

Town & Country Planning Act 1990 (as amended)
Planning (Listed Building & Conservation Area) Act 1990 (as amended)

Refusal of details reserved by condition

Applicant

MPH Ancoats Limited
C/o Agent

Agent (if used)

Mr Matthew Dixon
Dixon Planning Limited
Garden Place
Victoria Street
Altrincham
WA14 1ET

Part 1 – Particulars of the application/development

Proposal: Discharge of planning conditions 4 (Rail Risk Assessment), 5 (Ground Excavation near Railway), 10 (Drainage), 11a (Ground Conditions) and 12 (Construction Management Plan) associated with planning permission 127971/FO/2020

Location: 271 Oldham Road, Manchester, M40 7PS

Date of application: 30 March 2022

Application number: CDN/22/0199

Part 2 – Particulars of decision

Manchester City Council gives notice that the detail(s) referred to in Part 1 are **Refused** in accordance with the information set out below.

Condition 4 Rail Risk Assessment

The following information has been submitted in respect of this planning condition:

- HGA-PL-015 Site Dimension Plan stamped as received by the City Council, as Local Planning Authority, on the 30 March 2022

The above information has been considered and is not acceptable in this instance. Agreement is required from Network Rail in this regard and the details have not been submitted to the Asset Protection Team. Details of how to do this were provided by email on the 21 April 2022. No further response has been provided to date.

Condition 4 is not formally discharged.

Condition 5 Ground excavation

The following information has been submitted in respect of this planning condition:

HGA-PL-015 Site Dimension Plan, J7119 F01 Foundation General Arrangement, J7119 F02 Foundation Details and J7119 F03 Sub-Floor Masonry Arrangement stamped as received by the City Council, as Local Planning Authority, on the 30 March 2022

The above information has been considered and is not acceptable in this instance. Agreement is required from Network Rail in this regard and the details have not been submitted to the Asset Protection Team. Details of how to do this were provided by email on the 21 April 2022. No further response has been provided to date.

Condition 5 is not formally discharged.

Condition 10 Drainage

The following information has been submitted in respect of this planning condition:

- J7119 DR01 Rev B - Drainage Layout, J7119 DR02 Drainage Details, J7119 DR03 Flood Routing Plan, J7119 Rev B Drainage Calculations and Part 1 Approval Letter stamped as received by the City Council, as Local Planning Authority, on the 30 March 2022

- J7119 DR02 A - Drainage Details; J7119 Drainage Calculations Rev B and SHE-0132-8000-1000-8000 Design Drawing - Hydro Brake Technical Specification stamped as received by the City Council, as Local Planning Authority, on the 18 May 2022

The above information has been considered and is not acceptable. Prior to the submission of the details on the 18 May 2022, the following information was outstanding:

- Evidence that the drainage system has been designed (unless an area is designated to hold and/or convey water as part of the design) so that flooding does not occur during a 1 in 100 year rainfall event with allowance for 40% climate change in any part of a building. Invert/cover levels and attenuation tank dimensions should be included on the proposed drainage layout to ensure the hydraulic model and drainage layout correlate. Some pipe sizes on the hydraulic model do not match with the proposed drainage layout.
- Construction details of flow control, SuDS elements and petrol interceptor.

It has not been possible to assess the information prior to the expiration of the application on the 25 May and an extension of time has been unable to be agreed with the agent.

Condition 10 is not formally discharged at this stage.

Condition 11a Ground Conditions

The following information has been submitted in respect of this planning condition:

- LKC 20 1913 Site Investigation stamped as received by the City Council, as Local Planning Authority, on the 30 March 2022

The above information has been considered.

The LK Consult phase 2 assessment CL-602-LKC 20 1913-02 dated March 2022 identifies tanks from the former Petrol Filling Station (PFS) as a potential source of contamination. No plans have been provided to show where the tanks are but I assume they are to the rear of the site when looking at it from Oldham Road. The tanks

will require removal from site and the removal should be documented and the soils around the tanks (and other associated infrastructure) will need to be sampled to determine if they are suitable for use. The notes from the Petroleum Officer also suggest a leak from one of the tanks so any impact from this will need to be delineated too.

In general the recommendations for remediation are acceptable including the installation of hydrocarbon membranes if the impacted soils are not removed. The assessment of low risks from ground gas given the site history and geology are also acceptable.

The Site Investigation also notes a fire on site. It is not clear if this was related to the former PFS or just general burning. If it was related to the PFS then fire fighting foams may have been used and therefore PFAS/PFOA/PFOA (including daughter compounds may be present). The EA has provided the following text for sites where these compounds are suspected to be present:

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. In addition, it is recommended you contact the relevant regulatory agency to discuss possible ways forwards (including remediation).

Condition 11a is not formally discharged.

Condition 12 CMP

The following information has been submitted in respect of this planning condition:

- Construction Phase Management Plan stamped as received by the City Council, as Local Planning Authority, on the 18 May 2022

The above information has been considered.

A timeline regarding the build as well as detailed mitigation methods for noise and vibration should be provided. Only a basic description of what work will be undertaken and some mitigation measures proposed for noise and vibration control have been submitted. More detailed information on how noise will be controlled for different activities at different stages of the development together with details on how dust from the site will be controlled.

The ground investigation has advised that the site will need an asbestos management plan. This should be included in the CMP.

A site plan with a routing strategy and swept path analysis should also be submitted.

Condition 12 is not formally discharged.

Date: 23 May 2022

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 (as amended) or Planning (Listed Building & Conservation Area) Act 1990 (as amended) does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 or sections 20 and 21 of the Planning (Listed Building & Conservation Area) Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet.

Alternatively, appeals can be made on a form which is obtainable from Planning Inspectorate, Customer Support Unit, Room 3/15, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 or by telephone 0117 372 6372.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.