

AGENDA ITEM 9

PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE – 10th June 2021

ADDENDUM TO THE AGENDA:

ADDITIONAL INFORMATION REPORT (INCLUDING SPEAKERS)

1.0 INTRODUCTION

- 1.1 This report summarises information received since the Agenda was compiled including, as appropriate, suggested amendments to recommendations in the light of that information. It also lists those people wishing to address the Committee.**
- 1.2 Where the Council has received a request to address the Committee, the applications concerned will be considered first in the order indicated in the table below. The remaining applications will then be considered in the order shown on the original agenda unless indicated by the Chair.**

2.0 ITEM 4 – APPLICATIONS FOR PERMISSION TO DEVELOP, ETC.

REVISED ORDER OF AGENDA (SPEAKERS)

Part 1 Applications for Planning Permission					
Application	Site Address/Location of Development	Ward	Page	Speakers	
				Against	For
<u>102054</u>	Clarendon Fields Sale Sports Club 39 Clarendon Crescent Sale M33 2DE	Priory	1	✓	✓
<u>102286</u>	Former Sale Masonic Hall Tatton Road Sale M33 7EE	Priory	45	✓	✓
<u>103014</u>	361 Stockport Road Timperley Altrincham WA15 7UG	Timperley	92		✓
<u>103697</u>	Sale West Estate Bounded By Firs Way, Cherry Lane, Woodhouse Lane And Manor Avenue	St Marys	101		
<u>103921</u>	Lancashire County Cricket Club Brian Statham Way Stretford M16 0PX	Longford	134		✓
<u>103983</u>	22 Queens Road Hale WA15 9HE	Hale Central	175		✓

Page 1 102054/FUL/20:

**Clarendon Fields, Sale Sports Club, 39
Clarendon Crescent, Sale, M33 2DE**

SPEAKER(S) AGAINST: Rachael Lewis
On behalf of Neighbours
Cllr. A. Western / Cllr. Brotherton

FOR: Matthew Whiteley
Applicant

APPLICANT'S SUBMISSION

Since the committee report was published, the applicant has submitted an email which raises concerns with a number of elements of the committee report and reasons for refusal. These are addressed as necessary in this additional information report.

OBSERVATIONS

COMMENTS ON APPLICANT'S FURTHER SUBMISSION

1. A number of concerns have been raised relating to matters which Officers consider have been assessed and covered comprehensively in the committee report. Officers' position on these matters are clearly set out and are unchanged following the receipt of the applicant's email. For example, points regarding the intensification/extension of the sporting use of the site (paras 49-53), the balance between its formal and informal use (paras 21/130) and accessibility by the local community (paras 7/17/21/23/114).
2. With regard to 'informal recreation', the applicant presents the view that the development would enhance rather than harm the site for these purposes. Officers disagree with this assertion for reasons clearly set out in the committee report (e.g. para 129). Items referred to as 'landscape and informal recreation enhancements' have been taken into consideration and in some cases identified as benefits of the scheme in their own right (for example additional tree planting (para 137) and drainage improvements (para 135/138)). The development is not however considered to benefit users of the site for informal recreational purposes overall.
3. The applicant states that certain Core Strategy Strategic and Place Objectives have not been referred to. The Strategic Objectives are intended to 'provide the framework for the development of the Core Strategy' with detailed policies setting out how these should be delivered. The committee report considers the matters contained in relevant Place Objectives (SAO9 and SAO16 are referenced and are referred to in the second reason for refusal). Matters contained in SAO22 (tree planting) have been assessed with reference to the more detailed policies in the Core Strategy (paras 96-99 in particular).
4. The applicant notes that Trafford's Playing Pitch Strategy & Action Plan (PPS) is not referred to in the committee report. This document forms part of the Council's Local Plan evidence base, used to inform and guide the preparation of planning policy and is intended primarily to assist with strategic decisions rather than to be used as policy against which individual planning applications should be assessed. Indeed, the PPS states that "*implementation must be considered in the context of...the need for some proposals to also meet planning considerations*". This was not subject to public consultation, is not based on detailed site appraisals and does not form part of the Council's Development Plan. Notwithstanding this, Officers acknowledge that this does

constitute a material consideration, albeit one which carries limited weight and certainly not the level of weight which the applicant suggests should be attached to it for the reasons set out above.

