

Planning

Growth & Development

Delegated officer report for planning application

Application no. 143426/FH/2025
Date registered valid: 11 July 2025
Proposal: Erection of rear dormer
Address: 8 James Leach Vc Road, Manchester, M40 7PW
Ward(s): Miles Platting & Newton Heath Ward

Applicant: Mr Vikram Goyal
Agent (if any): Miss Nazia Shah, Urban Future Planning Consultancy Ltd
Case officer: Ellie Knowles
Tel: 0161 219 6633
Email: ellie.knowles@manchester.gov.uk

Recommendation: Decline to Determine Application
Date of recommendation: **3 September 2025**

Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: 28 July 2025

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 24 July 2025 Expired: 14 August 2025

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



8 James Leach VC Road is a two storey end-terraced property located in the Miles Platting ward. The application property is constructed in two colourations of red brickwork, a deeper red to the front projecting gable feature and muted paler red to the remainder of the dwelling. The

property accommodates a grey roof and anthracite grey windows with decorative lintels and cills (front windows only).

The property features a driveway to the front which has been extended in width and enclosed garden to the rear, bound by closed boarded timber fencing. Private pedestrian access to the adjoining terrace no.6 is provided around the applicant's rear garden via an alleyway.

At the time of the first site visit, July 2024, unauthorised works to the property had been started at ground floor level, including installation of foundations, flooring and walling. The applicant and agent were advised to cease works until any permission had been secured on this property.

At the time of the site visit, November 2024, further unauthorised works to the property had been completed at second floor level within the roofscape, including the full installation of a rear dormer window and two rooflights to the front. The applicant and agent were advised that this property did not afford permitted development rights for extensions and the completed roof works were unauthorised.

At the time of the visit, July 2025, the construction of the part two-storey, part single storey rear extension had been completed.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The surrounding area comprises a new build housing estate, which is characterised by brick-built three and two storey dwellinghouses (class C3a).

Description of development

The applicant is seeking planning permission for the erection of a dormer, which in effect would entail amendments to the existing unauthorised rear dormer extension, by reducing its width.

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

Relevant Planning History

At the application site –

Permitted Development Rights removed for garages and extensions through planning permission 117055/FO/2017.

Condition 22:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or extensions (including roof alterations); shall be erected other than those expressly authorised by this permission.

Reason - In the interests of residential amenity pursuant to policy DM1 and SP1 of the Manchester Core Strategy (2012).”

140201/FH/2024 – Erection of part single, part two storey rear extension. Approved 25.09.2024.

141077/FH/2024 – Erection of part single, part two storey rear extension together with the Installation of rear roof dormer and insertion of front rooflights. Refused 09.12.2024. *On grounds of visual amenity & overlooking.*

A subsequent appeal against the above refusal of planning permission was made and was **dismissed** under reference **APP/B4215/D/25/3359619** on the 08.04.2025.

ENF/15154/21 – Enforcement notice issued **09.06.2025** which would have taken effect from **10.07.2025**

Appeal against notice logged with Secretary of State **07.07.2025**. *Appeal ongoing.*

Policy

Policy SP1 of the Core Strategy

Development in all parts of the City should:-

Spatial Principles

The key spatial principles which will guide the strategic development of Manchester to 2027 are:

- The Regional Centre will be the focus for economic and commercial development, retail, leisure and cultural activity, alongside high quality city living.
- The growth of Manchester Airport will act as a catalyst for the regional economy, and will also provide the impetus for a second hub of economic activity in this part of the City.
- Beyond these areas, the emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment. The majority of new residential development in these neighbourhoods will be in the Inner Areas, defined by the North Manchester, East Manchester and Central Manchester Regeneration Areas.
- The City is covered by regeneration areas including the City Centre. All development should have regard to the character, issues and strategy for each regeneration area as described in the North, East, Central and South Manchester and Wythenshawe Strategic Regeneration Frameworks and the Manchester City Centre Strategic Plan.
- The City's network of open spaces will provide all residents with good access to recreation opportunities. The River Valleys (the Irk, Medlock and Mersey) and City Parks are particularly important, and access to these resources will be improved.
- New development will maximise the potential of the City's transport infrastructure, in particular promoting walking, cycling and use of the public transport. The extension to the Metrolink network through the Oldham and Ashton lines will create key corridors for new development.

