

Application Number	Date of Appln	Committee Date	Ward
102533/JO/2013/S1	23rd May 2013	25th Jul 2013	Chorlton Ward

Proposal Variation of condition no.13 attached to planning approval ref 094755/FO/2010/S1 to use obscure glazing for the third floor only.

Location Cosgrove Hall Court , Albany Road, Chorlton -Cum-Hardy, Manchester, M21 0AW

Applicant McCarthy and Stone, Unit 3 Edward Court, Altrincham Business Park, Broadheath, , Altrincham, Manchester, WA14 5GL,

Agent Mr David Banbery, The Planning Bureau Ltd, Unit 3 Edward Court, Altrincham Business Park, Broadheath, Altrincham, Manchester, WA14 5GL,

Description

This site is at the corner of Albany Road and Brantingham Road. To the north it is bounded by a large telephone exchange building and to the east the former railway line, which now forms part of the Metrolink Airport extension. The site is located between residential uses and Chorlton District Centre.

Planning permission was granted in April 2011 for the erection of a part three-storey, part four-storey building to provide a 47-apartment retirement facility (ref. 094755). At the time the application was being considered, concern about privacy and overlooking was raised by neighbouring occupiers and therefore a condition for obscure glazing was added to the approval, at the request of Committee.

The condition is:

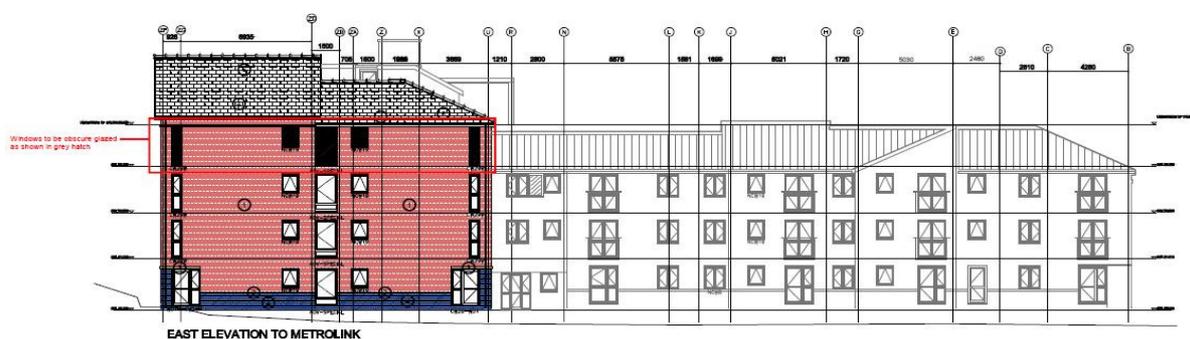
The windows in the four-storey element of the east elevation shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent residential property from overlooking or perceived overlooking and in accordance with Policy H2.2 of the Unitary Development Plan for the City of Manchester.

The condition was worded in this way as the building is L-shaped with the four-storey element closest to housing nearby.

Construction is now well under way and most of the windows have been now been fitted, but with clear glazing.

Consent is now sought to vary this condition so that only windows on the third floor of the east elevation are required to be obscurely glazed



Consultations

Local Residents - Three letters of objection have been received from residents on Buckfast Close who are concerned that without the obscure glazing to the windows on this elevation their rear rooms and gardens will be overlooked, intruding on their privacy.

One letter has been received in support of the variation from a potential purchaser of one of the flats on the second floor (third storey). He considers that the condition as attached was 'vague', but he had interpreted it as meaning the top floor only (fourth storey) and therefore considers that the application to vary the condition is unnecessary. Nevertheless, he considers that the development is at a good distance from the housing, not directly facing and some of the windows, such as kitchens, are not easy to look out of due to the internal fittings. Therefore he feels that the impact on privacy is minimal.

Ward Members

Councillor Strong is concerned that the developer, having almost completed the building, is seeking to vary the condition and saying that obscure glazing is only needed on the third floor. Councillor Strong is strongly opposed the condition being varied.

