



Appeal Decision

Site visit made on 6 December 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/B4215/C/23/3323431

98 Parsonage Road, Manchester M20 4WU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Dr Abida Awan against an enforcement notice issued by Manchester City Council.
 - The notice was issued on 2 May 2023.
 - The breach of planning control as alleged in the notice is the erection of a single storey building to form self-contained accommodation, the approximate location of which is shown hatched blue on ENF/PLAN1 attached to this notice.
 - The requirements of the notice are:
 1. Demolish the single storey building forming self-contained accommodation, the approximate location of which is shown hatched blue on ENF/PLAN1.
 2. Remove from the land all building materials, rubble and waste resulting from carrying out the above steps.
 - The period for compliance with the requirements is: Six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In section 3 the deletion of the words "to form self-contained accommodation".
 - In section 5 the deletion of the words "forming self-contained accommodation".
2. Subject to the above corrections, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development carried out, namely the erection of a building at 98 Parsonage Road, Manchester M20 4WU as shown on the plan attached to the notice.

Preliminary Matters

3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration and, consequently, it has not been necessary for me to seek the further comments of the main parties in this respect. I have determined the appeal accordingly.

Ground (b)

4. The appeal on ground (b) is made on the basis that the alleged breach of planning control has not occurred as a matter of fact. The building in question has clearly been erected. However, the appellant's argument is that it is not self-contained accommodation as alleged but is instead a home office and games room.
5. The Council's evidence includes internal photographs of the building taken on 1 February 2023 which show (i) a largely empty room with few items or features present other than plug sockets and a wall mounted heater; and (ii) a bathroom including toilet, wash basin and a shower. Those facilities were also evident at the time of my site visit, albeit the main room had now been furnished and included a carpet, curtains, a wardrobe, small desk and chair, a pool table, and sofa.
6. In addition to the above, photographs showing the external appearance of the building said to be taken from an adjacent property 'around 18 February 2023' are also provided. The Council considers that these photographs, which show 'Happy Birthday' banners displayed and cards in the window, demonstrate that at the time the notice was served the building was occupied and in use as self-contained accommodation.
7. The appellant states that a female tenant, who occupied a bedroom in the main dwelling, used the building for her birthday and to carry out therapeutic knitting prior to her tenancy ending in May 2023. This appears to correlate with the representation received from a neighbour who stated that a female student was 'living' in the building.
8. To be considered 'self-contained' the building would need to contain all the facilities necessary for day-to-day domestic living. Whilst I acknowledge that the building has some facilities in place which may potentially enable its use as self-contained accommodation, none of the submitted photographs or representations provide any evidence of sleeping or cooking facilities in the building.
9. I accept that it would be a relatively simple task to bring a bed into the building and thus provide sleeping facilities. However, even if this was the case when the female tenant was present, there is no evidence to suggest that the building contained a kitchen or other cooking facilities at any point. In the absence of any contradictory evidence, I am satisfied that the appellant has sufficiently demonstrated that the building is not self-contained accommodation and is for ancillary residential purposes.
10. I therefore find, as a matter of fact, that the building does not form self-contained accommodation. Accordingly, the appeal on ground (b) succeeds.
11. However, success on this ground does not necessarily result in the notice being quashed. In this instance, I concur with the Council's view that the notice can be corrected without injustice being caused to the parties. I consider this to be the appropriate action in the circumstances, given that the appellant has paid the fee for the deemed planning application but has not argued that the building does not require express planning permission. I shall therefore deal with the appeal on ground (a) and the deemed planning application on the

basis of the corrected description of the breach of planning control following success on ground (b).

Ground (a) and the deemed planning application

12. This ground now falls to be considered on the basis of the allegation as corrected pursuant to ground (b). The deemed planning application is for the erection of a building in the rear garden of the property. The Council's reasons for issuing the notice were related, in part, to the use of the building as self-contained accommodation. In light of the corrected description, not all remain relevant.

Main Issues

13. The remaining main issues in the ground (a) appeal are the effect of the development on:
- the character and appearance of the area; and
 - the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and the potential for noise and disturbance.

