areas.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 says special attention must be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Planning Policy Guidance 15 on Planning and the Historic Environment states in paragraph 4.17 that what is important is not that new buildings should directly imitate earlier styles, but that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own. It goes on to state in paragraph 4.19 that if any proposed development would conflict with the section 72 objective, there will be a strong presumption against the grant of planning permission, though in exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest.

The email of 14th December 2006 contains an allegation that Roger Hall misled Committee on 23rd November 2006. This allegation is denied. For the avoidance of doubt, members are asked to note the following facts:

1. Members approved application ref 066066/FO/SOUTH1/02 on 14th November 2002. In so approving they attached two relevant conditions:

Condition 2 -Samples of the materials to be used in the external elevations shall be submitted to and approved by the City Council before the development is commenced.

Reason

In the interests of visual amenity and to ensure a satisfactory development.

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Condition 3 - The development hereby approved shall be carried out in accordance with drawings numbers 0175/07/10A, 11A and 12A.

Reason

For the avoidance of doubt.

2. One of the plans attached to the application included the following annotation 'Bricks and roof slates to be carefully removed from the existing 'coach house', stored, and reused in the new construction. All new bricks and roof slates are to match existing. The eaves level of the new building is to be the same level as the eaves of the existing 'coach house'

3. There is some doubt about whether it is strictly correct to say that an annotation on a plan is a "condition", although it is clear that the development has not been constructed in accordance with the condition requiring compliance approved plans.

Principle of the Proposal - Set out below are the discrepancies between the scheme as approved under ref. 066066/FO/SOUTH1/02 and that built.

The building is 0.6 metres(2feet) higher to the eaves level. The roof is the same size as approved. This is a large building and the additional increase in height is only discernable by measurement. This is not therefore considered to be significant in terms of its impact on either residential amenity or the Character of the Conservation Area.

The main entrance to the development is wider than approved. This serves to strengthen the entrance as an architectural feature on the front elevation and it is considered that this represents an improvement in terms of the appearance of the building over that originally approved.

Balconies have been added to the rear roof lights. Their impact on amenity is discussed later in this report. The balconies are situated at the rear of the property and therefore do not impact on the character of the Conservation Area as they are not visible from the public domain.

The choice of materials has clearly had the greatest impact on the development. In that the new building is larger than that which previously occupied the site it was inevitable that there would be insufficient bricks and slates and that 'new' material would have to be brought onto the site. A condition attached to the planning permission required the prior approval of the materials though this was not discharged. The developer has used two bricks, a blue engineering brick is used to form banding similar to that on the main house, whilst the main body is finished in a Carlton Burden Weathered Brick, a brown brick which is not dissimilar to the common bricks used in the original coach house. The result is not an unpleasant building, which is within mature landscaping around the perimeter of the site. Given the design of the building and the brick used it is not believed that the development has an unacceptable or negative impact on the character of the area. In respect of the colour of the bricks, the Head of Planning did not consider there is any harm of a planning nature to the Conservation Area and this view was endorsed by the committee at their meeting of 23rd November 2006.

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However members were concerned that the developer used the rectangular slates for the roof which did not recreate the patterning found on the roof of the original coach house. The slates on the original coach house comprised a combination of a traditional, rectangular, slates and ones with a shaped leading edge, in terms of colour the slates were a darker grey than those used in the new building and had a purple hue to them. This combination of shape and colour gave the roof a distinctive appearance, not dissimilar in some respects to fish scales. The slates used in the roof are more uniform in their colouration as well as their shape, resulting in a large expanse of roof that is devoid of interest and fails to make any contribution to the Conservation Area in a way that could have reasonably been expected had the developer re-used the original slates in accordance with the annotation on the approved drawing.

Impact on the Conservation Area- The Council's appraisal of the conservation area states: "It is the relationship of [various key unlisted] buildings to each other, to their sites and to the streets that mostly determine the character of the area, rather than individual buildings of high architectural or historic quality." The appraisal goes on to say: "Most of the buildings in the area are constructed in Manchester red/orange brick, sometimes in conjunction with buff coloured sandstone dressings. Occasionally blue brick is used to provide detail within the mainly red/orange brick facades."

Edge lane is a major thoroughfare in the new conservation area and it is important that new developments make a positive contribution in such situations. Whilst the planning permission for the development was granted prior to the conservation areas designation in September 2005, the Head of Planning believes that the originally approved scheme to be of good quality that met the objective of enhancing the area. It is further believed that the development as constructed, with the exception of the roof treatment and materials, improves upon that scheme particularly in terms of the appearance of the front elevation.

Overlooking - With regard to the balconies on the rear roof lights, these provide only a small space capable of accommodation somebody standing. They are sufficiently far from any of the adjoining property so as not to cause any loss of amenity by overlooking.

### Conclusion

The Head of Planning has written to the applicant advising him of the Committee's resolution of 23rd November 2006. At the time of writing no response has been received. The course of action that the Head of Planning believes to be the correct one is to grant planning permission for the development subject to a condition requiring the necessary alterations to the roof. Such a condition could read:

'A scheme for the roof tiling, which specifies a slate type and which reflects the character of the roof of the demolished Coach House which stood on the same site, shall be submitted to the Council in writing and with appropriate samples, no later than one month of the date of this permission and shall be approved in writing by the Council. The developer shall implement the scheme which the Council has approved in writing no later than three months from the date of such approval.'