Councillor Newman also objects the variation. She objected to the height of the original development, and the proposal was agreed on condition obscure glazing be used to prevent residents on Buckfast Close and Buckingham Road being overlooked. She is concerned that the development, having almost completed the building, is seeking to vary this condition and provide obscure glazing on the top floor only, going against the spirit in which the original application was agreed. She considers that there is little point in attaching a condition if the developer can immediately apply to vary it if they do not like what has been agreed. She believes that this change to the glazing will cause disamenity to the residents of Buckfast Close and Buckingham Road and renege on a commitment made in good faith when the application was originally approved,

Issues

The Development Plan

Manchester's Core Strategy Development Plan Document was adopted on 11 July 2012. It now forms part of the development plan for Manchester and its policies

provide the basis for planning decisions in the City. The Core Strategy replaces a large number of policies in the Unitary Development Plan.

Policy DM1 (Development Management)

This policy seeks to ensure new developments contribute to the overall aims of the Core Strategy. Issues which should be considered are those which will ensure that the detailed aspects of new development complement the Council's broad regeneration policies. The principal issue to be considered in this case is amenity, in terms of privacy/overlooking.

In residential developments, the guidance on acceptable privacy distances from habitable room to habitable room would be 21.34m. No. 7 Buckfast Close is the closest house to the development, and at its closest point it is 33.6m from the secondary window to the living room and the kitchen window in the east elevation. The communal corridor window does not face the housing directly, but is 34m from the rear of no. 7 Buckfast Close and 42m from the rear of no. 5 Buckfast Close. The other kitchen window in this elevation does not directly face the houses either, but is 42m from the rear of no.5 Buckfast Close.



Officers have undertaken site visits to the development and ascertained that the rear gardens of the housing on Buckfast Close can be overlooked from the windows in the top floor of the east elevation. However, at lower levels there is no direct overlooking of gardens and the views of windows are limited, due to the angles involved, a

significant number of mature trees, the Metrolink line and high fencing to the rear of the properties.

It is also to be noted that an application has recently been submitted for the construction of a two-storey rear extension to no. 7 Buckfast Close and this proposal does not have a window in the first floor rear elevation (ref 102898).

Conclusion – It is considered that there is a potential for overlooking from the top floor windows, however, less so from the lower windows given the relationship noted above. Therefore it is considered acceptable to vary the condition in this instance so that only the top floor windows on this east elevation have obscure glazing.

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 Core Strategy and saved polices of 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. She 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

Reason for recommendation

It is considered that the proposed works would not materially harm residential amenity in the locality in accordance with Policy DM1, of the Core Strategy, and there are no material considerations of sufficient weight to indicate otherwise.

Conditions to be attached to the decision

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) 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:

1724-01-01

1724-01-02 Rev A
1724-01-03 Rev A
1724-01-04
1724-01-05
1724-01-06
1724-01-07 Rev B
S471 1

0755/Topo Rev A

7462/01

and supporting documents Received on 10 Nov 2010
and 1724-052 revision G

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to Policies SP1 and DM1 of the Core Strategy.

3) 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 development is carried out in accordance with the approved plans. Pursuant to Policies SP1 and DM1 of the Core Strategy.

4) Before the development commences a scheme for acoustically insulating the residential accommodation against noise from surrounding streets and the adjoining Metrolink line shall be submitted to and approved in writing by the City Council as local planning authority. The approved noise insulation scheme shall be completed before any of the dwelling units are occupied.

Reason - To secure a reduction in noise from surrounding streets and the Metrolink line, in order to protect future residents from noise nuisance, pursuant to Policies SP1 and DM1 of the Core Strategy.

5) a) Before the development hereby approved commences, a report (the Preliminary Risk Assessment) to identify and evaluate all potential sources and impacts of any ground contamination, groundwater contamination and/or ground gas relevant to the site shall be submitted to and approved in writing by the City Council as local planning authority. The Preliminary Risk Assessment shall conform to City Council's current guidance document (Planning Guidance in Relation to Ground Contamination).