Core Development Principles

Development in all parts of the City should:-

- Make a positive contribution to neighbourhoods of choice including:-
 - creating well designed places that enhance or create character.
 - making a positive contribution to the health, safety and wellbeing of residents
 - considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
 - protect and enhance the built and natural environment.
- ~~Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.~~

(Deletions replaced by Policy JP-S1: Sustainable Development of the PfdJP)

- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy DM1 of the Core Strategy

All development should have regard to the following specific issues amongst others:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

Saved Policy DC1 of the Unitary Development Plan for the City of Manchester relates to residential extensions.

DC1.1 In determining planning applications for extensions to residential properties, the Council will have regard to:

- a. the general character of the property;
- b. the effect upon the amenity of neighbouring occupiers;
- c. the desirability of enabling people to adapt their houses in appropriate ways to meet changing household needs;
- d. the overall appearance of the proposal in the street-scene;

DC1.2 Extensions to residential properties will be allowed subject to compliance with other relevant policies of the Plan and the following criteria:

- a. they are not excessively large or bulky (for example, resulting in structures which are not subservient to original houses or project out too far in front of the original buildings);
- b. they do not create an undue loss of sunlight, daylight or privacy;
- c. they are not out of character with the style of development in the area or the surrounding street scene by virtue of design, use of materials or constructional details;
- d. they would not result in the loss of off-street car-parking, in a situation where there is so severe an existing on-street parking problem that unacceptable additional pressures would be created.

DC1.6 For the avoidance of doubt, policies DC1.1 to DC1.4 apply to domestic houses, flats, houses in multiple occupation, nursing homes, rest homes and hotels.

Policy JP-S1 of the Places for People Joint Development Plan

To help tackle climate change, development should aim to maximise its economic, social and environmental benefits simultaneously, minimise its adverse impacts, utilise sustainable construction techniques and actively seek opportunities to secure net gains across each of the different objectives.

In preparing plans, authorities should make as much use as possible of suitable previously-developed (brownfield) land and vacant buildings to meet development needs.

In bringing forward previously developed sites for development, particular attention will be paid to tackling land contamination and stability issues, ensuring that appropriate mitigation and remediation is implemented to enable sites to be brought back into use effectively.

Issues

Consideration of Planning Application 143426/FH/2025 with regards to Section 70A and 70C of the Town and Country Planning Act 1990.

Legislation

Section 70A of the Act states that:

- “(1) A local planning authority may decline to determine a relevant application if—*
- (a) any of the conditions in subsections (2) to (4) is satisfied, and*
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.*
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application made to the Secretary of State under section 62A or referred to him under section 76A or 77.*
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—*
- (a) against the refusal of a similar application, or*
 - (b) under section 78(2) in respect of a similar application.*
- (4) The condition is that—*
- (a) in that period the local planning authority have refused more than one similar application, and*
 - (b) there has been no appeal to the Secretary of State against any such refusal”*

Section 70C of the Act states that:

- “(1) A local planning authority may decline to determine an application if granting planning permission for the development "would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control."*

Does Section 70A apply?

In this instance, on 23 September 2024, the applicant submitted a planning application (ref. 141077/FH/2024) for “Erection of part single, part two-storey rear extension together with the Installation of rear roof dormer and insertion of front rooflights”. On 9 December 2024 the Council refused planning permission for the following reasons:

- 1. The part retrospective development to the rear (rear dormer window connected to a part single, part two storey rear extension) by reason of its scale, bulk, massing, design and relationship to the original terrace; would form an overly dominant and visually obtrusive feature within the streetscene, which would be the first example of development of this nature in the new housing estate and therefore would be incongruous with the character of the area in general, to the detriment of visual amenity and as such is contrary to saved policies DC1.1, DC1.2 and DC1.3 of the Unitary Development Plan for the City of Manchester, policies SP1, DM1 and EN1 of Manchester's Core Strategy Development Plan Document and the National Planning Policy Framework.*
- 2. The proposed first floor window within the north eastern side elevation of the existing dwellinghouse would result in significant overlooking over a short distance to the rear habitable room windows and private garden areas of 14 and 16 Varley Street, to the detriment of the reasonable amenity and privacy of the occupiers. As such the proposal is contrary to the City Council's Planning Policies SP1, DM1 and saved UDP policy DC1.*

On 8 April 2025, the Secretary of State subsequently dismissed an appeal against the Council's refusal of planning permission (ref: APP/B4215/D/25/3359619).

