

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132364/LP/2021

Date registered valid: 30 November 2021

Proposal: Certificate of Lawful Proposed Development for the installation of a sub-station.

Address: Land At Silk Street, Newton Heath, Manchester, M40 1HE

Ward(s): Miles Platting & Newton Heath Ward

Applicant: Regina Khanum Manchester City Council Level 8 Town Hall Extension, St. Peters Square, Manchester, M60 2LA

Agent (if any): Mr Mike Mason MCAU Eastgate, 2 Castle Street, Manchester, M3 4LZ

Case officer: Katie Raw
Tel: 0161 234 4164
Email: katie.raw@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 24 January 2022

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: N/A

Standard consultations:

No consultations have been printed and sent.

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

The application site relates to the Land at Silk Street within the ward of Miles Platting and Newton Heath in north Manchester. The land is surrounded by the Canal to the north, Smallwood street to the west, Great Newton Street to the south and Droylsden Road to the east. This application relates to a small section of land at Silk Street located to the north east of the site, sited 1.8 metres from Smallwood Street.

Description of development

The submitted application seeks a Certificate of Lawful Proposed Development for the installation of a sub-station.

The original application included gated access and hardstanding, but this has been removed from the description of development. The agent has been advised that this be subject to separate approval.

130586/VO/2021 is a City Council Development for the erection of 21, 2 storey dwellinghouses (Use Class C3a) and erection of 3, 4 storey buildings to form 48 apartments (Use Class C3a)

with associated car parking, landscaping and boundary treatment (130586/VO/2021). Approved 24 September 2021.

Other planning history includes

132563/NMC/2021- Non material amendment to planning permission referenced 130586/VO/2021 to allow minor increase in the size of ground floor plant room to north elevation of all 3 apartment blocks and alterations to the boundary fence-line to Plots 58 & 63 (side/rear) to accommodate 2no. hydrobrakes.
Approved 10 January 2022.

102047/DEM/2013/N1- Application for Prior Notification of proposed demolition of market stalls/building.
Approved 23 April 2013.

Consultations & Notification Responses

None.

Issues

The Certificate of Lawful Development has been applied for as the applicant wishes to gain confirmation that the installation of a sub-station constitutes as Permitted Development. The proposal therefore needs to be assessed with regards to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This sets out the rules concerning what development can be undertaken without the need for an application for planning permission. Such works are known as 'permitted development'.

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 15, Class B - Permitted development – Electricity Undertakings.

Development by statutory undertakers for the generation, transmission, distribution or supply of electricity for the purposes of their undertaking consisting of—

- (a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line;
- (b) the installation or replacement of any electronic communications line which connects any part of an electric line to any electrical plant or building, and the installation or replacement of any support for any such line;
- (c) the sinking of boreholes to ascertain the nature of the subsoil and the installation of any plant or machinery reasonably necessary in connection with such boreholes;
- (d) the extension or alteration of buildings on operational land;
- (e) the erection on operational land of the undertaking of a building solely for the protection of plant or machinery;
- (f) any other development carried out in, on, over or under the operational land of the undertaking.

Development not permitted:

- (a) in the case of any Class B(a) development—
 - (i) it would consist of or include the installation or replacement of an electric line to which section 37(1) of the Electricity Act 1989 (consent required for overhead lines) F2 applies; or

- (ii) it would consist of or include the installation or replacement at or above ground level or under a highway used by vehicular traffic, of a chamber for housing apparatus and the chamber would exceed 29 cubic metres in capacity;
- (b) in the case of any Class B(b) development—
 - (i) the development would take place in a National Park, an area of outstanding natural beauty, or a site of special scientific interest;
 - (ii) the height of any support would exceed 15 metres; or
 - (iii) the electronic communications line would exceed 1,000 metres in length;
- (c) in the case of any Class B(d) development—
 - (i) the height of the original building would be exceeded;
 - (ii) the cubic content of the original building would be exceeded by more than 25% or, in the case of any building on article 2(3) land, by more than 10%, or
 - (iii) the floor space of the original building would be exceeded by more than 1,000 square metres or, in the case of any building on article 2(3) land, by more than 500 square metres;
- (d) in the case of any Class B(e) development, the building would exceed 15 metres in height, or
- (e) in the case of any Class B(f) development, it would consist of or include—
 - (i) the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected, or
 - (ii) the installation or erection by way of addition or replacement of any plant or machinery exceeding 15 metres in height or the height of any plant or machinery replaced, whichever is the greater.