In the event of the Preliminary Risk Assessment identifying risks which in the written opinion of the Local Planning Authority require further investigation, the development shall not commence until a scheme for the investigation of the site and the identification of remediation measures (the Site Investigation Proposal) has been submitted to and approved in writing by the City Council as local planning authority. The measures for investigating the site identified in the Site Investigation Proposal shall be carried out, before the development commences and a report prepared outlining what measures, if any, are required to remediate the land (the Site

Investigation Report and/or Remediation Strategy) which shall be submitted to and approved in writing by the City Council as local planning authority.

b) When the development commences, the development shall be carried out in accordance with the previously agreed Remediation Strategy and a Completion/Verification Report shall be submitted to and approved in writing by the City Council as local planning authority.

In the event that ground contamination, groundwater contamination and/or ground gas, not previously identified, are found to be present on the site at any time before the development is occupied, then development shall cease and/or the development shall not be occupied until, a report outlining what measures, if any, are required to remediate the land (the Revised Remediation Strategy) is submitted to and approved in writing by the City Council as local planning authority and the development shall be carried out in accordance with the Revised Remediation Strategy, which shall take precedence over any Remediation Strategy or earlier Revised Remediation Strategy.

Reason - To ensure that the presence of or the potential for any contaminated land and/or groundwater is detected and appropriate remedial action is taken in the interests of public safety, pursuant to Policies SP1 and DM1 of the Core Strategy.

6) The development hereby approved shall achieve a post-construction Building Research Establishment Environmental Assessment Method (BREEAM) rating of at least three star sustainability rating under the code for sustainable homes for those elements of the development which are residential in nature. A post construction review certificate shall be submitted to and approved in writing by the City Council as local planning authority before any of the buildings hereby approved are first occupied.

Reason - In order to minimise the environmental impact of the development pursuant to policies SP1 and DM1 of the Core Strategy.

7) The hard and soft landscaping scheme approved by the City Council as local planning authority shown on drawing ref S471 1, shall be implemented not later than 12 months from the date of commencement of works. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with Policies SP1 and DM1 of the Core Strategy.

8) The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the building hereby approved being occupied. The car park shall then be available at all times whilst the site is occupied.

Reason - To ensure that there is adequate parking for the development proposed when the building is occupied in order to comply with Policies SP1 and DM1 of the Core Strategy.

9) No development shall commence until details of the measures to be incorporated into the development (or phase thereof) to demonstrate how secure by design accreditation will be achieved have been submitted to and approved in writing by the City Council as local planning authority. The development shall only be carried out in accordance with these approved details. The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of a secure by design accreditation.

Reason - To reduce the risk of crime pursuant to Policies SP1 and DM1 of the Core Strategy.

10) In this condition "retained tree" means an existing tree, shrub or hedge which is to be as shown as retained on the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with Policies SP1 and DM1 of the Core Strategy.

11) All tree work should be carried out by a competent contractor in accordance with British Standard BS 3998 "Recommendations for Tree Work".

12) The wheels of contractors vehicles leaving the site shall be cleaned and the access roads leading to the site swept daily in accordance with a management

scheme submitted to and approved in writing by the City Council as local planning authority prior to any works commencing on site.

Reason - In the interest of pedestrian and highway safety, pursuant to Policies SP1 and DM1 of the Core Strategy.

13) Before first occupation the windows in the top storey of the east elevation as annotated on drawing no. 1724-052 revision G shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent residential property from overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Core Strategy.

Article 31 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the application and the application has been determined in accordance with the policies within the 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: 102533/JO/2013/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:

1 – 7 Buckfast Close, Manchester, M21 0RY
2 – 6 Buckfast Close, Manchester, M21 0RY
Chorlton Telephone Exchange, Albany Road, Manchester, M21 0BN
Flats 1 - 25, The Quadrangle, 6 Albany Road, Manchester, M21 0AW
The Studio, 326 Brantingham Road, Manchester, M21 0BJ
Cosgrove Hall Court, 8 Albany Road, Manchester, M21 0BA

Representations were received from the following third parties:

19 Silverdale Avenue, Prestwich, Manchester, M25 0FD
3 Buckfast Close, Manchester, M21 0RY
5 Buckfast Close, Manchester, M21 0RY
7 Buckfast Close, Manchester, M21 0RY

Relevant Contact Officer : Paula McGovern
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