5. In relation to this site, the PPS recommends supporting Manchester Village Spartans RFC as part of Sale Sports Club to secure long term tenure at Clarendon Crescent and notes that "*there is a present need for at least one new sand based AGP with floodlighting in the Central Area to accommodate Sale HC which is actively seeking a return to Trafford at Clarendon Crescent*". This also recommends improving the pitch quality for football at the site. The PPS also makes general recommendations relevant to this type of development, such as the increased use of AGPs and the provision of floodlit pitches. The development would help to deliver the aims of the PPS, and the committee report acknowledges that the principle of sporting use of the land is acceptable (para 12). However the issues with the scheme set out clearly in the committee report indicate that planning permission should not be granted, and the limited weight associated with the PPS in favour of the development is not sufficient to affect the recommendation for refusal.
6. The applicant refers to the site having not received Trafford Council's Green Space Award and suggests that this is because it is of 'very poor quality' or because the Council view it as a sports ground rather than an area of informal recreation. Trafford's Greenspace Awards initiative stopped some years ago, although Green Flag Awards continue at a small number of sites in the Borough. In terms of classification as part of the Council's Greenspace Strategy and the Open Space Assessment of Need, the site was classified as 'Sports Ground' and 'Recreation Ground' for the purposes of the typologies and classifications employed. However, this classification for the purposes of those studies does not detract from the multifunctional role of a particular greenspace, nor does their exclusion from the former Greenspace Awards indicate a low quality greenspace, as open spaces are used and valued by local people in different ways as part of their offer for informal recreation alongside formal sport (as the application site clearly is). For clarity, the Council's adopted Policies Map identifies the site as 'protected open space', as stated in the committee report.
7. Numerous comments are made regarding Officers' assessment of the Landscape and Visual Assessment (LVA), as well as the use of the terms 'tranquillity' and 'undeveloped' in the report. Officers have exercised planning judgement, having undertaken site visits and reviewed letters of representation in establishing the character, value and quality of the site outlined in the report and are satisfied that this constitutes an appropriate and robust assessment of the proposed development and supporting information. It is noted that the character of the site is described as 'largely undeveloped' in the first reason for refusal, which the applicant does not make clear. The applicant also states that 'it is an established planning precedent that no one has a right to view'. The committee report does not suggest anything contrary to this and impact on a particular view is not given as a reason for refusal. References to views relate to statements in the applicant's LVA, as set out in paras 31, 33 and 34.

OTHER MATTERS

8. The report on the committee agenda was appended with an incorrect site map.
The correct map is now attached to this report.

Page 45 102286/FUL/20: **Former Sale Masonic Hall, Tatton Road, Sale, M33 7EE**

SPEAKER(S) AGAINST: **Kate Caouette-McCarthy
On behalf of Neighbours
Cllr. A. Western / Cllr. Brotherton**
FOR: **Wendy Perkins
Agent**

REPRESENTATIONS

A representation has been received on behalf of the residents of 57-63 Chapel Road, stating that *"it has come to our attention via Land Registry searches that the proposals as they stand encroach upon the boundaries and indeed denote building works taking place on the land of numbers 57-63 Chapel Road"*.

These concerns and copies of the Land Registry plans submitted with the representation has been provided to the applicant. Southway Housing has responded confirming that they have the Absolute Freehold Title over all of the application site. There are rights of access for occupiers on Chapel Road, however these neighbours do not have ownership rights. The proposed development includes the retention of an alleyway to the north of the site, which would maintain access to the rear gardens of No's 57 – 63 Chapel Road.

RESIDENTIAL AMENITY

Paragraph 32 is replaced with:

Daylight is the level of diffuse natural light from the sky that enters a building to provide satisfactory illumination of internal accommodation between sunrise and sunset. Any reduction in the total amount of daylight can be calculated by finding the 'Vertical Sky Component' (VSC). The VCS is the ratio of the direct skylight illuminance falling on a vertical face at a reference point (usually the centre of a window), to the simultaneous horizontal illuminance under an unobstructed sky. The BRE guidance advises that if the VSC is more than 27%, then sufficient light would still reach the neighbouring window, however, if the VSC is less than 27% as well as less than 0.8 times (four fifths) its former value, then the occupants would notice a reduction in the amount of skylight.

A typing error has occurred in paragraph 39 and should read "As a result of this, the Assessment states that any impact on APSH towards the neighbouring sites can be scoped out as the change is considered to be insignificant."

HIGHWAYS

The first sentence in paragraph 92 should include: The application site is located within a resident parking restriction zone, with parking on Tatton Road restricted to permit holders only between 09:00 and 20:00 on Mondays to Saturdays, with no restrictions on Sundays.