Does Section 70C apply?

In this instance, on 9 May 2025, the Council issued an Enforcement Notice (“the notice”) (reference ENF/16008/25) relation to the following specified breach of planning control:

Without planning permission, the erection of a dormer to the rear and the erection of a part single/part two-storey rear extension.

The notice was due to take effect on 10 July 2025 (an appeal against the notice was lodged by the applicant on 7 July) and required the following steps to be taken:

- 1. Demolish the dormer as outlined in yellow on the attached photograph ENF/01 and ENF/02.*
- 2. Reinstate the rear roof of the main dwellinghouse and make alterations to the two-storey rear extension so that it fully with accords with the terms of planning permission Ref. 140201/FH/2024, dated 25 September 2024, including the conditions subject to which that permission was granted. For the avoidance of any doubt, that includes drawing no. ‘JAM-02-20 - AMENDMENT 1B’ (copy attached to this notice) and the use of the following materials:*
 - main brick - Ibstock Welbeck Village Blend;*
 - feature brick – Weinberger Barton Light Multi;*
 - roof tiles – Russell Grampian in Anthracite Grey.*

3. *Remove all building materials, rubble and waste arising from carrying out the above steps.*

The reasons for issuing the notice were as follows:

It appears to the Council that the above breach of planning control was substantially completed after 25 April 2024 and has occurred within the last ten years.

The Council considers that it is expedient to issue this notice because the unauthorised dormer is a prominent addition to the rear roof slope, that, when viewed from the wider area, appears as an incongruous form of development which fails to respect the simple form, appearance and character of the gabled roofscape of the surrounding 2-storey terraced dwellings. Subsequently, the consistency of the terrace's roofscape is broken by this larger dormer. Taken together, there is an awkward juxtaposition between the dormer's rear elevation and the gable roof of the two-storey rear extension. The unauthorised development is not subservient to the modest size of the host property and causes unacceptable harm to the character and appearance of the host property and the surrounding area.

The development is considered to be contrary to policies SP1, DM1 and EN1 of the Core Strategy, Saved UDP Policy DC1 and contrary to guidance contained in the National Planning Policy Framework.

Should Section 70A and 70C be used?

There is one appeal decision (ref: APP/B4215/D/25/3359619) on a similar development proposal, which has been dismissed by the Secretary of State in the two years prior to this application being submitted (i.e. after 11 July 2023) and therefore Section 70A would apply in this case.

In relation to Section 70C, the Council has a discretion as to whether or not to use the power in Section 70C. The following matters appear relevant to the exercise of that discretion.

The aim of Sections 70A and 70C is to prevent a developer from having 'two bites of the cherry' in respect of unauthorised development. In this instance the applicant was granted planning permission reference 140201/FH/2024 and, having elected not to build the extensions in accordance with the approved plans, permission was sought to retain the subsequent unauthorised development, reference 141077/FH/2024. Following the refusal of this householder application an appeal was lodged and dismissed by the Secretary of State on 8 April 2025.

The Council issued a notice against the unauthorised development and an appeal was lodged with the Secretary of State against that notice on 7 July 2025. The appeal is proceeding under Grounds (c) and (f) and has not yet been determined. The Secretary of State wrote to the appellant on 7 July 2025, stating Ground (a) was barred because the enforcement notice was issued within the two-year period after the making of a related application that is no longer under consideration.

