



Appeal Decision

Site visit made on 17 July 2024

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 21st August 2024

Appeal Ref: APP/B4215/C/23/3331153

2 Wellington Road, Old Moat, Manchester M14 6EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Modern Haus Ltd against an enforcement notice issued by Manchester City Council.
- The notice was issued on 13 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension.
- The requirements of the notice are
 1. Demolish the single storey rear extension in its entirety and make good the rear elevation of the building using materials that are similar to those used in the construction of the original dwelling house.
 2. Remove from the land or building materials rubble and waste resulting from carrying out the above steps.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (the Act)(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

Decision

1. It is directed that the enforcement notice is varied by
 - i) the deletion of the words and 'make good the rear elevation of the building using materials that are similar to those used in the construction of the original dwelling house' from the first requirement.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Notice

3. It is the duty of the Inspector to put the notice in order. The first requirement states '*Demolish the single storey rear extension in its entirety and make good the rear elevation of the building using materials such as similar to those used in the construction of the original dwelling house.*'
4. As the allegation relates to the erection of a single storey rear extension, the demolition of the extension, in the event of the notice being upheld, remedies the breach. The appellant cannot be required to undertake improvements or works that go beyond remedying the breach. Whilst the appellant will wish to undertake works after compliance with the notice in the event of it being upheld, this is a matter for the parties to discuss as it cannot be part of a

requirement. I will amend the requirement to 'Demolish the single storey rear extension in its entirety.'

The appeal under ground (a) and the Deemed Planning Application (DPA)

Main Issues

5. The main issues are the effect of the development upon (i) the character and appearance upon the surrounding area and (ii) the living conditions of the occupiers of No 4 Wellington Road (No 4) with particular regard to outlook.

Reasons

Character and Appearance

6. Wellington Road is largely residential in character. Waller Avenue has a more mixed character as it has non-residential buildings include chapel buildings and a grey industrial building in addition to three pairs of semi-detached dwellings whose features include use of red brick including boundary walls.
7. The appeal site includes a semi-detached dwelling house with a front garden and more outdoor space to the side and rear. The property has undergone recent works including a dormer at roof level and the property now has a more modern appearance to the side and rear than the traditional semi-detached dwellings on Waller Avenue.
8. The development consists of a square red-orange brick rear extension of a modern design with glazing and a flat roof located to the rear of the appeal property. Prior to the development taking place, the appeal dwelling had a modest single storey rear extension which was less than half the width of the rear elevation. Some of the bricks of the previous original extension are visible in the side of the development closest to Waller Avenue. However, the appellant accepts that the original extension was largely demolished and the allegation relates to the new extension rather than part of it.
9. A greenhouse and shed have been removed from the outdoor space which now houses the development and a patio area. As the development is located to the rear of the development on a corner plot, it is visually associated with Waller Avenue. However, the materials used in the development are not out of keeping when red brick is characteristic of nearby buildings including the chapel. The development's design complements the modern style of the side of the appeal property.
10. The side location of the appeal site is not part of the existing pattern of pairs of dwellings and other buildings also form part of the character of Waller Avenue. Whilst Policy DC1.3 refers to not *normally* approving rearward extensions greater than 3.65 metres, the set back from the road and amount of rear outdoor space means that the length of the development does not appear excessive when viewed from the road.
11. I therefore do not find that the development harms the character and appearance of the surrounding area. It is not contrary to Policy SP1 and DM1 of the Core Strategy Development Plan Document (adopted July 2012) which collectively refer to development having regard to the character of the area and appropriate materials. It is not contrary to Saved Policy DC1.1 of the Unitary Development Plan for the City of Manchester which refers to having regard to

the overall appearance of the development in the street scene and I have previously addressed Policy DC1.3.

Living conditions

12. Extending the development across the full width of the appeal site means that it has been built directly on the boundary with the adjoining semi-detached property at No 4. Whilst renovations were ongoing at the time of my site visit, the rear of No 4 retains original features of a projecting bow window in very close proximity to the development and the original modest outrigger which is located towards the other end of No 4. The appellant refers to the development as having a 'visible presence in the outlook' from the rear room of No 4.
13. As No 4 is located in between No 2 and No 6, its garden area is modest in comparison to the outdoor space at the appeal dwelling. Direct views out of the bay window will be of the flank wall of No 1 Waller Avenue which is beyond the garden of No 4 and not on the boundary. However, the impact of that wall for the occupiers of No 4 is not comparable to the impact of the side wall of the development due to their respective locations. The side wall of the development extends over 5 metres beyond the original dwelling and is around 3.7 metres high. It will be visible in views from the bow window and from the garden. The addition of the development does create a loss of outlook and a sense of enclosure when there is now built development either side of the bow window.
14. The close proximity of the development to the modest garden of No 4 and the bow window means that a difference in length of an extension of 3 metres and one of over 5 metres is significant and materially different. It is therefore not the case that there would be no difference in impact on outlook between an extension of 3 metres in length which the appellant considers could be built under permitted development rights and an extension of 5 metres.
15. The Council has provided plans of what it considers to be the fallback options advanced by the appellant. With 'fallback,' I need to address whether if planning permission is refused, the fallback would take place and would be less desirable than that for which planning permission is sought. However, it is for the appellant to identify in sufficient detail what is proposed in order for such an assessment to be made. The appellant has not commented upon the Council's assertion that any development which extends across the full width of the appeal property would require planning permission.
16. There is no evidence before me that reliance upon permitted development rights would allow an extension of similar dimensions in terms of height and length to the development. I cannot therefore conclude that reliance upon permitted development rights would result in development that would have greater impact upon No 4 than the development. I am therefore unable to attach any weight to a 'fallback' position for the rear of the appeal site.
17. The appellant has indicated that he is in the process of purchasing No 4. A recent application for a rear extension at No 4 was refused by the Council on 12 March 2024. Whilst the appellant clearly has aspirations to extend No 4, I have to assess impact upon the living conditions of occupiers of No 4 based upon the current circumstances. There are no planning permissions in place for development to the rear of No 4.

18. For the reasons given, I do find that the development does harm the living conditions of the occupiers of No 4 with particular regard to outlook. It is therefore contrary to Policy DC1 Saved Policy DC1.1 of the Unitary Development Plan for the City of Manchester which refers to extensions having regard to the effect upon the amenity of neighbouring occupiers. It is also contrary to Paragraph 135 (f) of the National Planning Policy Framework which refers to ensuring that development provides a high standard of amenity.

Other Matters

19. There are objectors to the development who have concerns about the way in which the appeal property is used and the loss of a family home. However, the allegation relates to operational development only. The notice does not allege a change of use of the property and any issues arising from the use are outside the remit of this appeal. I have, however, taken into account any third party comments which address planning issues relating to the development itself in reaching my decision.

Conclusion

20. I have found that the development does not harm the character and appearance of the surrounding area. However, I have found harm with regard to loss of outlook. There are no material considerations to outweigh the conflict that I have identified with the development plan.
21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

E Griffin

INSPECTOR