Page 92 103014/FUL/20: **361 Stockport Road, Timperley,
Altrincham, WA15 7UG**

SPEAKER(S) AGAINST: -

FOR: **John Groves
Agent**

Representations

Following the publication of the committee agenda two further objections have been received. These are from previous objectors and do not raise any new grounds for objection, but reiterate their comments already received regarding concerns over impact on residential amenity from the proposed use and the number of hot food takeaways already within the local area.

Observations

The objections reiterate previous concerns that have already been duly noted and considered in the main committee report.

RECOMMENDATION

The wording of the recommendation is amended to clarify the recommendation to members specifically that the proposal is recommended as Minded to Grant, rather than Minded to Approve. This has also been updated within the Index of Applications within the committee agenda.

The wording within the recommendation is therefore amended to the following:

Following the submission of a revised red edge site location plan to include the flue within the development site, we are required to consult neighbours again for 21 days. The 21 days expires on the 17th June. Therefore should Members resolve that they would be **MINDED TO GRANT** planning permission for the development and in the event no further representation be received by the 17th June 2021 that raises any

new material planning considerations, that the determination of the application hereafter be deferred and delegated to the Head of Planning and Development with the following conditions: -

Conditions as listed within the committee report.

Page 101 103697/VAR/21: **Sale West Estate Bounded By Firs Way, Cherry Lane, Woodhouse Lane And Manor Avenue**

SPEAKER(S) AGAINST: -

FOR: -

CONSULTATIONS

Lead Local Flood Authority (LLFA) – No objections in principle, further details regarding the drainage proposals including the management and maintenance of the sustainable drainage scheme and how the drainage scheme will reflect the proposed amendments to the consented scheme to be secured by condition. A similar drainage condition to that on the original application to be included with an amended trigger for submission of updated details.

Pollution & Licensing (Nuisance) - No objections in principle, request that the applicant confirms that the proposed amendments to the layout at the identified plots does not result in the creation of new sensitive receptor sites.

Greater Manchester Ecology Unit (GMEU) – No objections.

Greater Manchester Fire Authority – No objections. The fire service requires vehicular access for a fire appliance to within 45m of all points within the dwellings. Access road(s) should be a minimum 4.5m wide and capable of carrying 12.5 tonnes. Any access road longer than 20m should have a turning head, hammerhead or other turning point with the maximum length of any cul-de-sac network 250m. There should be a suitable fire hydrant within 165m of the furthest dwelling. The fire service strongly supports the installation of domestic sprinkler systems.

HIGHWAYS IMPACTS, PARKING AND SERVICING

The LHA have advised that an appropriate condition be included requiring the submission of a layout plan to demonstrate sufficient manoeuvring space at the parking courts at Epsom Ave (CPE5) and Chepstow Avenue (CPC11).

The wording of condition 10 (Spine Road) will be redrafted to allow for site clearance works to be undertaken prior to submission of technical details of the road layout.

OTHER MATTERS

In relation to Condition 18 (ventilation Strategy), the Council's Pollution section had requested that the applicant confirm that the proposed layout changes do not result in the creation of new sensitive receptor sites. The applicant has been unable to provide the necessary information for consideration prior to planning committee. Therefore it is proposed to redraft the wording of the original condition requiring submission of a scheme that reflects the new layout changes, to be submitted within three weeks of any grant of planning approval.

Condition 24 relates to the outline approval time frame for submission of reserved matters applications, this has been amended to account for the period of time that the original application was approved, whereby reserved matters applications would have to be made three years from the date of the original approval which was 18th June 2020.

RECOMMENDATION

Amended wording of proposed conditions

Condition 10 – Other than site clearance works, including tree felling, no construction works associated with the new spine road shall take place until a scheme outlining the construction detail of the spine road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of dimensioned carriageway and footways; dimensioned radii for road centre line and junctions/turning heads kerb lines; forward and junction visibility; surface materials, and traffic calming measures. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: In the interests of highway safety having regard to Policies L4 and L7 of the Trafford Core Strategy and the National Planning Policy Framework.

Condition 18 – Within three weeks from the date of this decision, a scheme detailing a ventilation strategy/mitigation schedule for each unit of accommodation and designed in accordance with the criteria as prescribed within the submitted report (Curtins Consulting Ltd - Acoustic Planning Report:Rev.01 February 2020) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter retained.

Reason: To achieve internal sound levels within the development and to protect the amenities of future occupants in accordance with Policies L5 and L7 of the Trafford Core Strategy and the National Planning Policy Framework.