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The Head of Planning believes that in all circumstances this represents the most satisfactory way forward. It would have the effect of approving all the deviations from the original planning permission except the treatment of the roof. Should the developer not comply with this condition then the option would still remain for taking enforcement action and that the action would be focused on the area that concerned the committee when they last considered this proposal. Compliance monitoring is needed to ensure the development adheres to the agreed way forward.

**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.

### **Recommendation APPROVE**

Approve on the basis that the proposal accords with Policies DC18.1 and H2.2 of the Unitary Development Plan for the City of Manchester as the development will not have a detrimental impact on the character or visual amenities of the area and there are no material considerations of sufficient weight to indicate otherwise.

### **Conditions and/or Reasons**

1) The development hereby approved shall be carried out in accordance with the drawings numbered sheet 3 of 4 rev B, stamped as received by the Local Planning Authority on 18th October 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 pursuant to policies H2.2, H2.7 and Dc18 of the Unitary Development Plan for the City of Manchester.

2) The landscaping scheme to form part of the development shall be submitted to and approved by the City Council no later than 6 months from the date of this

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permission and implemented not later than 12 months from the date the building is first occupied; any tree removed, dying or becoming severely damaged or seriously diseased within 5 years of planting shall be replaced by trees of a similar size and species to those originally required to be planted.

Reason

To secure the satisfactory development of the site and in the interests of visual amenity pursuant to policies H2.2, H2.7 and Dc18 of the Unitary development Plan for the City of Manchester

3) No trees, other than those shown on the approved plans as being so treated shall be felled, lopped or topped without the prior written consent of the City Council, until 5 years after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged before the end of that period shall be replaced with trees of such size and species as may be agreed with the City Council.

Reason

To avoid the loss of trees which are of amenity value to the area pursuant to policies H2.2 and Dc18 of the Unitary Development Plan for the City of Manchester.

4) Trees which are to be retained shall be protected during construction by the erection of a fence of a type and in a position to be approved by the City Council prior to the commencement of development.

Reason

In order to protect the trees from damage pursuant to policies H2.2 and DC18 of the Unitary Development Plan for the City of Manchester.

5) Provision shall be made, to the satisfaction of the City Council, for the adequate storage and disposal of refuse.

Reason.

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

6) The development hereby approved shall incorporate measures to minimise the risk of crime and to meet the specific security needs of the application site and the development. Any security measures to be implemented in compliance with this condition shall seek to achieve the `Secure by Design` accreditation awarded by the Greater Manchester Police.

Reason

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000, and to reflect the guidance contained in Circular 5/94 "Planning Out Crime".

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7) A scheme for the roof tiling, which specifies a slate type and which reflects the character of the roof of the demolished Coach House which stood on the same site, shall be submitted to the Council in writing and with appropriate samples, no later than one month of the date of this permission and shall be approved in writing by the Council. The developer shall implement the scheme which the Council has approved in writing no later than three months from the date of such approval.

reason

To ensure that the development is of an appropriate standard for the Wilbraham Road/Edge Lane Conservation Area pursuant to policies H2.7 and DC18 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: 079794/JO/2006/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 all held by the Planning Division.

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

Councillor Sheila Newman

Councillor Val Stevens

Councillor Angela Gallagher

Chorlton Civic Society

22a Edge Lane, Chorlton, Manchester, M21 9JF

Meadow Court, Flat 72, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 71, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 70, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 69, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 68, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 67, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 66, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 65, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 64, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 63, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 62, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 61, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 60, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 59, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 58, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 57, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 56, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 55, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 54, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 53, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 52, Hackness Road, Chorlton, Manchester, M21 9HH

Meadow Court, Flat 51, Hackness Road, Chorlton, Manchester, M21 9HH

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Meadow Court, Flat 50, Hackness Road, Chorlton, Manchester, M21 9HH  
Meadow Court, Flat 49, Hackness Road, Chorlton, Manchester, M21 9HH  
Flat 9, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Thornlea Lodge, Flat 9, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 8, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
27a, Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 8, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 7, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 6, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 5, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 4, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 4, 25 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 3, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 3, 25 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 2, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 2, 25 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 1, 27 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 1, 25 Edge Lane, Chorlton, Manchester, M21 9JH  
Thornlea Lodge, Flat 7, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 6, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 5, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 4, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 3, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 2, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
Thornlea Lodge, Flat 1, 24 Edge Lane, Chorlton, Manchester, M21 9JF  
29 Edge Lane, Chorlton, Manchester, M21 9JH  
Flat 10, 27 Edge Lane, Chorlton, Manchester, M21 9JH

### Representations were received from the following third parties:

#### Ward Councillors

Mr David Nightingale, Meadow Court, Flat 63, Hackness Road, Chorlton,  
Manchester, M21 9HH  
, Flat 2, 25 Edge Lane, Chorlton, Manchester, M21 9JH  
, 29 Edge Lane, Chorlton, Manchester, M21 9JH

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