Reasons

Character and Appearance

14. 98 Parsonage Road is a semi-detached dwelling located within a residential area consisting of predominantly 1930s houses of similar design. The development is located towards the south-eastern corner of the rear garden of No. 98, in close proximity to the boundary fences between the appeal site and the neighbouring properties at 100 Parsonage Road and 1 Ashdene Road. The building is constructed in brick with a dual pitched tiled roof, with the appellant stating that it measures 7.3m by 4m, with an eaves height of 2.3m and ridge height of just under 4m.
15. The building is of simple design and constructed using materials which are sympathetic to those used in the construction of both the host dwelling as well as other nearby dwellings. Furthermore, by reason of its siting in the rear garden, the building is not readily visible from Parsonage Road or other public vantage points and therefore causes no harm to the character and appearance of the area.
16. In terms of its size the building is subordinate to the host dwelling. Although larger than the garage which previously existed in roughly the same position, and despite extending above the height of the boundary fences between the appeal site and neighbouring properties, the building does not appear excessively large or represent an overly dominant feature.
17. In view of the above, I find that the development does not harm the character and appearance of the area. As such, it accords with Policies SP1, DM1, and EN1 of Manchester's Development Framework Core Strategy Development Plan Document (adopted July 2012) (CS), and guidance contained within the Framework. These seek, among other things, to ensure developments reinforce and enhance local character and achieve good design.

Living Conditions

18. The single storey building contains an obscure window on its northern elevation which faces towards the rear elevation of the main dwelling. Two windows and a door are on its western elevation which face across the rear garden towards the boundary with 96 Parsonage Road. The remaining two elevations which face the boundaries with 100 Parsonage Road and 1 Ashdene Road are blank and contain no openings.
19. For the reasons outlined in the ground (b) appeal above, the building does not form self-contained accommodation. There is therefore unlikely to be regular residential occupation of the building. In any event, the building's windows are sufficiently distant, angled, and screened by boundary fences so to avoid any loss of privacy for occupiers of neighbouring properties at No. 100 and No. 1.
20. Views from the windows on the western elevation of the building into the rear garden of No. 96 would be possible, however this is predominately due to the existence of a low-level chain-link fence along the boundary between the respective rear gardens. The clear intervisibility which already exists between the rear gardens of No. 96 and No. 98 would therefore not be materially affected by the building or its ancillary residential use.
21. The Council also refer to the development giving rise to unacceptable levels of noise and disturbance, and I note that a third-party representation received from a neighbour alleges that tenants often congregate outside the building late at night generating high levels of noise. However, I have no substantive evidence that the use of the building will directly lead to harmful levels of noise and disturbance for neighbouring residents.
22. I therefore find that the development does not have an unacceptable effect on the living conditions of occupiers of neighbouring properties. Consequently, the development accords with Policies SP1, EN1 and DM1 of the CS, and guidance contained within the Framework. These seek, among other things, to ensure developments have regard to effects on amenity and contribute positively to the wellbeing of residents.

Conditions

23. I have considered the imposition of appropriate planning conditions, having regard to the six tests set out in the Framework. No suggested conditions have been put forward and given that the works have already been undertaken on site, I see no reason why any conditions would be necessary in this instance.

Conclusion on ground (a)

24. For the reasons given above, having considered the development plan as a whole and all other material considerations, the appeal on ground (a) succeeds and planning permission is granted for the building as described in the corrected notice.

Other Matters

25. Matters relating to the removal of fencing and a boundary dispute between the occupiers of 1 Ashdene Road and the appeal property have been brought to my attention. However, such matters fall outside the scope of this appeal, and I can only have regard to the planning merits of the case.

Conclusion

26. It is clear from the evidence, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that the development does not form self-contained accommodation. I am satisfied that no injustice will be caused if I correct the enforcement notice in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act.
27. For the reasons given above, I conclude that the appeal succeeds on ground (a) and planning permission is granted in accordance with the application deemed to have been made under section 177(5) of the 1990 as amended, which will now relate to the corrected allegation. In these circumstances, the appeal on ground (f) does not fall to be considered.

David Jones

INSPECTOR