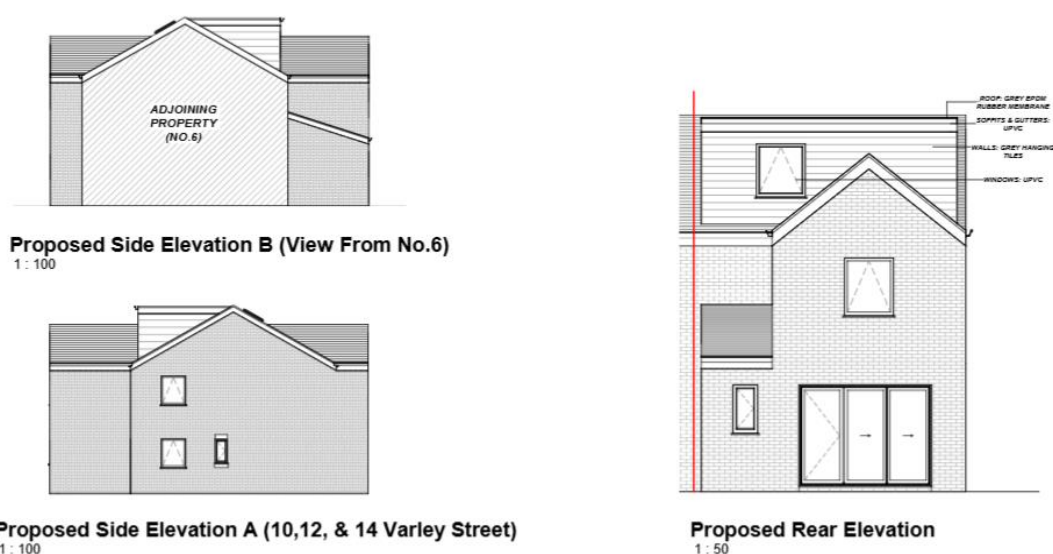
On 11 July 2025, a third application was submitted, to amend the width of the unauthorised rear dormer extension. In support of this planning application, a planning statement has been submitted to argue why, in the applicant's view, the revised proposal is acceptable on its planning merits.

The notice clearly sets out the Council's objections to the unauthorised development, and the determination and refusal of this planning application will give the applicant another 'bite of the cherry' by way of an appeal under Section 78 of the Act. The legislation exists in order to prevent developers from being able to repeatedly appeal refusal of planning permission for developments that the Council has clearly stated are considered to be unacceptable on their planning merits.

The enforcement notice has still not been complied with, which suggests that this latest planning application is yet a further play for time. This is supportive of the use of Section 70C, which was introduced to prevent the making of such tactical applications.

Previous appeal decision

On 23 September 2024, a planning application was submitted for "Erection of part single, part two storey rear extension together with the Installation of rear roof dormer and insertion of front rooflights." (ref: 141077/FH/2024).



Proposed elevations considered under application ref: 141077/FH/2024.

As set out above, on 9 December 2024, planning permission was refused by the Council.

On 8 April 2025, the Secretary of State dismissed two appeals against the above decisions (appeal ref: APP/B4215/D/25/3359619). In dismissing this appeal, the appointed Planning Inspector concluded that:

"DL7. When assessed in isolation from the dormer, the scale and design of the proposed rear extension would be sympathetic to the form and style of the property, in particular echoing the 2-storey projecting front gable. The proposed extension would be set well down below the existing roof's ridge and it would not be the full width of the property. The proposed extension would be a subservient addition to the property.

DL8. Again, when assessed in isolation from the proposed rear extension, the dormer is set back from the ridge, eaves and side edges of the roof and the external surfaces are hanging tiles which match the original roof. However, when viewed from the wider area, this extension is a prominent addition to the property's rear roof slope. It appears an incongruous form of development which fails to respect the simple form, appearance and character of the gabled roofscape of the surrounding 2- storey terraced dwellings. The consistency of the terrace's roofscape is broken by this large dormer.

When assessed together, there would also be an awkward juxtaposition between the dormer's rear elevation and the gable roof of the proposed 2-storey rear extension. Further, the cumulative scale of the extensions would result in a development which would not be subservient to the modest size of the host property.

Accordingly, it is concluded that the appeal scheme would cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would conflict with Policies DC1.1, DC1.2 and DC1.3 of the Unitary Development Plan for the City of Manchester (UDP) and Policy DM1 of Manchester's Core Strategy Development Plan Document (CS). Amongst other matters these policies refer to developments having regard to the character of the surrounding area and for extensions to residential properties to have regard to the general character of the host properties. Further, extensions should not be excessively large or bulky resulting in structures which are not subservient to original houses.

DL13. Although the appeal scheme would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties, this matter is demonstrably outweighed by the significant harm which would be caused to the character and appearance of the host property and the surrounding area. Accordingly, it is concluded that this appeal should be dismissed."

Comparison of the Enforcement notice and application reference 143426/FH/2025

The enforcement notice requires the demolition of the rear dormer extension, and reinstate the rear roof of the main dwellinghouse and make alterations to the two-storey rear extension so that it fully accords with the terms of planning permission Ref. 140201/FH/2024, dated 25 September 2024, including the conditions subject to which that permission was granted.

The proposal submitted in support of the current application, 143426/FH/2025, show that the applicant is seeking permission for the part retention of the development that is subject of the notice, namely a rear dormer extension. Section 4 of the notice sets out the reasons as to why the Council considered it expedient to issue the notice, based on the planning objections to the unauthorised development.