Condition 23 - Within three weeks from the date of this decision a detailed scheme for foul and sustainable surface water drainage shall be submitted for approval by the Local Planning Authority. The detailed schemes shall:-

- (i) investigate the full hierarchy of surface water drainage options and shall include:

- a. evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
 - b. an assessment of nearby watercourses and surface water sewers which may facilitate the discharge of surface water to local watercourses;
- (ii) if infiltration is not possible, a restricted rate of discharge of surface water to be agreed with the Local Planning Authority with any discharge to the public sewer restricted to a rate that is no greater than 5 l/s for each connection;
- (iii) include levels of the proposed drainage systems and proposed ground and finished floor levels in AOD;
- (iv) ensure foul and surface water shall drain on separate systems; and
- (v) include details for the management and maintenance of the sustainable drainage scheme. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Resident's Management Company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development shall thereafter be carried out in full accordance with the approved drainage schemes before the first occupation of the development hereby approved. The development shall be retained, maintained and managed in accordance with the approved details.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the future maintenance of the sustainable drainage structures having regard to Policy L5 and Policy L7 of the Trafford Core Strategy and the National Planning Policy Framework.

Condition 24 - Application for approval of reserved matters must be made not later than the 18th June 2023 and the development must be begun not later than whichever is the later of the following dates: (a) The 18th June 2023; or (b) The expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Additional condition relating to the 'Full Component' of this application (Phase 1)

Within three weeks from the date of this decision, a scheme detailing the layout and manoeuvring space for car parking areas on Chepstow Avenue (Parking Area

CPC11) and Epsom Avenue (Parking Area CPE5) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interests of highway safety having regard to policies L4 and L7 of the Trafford Core Strategy and the National Planning Policy Framework.

Page 134 103921/FUL/21:

Lancashire County Cricket Club, Brian Statham Way, Stretford, M16 0PX

SPEAKER(S) AGAINST: -

FOR: **Daniel Gidney
Agent**

OBSERVATIONS

Reference to S38(6) of the Planning and Compensation Act 1991 in paras 1 and 130 of the main report should read S38(6) of the Planning and Compulsory Purchase Act 2004.

HIGHWAYS

Further to paragraphs 93 to 97 in the Committee Report, which sets out that the pedestrianisation of the proposed realigned of Brian Statham Way would take place as part of the future delivery of the processional route, there have been ongoing discussions between the LHA, TfGM and applicant in relation to the proposed development maintaining the ability for the large articulated vehicles used by TfGM to fully and safely access the Metrolink 'lay down' area, as identified in paragraph 95.

As part of these discussions, the applicant is now proposing to extinguish the rights of vehicles to access the southern part of Brian Statham Way as shown on drawing 2262-VW-001-01 Rev P12, as part of the road realignment scheme. Cycles and vehicles requiring continued access, such emergency services, utility access to carry out works on plant/equipment, and TfGM would still be permitted. The principle of introducing restrictions on vehicular movements at an earlier stage than anticipated is considered to be acceptable and would accord with the future ambition for a processional route to be delivered along Brian Statham Way. No final detailed highways scheme has been put forward for consideration in relation to this matter, however it is considered that the recommended condition no. 3 would continue to provide the LPA and LHA with sufficient control over the highways details necessary to ensure full and safe access to the Metrolink 'lay down' area.

Change the figure for the contribution to the Strategic Processional Route in clause ii) of the recommendation to £66,600.

RECOMMENDATION:

That Members resolve that they would be **MINDED TO GRANT** planning permission for this development and that the determination of the application hereafter be delegated to the Head of Planning and Development as follows:

- i) To complete a suitable legal agreement under S106 of the Town and Country Planning Act 1990 (as amended) to secure £66,600 towards public realm works as part of the Strategic Processional Route.
- ii) To complete an appropriate legal agreement to modify and/or discharge the section 106 Agreement dated 2nd December 2015 in respect of planning permission reference number 85781/FUL/15 in order to enable the contribution paid under that agreement of £44,878 (Strategic Processional Route Contribution) to be used in combination with the aforementioned £66,600 to deliver the Strategic Processional Route.
- iii) To carry out minor drafting amendments to any planning condition.
- iv) To have discretion to determine the application appropriately in the circumstances where a S106 agreement and modification / discharge of the existing s106 associated with planning permission 85781/FUL/15 has not been completed within three months of the resolution to grant planning permission.
- v) That upon satisfactory completion of the above legal agreement(s) that planning permission be **GRANTED** subject to the following conditions (unless amended by (iii) above):