Development is permitted by Class B subject to the following conditions—

- (a) in the case of any Class B(a) development consisting of or including the replacement of an existing electric line, compliance with any conditions contained in a planning permission relating to the height, design or position of the existing electric line which are capable of being applied to the replacement line;
- (b) in the case of any Class B(a) development consisting of or including the installation of a temporary electric line providing a diversion for an existing electric line, on the ending of the diversion or at the end of a period of 6 months from the completion of the installation (whichever is the sooner) the temporary electric line is removed and the land on which any operations have been carried out to install that line is restored as soon as reasonably practicable to its condition before the installation took place;
- (c) in the case of any Class B(c) development, on the completion of that development, or at the end of a period of 6 months from the beginning of that development (whichever is the sooner) any plant or machinery installed is removed and the land is restored as soon as reasonably practicable to its condition before the development took place; and
- (d) in the case of any Class B(e) development, approval of details of the design and external appearance of the buildings must be obtained, before development is begun, from—
 - (i) in Greater London or a metropolitan county, the local planning authority,
 - (ii) in a National Park, outside a metropolitan county, the county planning authority,
 - (iii) in any other case, the district planning authority.

Interpretation of Class B

B.3 For the purposes of Class B(a), “electric line” has the meaning given by section 64(1) of the Electricity Act 1989 (interpretation etc. of Part 1) F3.

B.4 For the purposes of Class B(b)—“electrical plant” has the meaning given by section 64(1) to that Act; and “electronic communications line” means a line which forms part of an electronic communications apparatus, (and both line and electronic communications apparatus have the meaning given in paragraph 5 of the electronic communications code set out in Schedule 3A to the Communications Act 2003 (the electronic communications code)).

B.5 For the purposes of Class B(d), (e) and (f), the land of the holder of a licence under section 6(1) of the Electricity Act 1989 (licensing of supply etc.) F6 is treated as operational land if it

would be operational land within section 263 of the Act (meaning of “operational land”) F7 if such licence holders were statutory undertakers for the purpose of that section.

Assessment

On 17 January 2022, the agent confirmed the statutory undertakers would be Electricity North West and confirmed that the development is to be assessed under Class B (a) of Part 15: the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line. The submitted application is to create a sub station and so relates to a chamber for housing apparatus.

The agent on 17 January 2022 confirmed that no overhead lines are required, and so no electric lines would be installed or replaced. The chamber would be 26.3 m³ and so would not exceed the maximum capacity stated under the legislation.

The substation would not include the replacement of an existing electric line and the substation would not include the installation of any temporary electric lines.

As the development does not breach any of the above restrictions, the certificate can be granted as the proposed development would be lawful as permitted development.

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: Approve

Article 35 Declaration

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

- 1) Approve on the basis that proposal detailed within:

- Application for a Lawful Development Certificate or a Proposed Use or Development form, stamped as received by the City Council as Local Planning Authority on 30 November 2021.
- Drawing- Proposed- Plans, numbered 002 REV 3, stamped as received by the City Council as Local Planning Authority on 30 November 2021.
- Drawing- Location Plan- Location Plan, Site Plan & Topography, numbered 01-001 REVP04, stamped as received by the City Council as Local Planning Authority on 21 January 2022.
- Drawing- Proposed- GA Proposed External Works Sub-Station, numbered 90-020 REVP03, stamped as received by the City Council as Local Planning Authority on 21 January 2022.
- Drawing- Proposed- GA Site Layout- Mix Plan, numbered 02-001 REVP07, stamped as received by the City Council as Local Planning Authority on 21 January 2022.

constitutes permitted development in accordance with Schedule 2, Part 15, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

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

Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected

Site of Biological Interest - Name: Rochdale Canal, Stott's Lane - Ducie Street Basin

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Historic Landfill Site 250m Buffer -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: NORTH1