

Planning

Growth & Development

Delegated officer report for planning application

Application no. 129859/NMC/2021
Date registered valid: 29 March 2021
Proposal: S96 Application (non material amendment) to conditions 3(Details), 5 (Materials), 8 (Archaeology) and 12 (Acoustics) attached to application ref no 113475/FO/2016.
Address: 42-50 Thomas Street And 7 Kelvin Street, Manchester, M4 1ER
Ward(s): Piccadilly Ward

Applicant: Real Estate Investment (Thomas Street) Ltd 80 Mosley Street, Manchester, M2 3FX
Agent (if any):
Case officer: Angela Leckie
Tel: 0161 234 4651
Email: angela.leckie@manchester.gov.uk

Recommendation: Approve
Date of recommendation: 21 April 2021

Application details

Type of application: Non-Material Change Application
Development type: Notifications
Date of site visit: 15-04-21

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: Smithfield Conservation Area 1987

Tree Preservation Order: Not applicable

Description of development

Planning application ref no 113475/FO/2016 was granted consent on 29th August 2017 and subject to a condition that development must be begun by 28th August 2020. However the consents is caught by the temporary modifications to the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 which were introduced to enable planning permissions and listed building consents which had lapsed or were due to lapse during 2020 to be extended to 1st May 2021 without the need for a new application. To take advantage of this extension and seek to ensure lawful implementation of a planning permission building consent, all original pre-commencement conditions need to be discharged and work commenced before the end of April. Failure to discharge all pre-commencement conditions before the carrying out of a material operation may render the development unlawful and the works in question would not be authorised by the planning permission.

The above application is linked to a listed building consent application ref no 113476/LO/2016 also due to expire 1st May 2021..

The developers have been unable to implement to 2017 consents because 46-50 Thomas Street were listed following that consent and an application for listed building consent 125871/LL/2020 was refused by the Planning and Highways Committee in Sept 2020 and is now the subject of an Appeal lodged with the Planning Inspectorate against that decision.

Application ref no's CDN/20/0379 (113475) and 20/0398 were submitted in 2020 to discharge the pre-commencement conditions attached to the 2017 planning and listed building consents. Whilst the pre-commencement requirements of conditions 6,7,9,10,13,19 and 26 (113475) and 6,7 and 8 (113476) have been satisfied, there are a number of technical issues relating to the current condition of 7 Kelvin Street which prevent all of the necessary investigative works required to formulate the information required to discharge condition 3 and the condition in its current form cannot be discharged at this time. The applicant is also seeking to vary conditions 5, 8, and 12 via a s96 to push back the triggers for discharge so that they can seek to lawfully implement the permission prior to 1st May.

Consultations & Notification Responses

None

Issues

In order to preserve the planning permission, which expires on 01-05-21 it will be necessary for lawful implementation to take place ahead of this date but this would involve not just a level of physical implementation but the discharge of all pre-commencement conditions. The amendment to the trigger is required due to ongoing uncertainty about the deliverability of the

proposals due to the ongoing appeal resulting from the refusal of application ref no 125871/LL/2020 which has held up the progress of certain aspects of the design development, intrusive investigations and development of method statements and carrying out of necessary recording (WSI) which the applicant does not want to proceed with until it is clear if they can still fully implement the original consents.

The amendments would enable the implementation of the consent as all other pre-commencement requirements are discharged.

Given the above context and information submitted in terms of the 'Scope of Works for Implementation' (42-50 Thomas Street And 7 Kelvin Street Manchester) (application ref no 113475/FO/2016), with the implementation of the latter as a condition of the amended condition 3 the amendments to the conditions are considered to be non-material. The amendment to Condition 8 is supported by GMAAS.

On the above basis the amendments are supported.

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

Reason 1: Following an assessment of the details and plans submitted, it is confirmed that the proposed amendments are considered to be of a non-material nature and acceptable to the City Council as Local Planning Authority. The proposed amendments are to conditions only. The City Council is satisfied that the proposed changes will have no material impact upon the previously approved scheme and are necessary for the reasons set out below. The amendments to the conditions will not adversely affect visual or residential amenity within the area or will they have any significant material impact upon the overall quality of the development.

Reason 2: In order to preserve the planning permission, which expires on 01-05-21 it will be necessary for lawful implementation to take place ahead of this date but this would involve not just a level of physical implementation but the discharge of all pre-commencement conditions. The amendment to the trigger is required due to ongoing uncertainty about the deliverability of the proposals due to the ongoing appeal resulting from the refusal of application ref no 125871/LL/2020 which has held up the progress of certain aspects of the design development, intrusive investigations and development of method statements and carrying out of necessary recording (WSI) which the applicant does not want to proceed with until it is clear if they can still fully implement the original consents.