CONDITIONS

Amended conditions are proposed as set out below:

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:

2. LCCC-BDP-ZZ-XX-DR-A-(0)-1001 P01 – Site Location Plan
LCCC-BDP-ZZ-XX-DR-A-(0)-1002 P02 – Proposed Site Plan
LCCC-BDP-ZZ-XX-DR-A-(0)-1004 P01 – Demolition Plan
LCCC-BDP-ZZ-XX-DR-A-(0)-1101 P00 – GA Elevation N & E
LCCC-BDP-ZZ-XX-DR-A-(0)-1102 P00 – GA Elevation S & W
LCCC-BDP-ZZ-XX-DR-A-(0)-1103 P00 – GA Elevation NE & SE
2262-VW-001-01 Rev P12 - Landscape GA
- LCCC-BDP-Z1-00-DR-A-(0)-1001 P05 – Red Rose Grandstand & Hotel - Level 00
LCCC-BDP-Z1-01-DR-A-(0)-1002 P04 – Red Rose Grandstand & Hotel - Level 01
LCCC-BDP-Z1-02-DR-A-(0)-1003 P04 – Red Rose Grandstand & Hotel - Level 02

LCCC-BDP-Z1-03-DR-A-(0)-1004 P04 – Red Rose Grandstand & Hotel - Level 03
LCCC-BDP-Z1-05-DR-A-(0)-1005 P01 – Red Rose Grandstand & Hotel - Level 04
LCCC-BDP-Z1-05-DR-A-(0)-1006 P04 – Red Rose Grandstand & Hotel - Level 05
LCCC-BDP-Z1-05-DR-A-(0)-1007 P01 – Red Rose Grandstand & Hotel - Roof

LCCC-BDP-Z1-XX-DR-A-(0)-1101 P01 – Red Rose Grandstand & Hotel - N Elevation
LCCC-BDP-Z1-XX-DR-A-(0)-1102 P02 – Red Rose Grandstand & Hotel - E Elevation
LCCC-BDP-Z1-XX-DR-A-(0)-1104 P01 – Red Rose Grandstand & Hotel - W Elevation
LCCC-BDP-Z1-XX-DR-A-(0)-1105 P01 – Red Rose Grandstand - E Elevation
LCCC-BDP-Z1-XX-DR-A-(0)-1200 P03 – Red Rose Grandstand & Hotel Section AA
LCCC-BDP-Z1-XX-DR-A-(0)-1301 P01 – Red Rose Grandstand & Hotel Axo 1
LCCC-BDP-Z1-XX-DR-A-(0)-1302 P01 – Red Rose Grandstand & Hotel Axo 2
LCCC-BDP-Z1-XX-DR-A-(0)-1303 P01 – Red Rose Grandstand & Hotel Axo 3
LCCC-BDP-Z1-XX-DR-A-(0)-1304 P01 – Red Rose Grandstand & Hotel Axo 4
LCCC-BDP-Z1-XX-DR-A-(0)-1305 P01 – Red Rose Grandstand & Hotel Axo 5
LCCC-BDP-Z1-XX-DR-A-(21)-001 P00 – Design Intent Typical Details

LCCC-BDP-Z3-XX-DR-A-(00)-1001 P02 – GA Plan – Restaurant Extension Level 00
LCCC-BDP-Z3-XX-DR-A-(00)-1002 P01 – GA Plan – Terrace Bar Level 01
LCCC-BDP-Z3-XX-DR-A-(00)-1100 P01 – HGI Extension Northeast Elevation
LCCC-BDP-Z3-XX-DR-A-(00)-1102 P01 – Terrace Bar & HGI Extension Elevations
LCCC-BDP-Z3-XX-DR-A-(00)-1200 P00 – GA Section Restaurant Extension & Terrace Bar Cross Section
LCCC-BDP-Z3-XX-DR-A-(00)-1500 P01 – Axonometric Restaurant Extension
LCCC-BDP-Z3-XX-DR-A-(00)-1501 P01 – Axonometric Terrace Bar - Brian Statham Way
LCCC-BDP-Z3-XX-DR-A-(00)-1502 P01 – Axonometric Terrace Bar - Pitch Side

Reason: To clarify the permission, having regard to Policy L7 of the Trafford Core Strategy and the National Planning Policy Framework.

4. Notwithstanding any description of materials in the application no external facing materials shall be incorporated into the building until samples and or a full specification of all materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The samples shall include the building of sample panels incorporating window recesses and brickwork feature detailing for the hotel extension. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure a satisfactory appearance in the interests of visual amenity having regard to Policy L7 and R1 of the Trafford Core Strategy, Policy CQ6 of the Draft Civic Quarter AAP, and the requirements of the National Planning Policy Framework.

