

## Planning

## Growth & Development

### Delegated officer report for planning application

|                                |                                                                                                                                          |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application no.</b>         | CDN/21/0821                                                                                                                              |
| <b>Date registered valid:</b>  | 5 November 2021                                                                                                                          |
| <b>Proposal:</b>               | Discharge of condition 13 (Ground Conditions) associated with planning permission 123295/FO/2019                                         |
| <b>Address:</b>                | Former Workshop , Arkady Industrial Estate, Briscoe Lane, Manchester, M40 2XG                                                            |
| <b>Ward(s):</b>                | Miles Platting & Newton Heath Ward                                                                                                       |
| <b>Applicant:</b>              | Mr Naphtaly Stamler Cassel & Fletcher Ltd Auldbank House, 424 Bury Old Road, Prestwich, Manchester, M24 1PR                              |
| <b>Agent (if any):</b>         | Mr Richard Shuttleworth Equilibrium Architects Ltd 435-437 Walmersley Road, Bury, BL9 5EU                                                |
| <b>Case officer:</b>           | Steven McCoombe<br>Tel: 0161 234 4607<br>Email: <a href="mailto:steven.mccoombe@manchester.gov.uk">steven.mccoombe@manchester.gov.uk</a> |
| <b>Recommendation:</b>         | Refuse                                                                                                                                   |
| <b>Date of recommendation:</b> | 21 February 2022                                                                                                                         |

## **Application details**

**Type of application:** Approval of condition application

**Development type:** Minor Other

**Date of site visit:**

**Standard consultations:**

Printed: 10 November 2021

Expired: 1 December 2021

**Neighbour notifications**

No neighbour notifications have been printed and sent.

**Site notice**

No site notice has been produced

**Press advert**

No press advert had been published

**Departure from Development Plan:** No

**Environmental Statement:** Not required

## **Description of site/building**

**Listed building:** Not applicable

**Conservation area:**

**Tree Preservation Order:**

## **Description of area**

## **Description of development**

## **Consultations & Notification Responses**

Environmental Health -

## **Issues**

## **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 a right to a fair hearing and to this end the local planning authority 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 policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing 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 recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**Recommendation:** Refuse

**Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse**

1) The following documents have been reviewed:

Mini Soil Surveys logs and soil data, 2 March 2020

Geological and Mining Appraisal, Arkady Industrial Estate, Sub Surface, Report No. 6921A, April 2020.

Ground Investigation Report, Arkady Industrial Estate, Sub Surface, Report No. 6921C, March 2021

Ground Investigation Report, Arkady Industrial Estate, Sub Surface, Report No. 6921F, October 2021

The following comments are made:

- 11 mini boreholes in 2020 and 10 mini boreholes in 2021 to a maximum depth of 4.0m bgl.
- Made ground encountered across the site, the base where proven varied between 0.15m bgl and 4.00m bgl.
- Made ground generally comprised gravel sized fragments of stone, brick, slag, clinker and concrete. Organic content or odours were noted in M4, M5, M7 and M9.
- No groundwater was encountered, but the boreholes were only open for a short time. One round of groundwater level monitoring has been undertaken in 2020 and a total of seven rounds by the October 2021 report.
- Gas monitoring response zones, 4 in clay and 4 across clay and made ground. No response zones have specifically targeted the made ground and the source of the gas would not be able to be determined for the cross strata response zones. Seven rounds of monitoring have been undertaken.
- Samples have been taken for VOCs. Confirmation is required that these were done in accordance with BS10176.
- Due to foam being used to put out a recent fire samples were analysed for a suite of Perfluoro Alkyl analysis.
- Soil chemical results have been compared to criteria for a commercial/industrial end use.
- No exceedances were found in the soil samples.

-Three samples of groundwater were taken and analysed, the following elevations were found; sulphate, cadmium, chromium, copper, molybdenum, nickel, lead, selenium, zinc, PFOA, linear PFOS and Branched PFOS.

EQS values for cadmium, chromium, copper, lead, nickel and zinc are based on bioavailable component and may falsely indicate an exceedance of the EQS. The values are below the UK DWS so the exceedances have been concluded to be of no concern.

-Further action will be required regarding PFOS/PFOA (see below).

-Gas monitoring found no methane and carbon dioxide up to 2.6%v/v and the site has been classed as CS1 and no gas protection measures are required. Although the responses zones were not ideal, there was very little gas detected. Cross strata response zones should be avoided going forward.

In summary, no specific issues have been identified with regards to soil contamination or ground gas, a watching brief should be undertaken during all ground works and waste transfer notes should be retained for the validation report as per the condition wording.

The Environment Agency have provided the following with regards to the elevated PFOS/PFOA in the ground water and further action is required before part a) of the condition can be discharged:

-PFAS (or per and polyfluoroalkyl substances) is a generic term that covers a diverse range of compounds that cannot be successfully grouped together in terms of how they behave in the environment or once they find their way into humans. What is known is that they can pose a chronic and long term risk to the environment and human health and should be addressed where they are found to be present.

PFOS and PFOA are the most common of these substances and are considered persistent organic pollutants. PFOA is already defined as a hazardous substance with PFOS likely to follow in the very near future. Where there contaminants of concern are identified in groundwater and/or soils then extra measures in terms of correct testing methods, adequate sampling regimes and specific risk assessments are needed to ensure the right information is collected; in the right way and testing using the correct and approved methodologies.

-Risk assessments need to be specific and reflect the difficulties that these contaminants of concern pose. The environmental and human health impacts of PFAS compounds is an emerging issue, with publicly available chemical information being extensive, but unfortunately not decisive as too unacceptable or tolerable dose concentrations. In the first instance, it is strongly recommended that you contact an appropriately approved and accredited professional laboratory service to discuss the matter and second, it is recommended that you contact the relevant regulatory agency to discuss possible ways forwards (including remediation).

The EA have advised that they should make use of their chargeable service to obtain further advise on dealing with PFOS/PFOA, they can contact the EA using [SPPlanning.RFH@environment-agency.gov.uk](mailto:SPPlanning.RFH@environment-agency.gov.uk)

Until such time that the additional information listed above is submitted and agreed, condition 13 cannot be discharged.

## **Appendix 1 – List of consultees & neighbours notified**

Environmental Health

## **Appendix 2 – Planning constraints**

Article 4 Direction - North Manchester PD Restriction - Class B1(c) To C3

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected

Coal Authority - Development Low Risk - Name: DEVELOPMENT\_LOW\_RISK\_AREA

Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface

HSE COMAH Zone - H1485 OZ - Bradford Road Holder Station (East) Outer Zone

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: NORTH1