This planning application proposes a reduction in width (by 1.0m either side) of the unauthorised dormer development, in an attempt to overcome those objections. However, the cumulative impact of the dormer extension and connecting two-storey rear element, has already been deemed unacceptable on this property by reason of its awkward juxtaposition between the dormer's rear elevation and the gable roof of the proposed 2-storey rear extension, which creates an incongruous form of development in this area.

Conclusion

Whilst it is accepted that there are differences between the proposal applied for in this application compared with the unauthorised development, which is subject to enforcement action, the proposals if approved would retain the majority of the development which has already been deemed to be unacceptable by the Council and the Secretary of State.

Therefore, any approval of the matters presently before the Council will be in direct contradiction to those decisions previously made. Pursuant to Section 70A and 70C of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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: Decline to Determine Application

Reasons for recommendation

Under Section 70A of the Town and Country Planning Act 1990 (as amended), a Local Planning Authority may decline to determine an application for planning permission, if the Secretary of State has dismissed an appeal against the refusal of a similar application in the two years prior to the submission of that application.

In the opinion of the Local Planning Authority, the proposal of this planning application as set out in the documents and associated plans, is similar to a previous planning application (ref: 141077/FH/2024) that the Local Planning Authority refused, and the Secretary of State subsequently dismissed at appeal (refs: APP/B4215/D/25/3359619).

There has been no material change in circumstances in the intervening period and the Council considers that, similar to the previously refused application that was subsequently dismissed on appeal, this proposal fails to comply with local and national policy.

Under Section 70C of the Town and Country Planning Act 1990 (as amended), a Local Planning Authority may decline to determine an application for planning permission, if granting that permission would involve granting, wholly or partly, a permission for any matters specified in a pre-existing enforcement notice. A notice is "pre-existing" if it had been issued before the receipt of the planning application being determined as specified by Section 70C(2).

On 9 May 2025, the Council issued an Enforcement Notice ("the notice") (reference ENF/16008/25) relation to the following specified breach of planning control:

Without planning permission, the erection of a dormer to the rear and the erection of a part single/part two-storey rear extension.

The notice was due to take effect on 10 July 2025 and required the following steps to be taken:

1. *Demolish the dormer as outlined in yellow on the attached photograph ENF/01 and ENF/02.*
2. *Reinstate the rear roof of the main dwellinghouse and make alterations to the two-storey rear extension so that it fully with accords with the terms of planning permission Ref. 140201/FH/2024, dated 25 September 2024, including the conditions subject to which that permission was granted. For the avoidance of any doubt, that includes drawing no. 'JAM-02-20 - AMENDMENT 1B' (copy attached to this notice) and the use of the following materials:*
 - *main brick - Ibstock Welbeck Village Blend;*
 - *feature brick – Weinberger Barton Light Multi;*
 - *roof tiles – Russell Grampian in Anthracite Grey.*
3. *Remove all building materials, rubble and waste arising from carrying out the above steps.*

In the opinion of the Local Planning Authority, the proposal of this planning application (ref: 143426/FH/2025) as set out in the documents and associated plans, relates to matters pertaining to a "pre-existing" enforcement notice, i.e. one issued prior to the submission and validation of the application on the 11 July 2025 and are matters for which planning permission is deemed to be required.

As the Council have already deemed the development to be unacceptable and have taken formal action, any approval of the matters presently before me will be in direct contradiction to those decisions previously made.

Therefore, pursuant to Sections 70A and 70C of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

As the decision to decline to determine the application has been made within the statutory 8 week period, there is no right of appeal to the Secretary of State against non-determination under Section 78 as that right is lost under the provision of Section 78(2)(aa).

Appendix 1 – List of consultees & neighbours notified

12 Varley Street, Manchester, M40 8BW
6 James Leach Vc Road, Manchester, M40 7PW
4 James Leach Vc Road, Manchester, M40 7PW
14 Varley Street, Manchester, M40 8BW
16 Varley Street, Manchester, M40 8BW
18 Varley Street, Manchester, M40 8BW
20 Varley Street, Manchester, M40 8BW
10 Varley Street, Manchester, M40 8BW
81 Winstanley Road, Manchester, M40 7WJ
83 Winstanley Road, Manchester, M40 7WJ

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Coal Authority - Development High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: NORTH AREA