5. No external facing materials shall be incorporated into the building until details of the feature brickwork panels have first been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: In the interests of visual amenity and in protecting the original design intent and quality of the proposed development, having regard to Core Strategy Policy L7, Policy CQ6 of the Draft Civic Quarter AAP, and the National Planning Policy Framework

Page 175 103983/HHA/21: 22 Queens Road, Hale, WA15 9HE

AGAINST: -

FOR: **Susan Crowley**
Agent

RECOMMENDATION

It is recommended that the application is deferred due to there being an outstanding complaint against Officers involved with the Development Management Committee. It is considered appropriate to defer the application until after the complaint has been resolved, to the July Committee meeting.

REPRESENTATIONS

A typing error occurred in the final paragraph of the 'Representations' section of the Committee report, where it states that an email was received from the previous owner of 22 Queen's Road. It should say that it was received from a previous occupant of 22 Queen's Road.

APPLICANT'S SUBMISSION

Since the committee report was published, a legal Opinion prepared by a barrister has been received on behalf of the applicants. The Opinion challenges the Officer's report to the Planning Committee and concludes that the Council's assessment of the fall-back position is irrational. The key matters that they raise are: -

- The Opinion states it was unfortunate Officers did not notice that the development proposed under the Certificate of Lawful Development was not capable of being constructed.

- They disagree with the comments under the ‘Proposals’ section of the report, which refers to the increase in the height of the roof being as much as 40cm.
- The expectation that the property should “twin” with the property next door is unrealistic given taste and the availability of permitted development rights.
- The development that is proposed would not be materially different to that which would be achieved under permitted development rights, which is a material consideration in the determination of the application.
- No weight is given to the fact that the applicants could achieve a materially identical scheme through permitted development, albeit 5cm lower at the ridge height, which is unreasonable and fails to have regard to an important material consideration. Furthermore, 5cm is acceptable in terms of development tolerances and would be indiscernible to “the man on the Clapham omnibus”.
- The appeal decision provided within the report are not binding as a matter of law and they disagree with the Inspectors approach to these appeals.

OBSERVATIONS

1. In assessing and determining proposals under a Certificate of Lawful Proposed Development (CLD) it is solely the role of the planning officer to carry out an assessment of the plans to determine if (in this case) the proposal presented would require planning permission, or if it is permitted development under the General Permitted Development Order. It is the applicant’s responsibility to ensure that a development can in fact be carried out in accordance with the approved plans. It is not the role of planning officers, nor do they have the construction knowledge to determine if a proposal put before them is capable of implementation.
2. In regards to the applicant’s Counsel’s comments on the increase in height of the roof, the plans presented to the Council under the previous applications refs: 100360/CPL/20, 100604/HHA/20 and 102933/HHA/20, along with those associated with this planning application and those previously considered for an extension at the adjacent property No.20 (which was of the same size and design as No.22), show different heights for the original property and so it is not possible to confirm precisely the extent in the increase in height as a result of the proposed development. The applicant’s own plans (including those submitted with the CLD application) show a discrepancy of approximately 30-40cm, and an examination of the neighbouring property shows that this could be up to 40cm. In any event, the discrepancy appears to be substantially more than the 5cm that the applicants suggest.
3. The Council has sought its own advice from Counsel on the applicant’s submitted Opinion. This confirms that the Council has in fact put forward a rational argument in regards to the fall-back assessment. The legal duty to consider a fall-back position as a material consideration has been clearly expressed in the main report, but it remains the case that the weight to be given to that fall back is for the decision maker.

4. A fall-back position only constitutes a material consideration if it can be lawfully implemented. Officers do not consider the proposal to constitute permitted development, as detailed in paragraphs 44 -46 of the Committee report.
5. A fall-back that can be lawfully implemented is a material consideration provided there is a real prospect as opposed to a merely theoretical possibility of it actually being implemented. The applicant's Counsel is of the opinion that there is a fallback position but does not provide any further evidence of there being a real prospect of such a development taking place in the event that planning permission is refused.

RICHARD ROE, CORPORATE DIRECTOR, PLACE

FOR FURTHER INFORMATION PLEASE CONTACT:

Rebecca Coley, Head of Planning and Development, 1st Floor, Trafford Town Hall, Talbot Road, Stretford, M32 0TH. Telephone 0161 912 3149