The amendments would enable the implementation of the consent as all other pre-commencement requirements are discharged.

1) Notwithstanding the details as set out in condition 2 above no development shall commence, except as set out in the 'Scope of Works for Implementation' (42-50 Thomas Street And 7 Kelvin Street Manchester) (application ref no 113475/FO/2016) by Real Estate Investment Partnerships, stamped as received on 29-03-21, unless and until final details (including where appropriate specification and method statement) of the following have been submitted to and approved in writing by the City Council as Local Planning Authority:

(a) Method statements for implementing the approved development to ensure careful conservation led standards and to ensure that no further damage or collapse of the listed building occurs;

(b) Following the carrying out of further condition reports details of proposed structural works including any works to the facade to Back Turner Street (with the assumption that there will be minimal intervention, that as much fabric as possible is retained and that means of repair and stabilisation that do not require demolition are adopted (as far as possible)

All of the above shall be implemented in accordance with the approved details

Reason - In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building and to ensure consistency in accordance with policies CC9 and EN3 of the Core Strategy and saved policy DC19.1 of the Unitary Development Plan for the City of Manchester.

2) Notwithstanding the following details submitted with the application within 1 month of signing the construction contract (dated evidence of which should be supplied to the City Council as Local Planning Authority following completion) the following shall be submitted for approval in writing by the City Council, as Local Planning Authority:

A programme for the issue of samples and specifications of all material to be used on all external elevations of the development and the adjacent pavement. The programme shall include timings for the submission of samples and specifications of all materials to be used on all external elevations of the development to include jointing and fixing details, details of the drips to be used to prevent staining and details of the glazing and a strategy for quality control management; and All samples and specifications shall then be submitted and approved in writing by the City Council as local planning authority in accordance with the programme as agreed above.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policies SP1 and DM1 of the Core Strategy.

3) A programme of archaeological works will be undertaken in accordance with the following Written Scheme of Investigation (42-50 Thomas St & 7 Kelvin Street, Manchester, Written Scheme of Investigation (WSI) Application no.s : 113476/LO/2016 & 113475/FO/2016. Condition 6. LBC Ref: 113476/LO/2016 & Condition 8. PA Ref: 113475/FO/2016). The WSI covers the following:

1. A phased programme and methodology of investigation and recording to include: - historic building survey (Level 3) - a watching brief on the soft-strip (where necessary)
2. A programme for post investigation assessment to include: - analysis of the site investigation records and finds - production of a final report on the significance of the heritage interest represented.
3. Dissemination of the results commensurate with their significance.
4. Provision for archive deposition of the report and records of the site investigation.
5. Nomination of a competent person or persons/ organisation to undertake the works set out within the approved WSI

Reason: In accordance with NPPF Section 12, Paragraph 141 - To record and advance understanding of the heritage interest impacted on by the development and to make information about the archaeological heritage interest publicly accessible. GMAAS will monitor the implementation of the archaeological works on behalf of Manchester Planning Authority

For the avoidance of doubt. Parts 1-4 will need to be complete prior to occupation of the residential accommodation.

4) Prior to commencement above ground, a scheme for acoustically insulating and mechanically ventilating the residential accommodation against noise from surrounding roads and uses within the building shall be submitted to and approved in writing by the City Council as local planning authority.

The approved noise insulation scheme and mitigation measures shall be completed before any of the dwelling units are occupied.

The following noise criteria will be required to be achieved:

Bedrooms (night time - 23.00 - 07.00)	30 dB LAeq (individual noise events shall not exceed 45 dB LAmax,F by more than 15 times)
Living Rooms (daytime - 07.00 - 23.00)	35 dB LAeq

The approved noise insulation scheme shall be completed before any of the dwelling units are occupied.

Prior to occupation a post completion report to verify that all of the recommended mitigation measures have been installed in the residential accommodation shall be submitted and agreed in writing by the City Council as local planning authority and any non compliance suitably mitigated in accordance with an agreed scheme prior to occupation.

Reason - To secure a reduction in noise in order to protect future residents from noise nuisance, pursuant to policies SP1, H1 and DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3

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

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Conservation Area - Smithfield Conservation Area 1987

Area Team Boundary - Name: CITY2