

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/25/0348

Date registered valid: 10 April 2025

Proposal: Discharge of condition 36 (RAMS), 38 (Piling works) and 40 (ground levels, earthworks and excavation) attached to planning permission referenced 137751/MO/2023

Address: Land Opposite 83-87 Vine Street , Manchester , M18 8SR

Ward(s): Gorton & Abbey Hey Ward

Applicant: Kirkland Developments

Agent (if any): Miss Ailsa Goudie NJL Consulting

Case officer: Sue Wills
Tel: 0161 234 4524
Email: sue.wills@manchester.gov.uk

Recommendation: Split Decision

Date of recommendation: 17 June 2025

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 24 April 2025 Expired: 16 May 2025

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

Network Rail 24.04.2025 - Advise that Network Rail town planning cannot variation/discharge the conditions. This proposal – as per the original response – will require an interface with Network Rail due to the proximity of works to the existing operational railway boundary. *These comments from Network Rail Town Planning NWC is not acceptance of the proposal – only Network Rail Asset Protection can accept or agree the proposal works. Agreement to the proposal works must be undertaken via a formal interface with Network Rail Asset Protection.* The local planning authority (LPA) are not responsible for the safe operation of the railway or our assets and the issues raised by the developer/applicant will ultimately need to be agreed by Network Rail engineering to ensure the proposed development does interfere with the safety of the railway.

Network Rail will require the return of a signed BAPA (Basic Asset Protection Agreement).

Pending initial review / site visit the documents will be assessed under a basic asset protection agreement (BAPA) and no works are to commence until agreed with Network Rail.

Network Rail Asset Protection Team 30.05.2025 - Following a meeting with the developer on Tuesday afternoon, Condition 38 has to remain as the RAMS are being reworked, so cannot be deemed acceptable at this time.

Condition 40 has suitable information to deem it feasible to be discharged a managed through the BAPA.

The nature of the works associated with Condition 36 are such that they can be managed through the BAPA, thus again deeming it feasible for discharge.

Issues

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: Split Decision

Article 35 Declaration

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

Condition no. 36 (RAMS),

36) The following information has been reviewed.

- Method Statement prepared by Sheet Piling (UK) Ltd (Ref: E23181-SPUK-MS-EJ-001- Rev 0) (*solely from a risk assessment perspective*)
- Risk Assessment prepared by Sheet Piling (UK) Ltd (Ref: E23181-SPUK-RA-EJ-002- Rev0) (*solely from a risk assessment perspective*)
- Working Platform Certificate prepared by Sheet Piling (UK) Ltd (Ref: E23181-SPUKWPC-EJ-005-Rev0 (ABI TM20 LR)) (*solely from a risk assessment perspective*)
- Temporary Works Slope Stability Assessment (November 2024) (Ref: 11634-001-R-01-1)
- Site enabling works and Remediation ref: LKR241073 dated 17 December 2024
- Basic Asset of Protection Agreement between the developer and Network Rail received 28th April 2025

It is also noted that Network Rail Asset Protection Team are of the view that the nature of the works associated with Condition 36 are such that they can be managed through the BAPA.

On the basis that the above measures in the document in regard to method statement and risk assessment matters are implemented for the duration of the construction period , condition no.36 is discharged.

Condition no. 38 (Piling works)

38) The following information has been reviewed.

- Method Statement prepared by Sheet Piling (UK) Ltd (Ref: E23181-SPUK-MS-EJ-001- Rev0)
- Risk Assessment prepared by Sheet Piling (UK) Ltd (Ref: E23181-SPUK-RA-EJ-002- Rev0)
- Basic Asset of Protection Agreement between the developer and Network Rail received 28th April 2025

It is understood that the Risk Assessment and Method Statement are being reworked to include monitoring measures within the Risk Assessment and Method Statement in respect of piling works when on site, and as such condition no. 38 cannot be discharged at this time.

Condition no. 40 (ground levels, earthworks and excavation)

40)The following information submitted in respect to details of proposed ground levels, earthworks and excavations to be carried out near to the northern boundary with the railway has been reviewed

- Ground Investigation of Embankment prepared by E3P (Ref: 18-122-L1)
- Depth of Made Ground Plan (Drawing Ref: 006)
- Proposed Site Layout & Levels (Drawing Ref: VSG-RDG-XX-XX-DR-C-0001_P06)
- Earthworks Cut & Fill Isopachytes (Drawing Ref: VSG-RDG-XX-XX-DR-C-0002_P04)
- Earthworks Cut & Fill Formation Depths (Drawing Ref: VSG-RDG-XX-XX-DR-C-003_P04)
- Basic Asset of Protection Agreement (BAPA) between the developer and Network Rail received 28th April 2025

It has been confirmed that from a Network Rail perspective the detail in the above plans is accepted, on the basis that the works can be managed through the Basic Asset of Protection Agreement (BAPA)

However, it is noted that the works on Proposed Site Layout & Levels (Drawing Ref: VSG-RDG-XX-XX-DR-C-0001_P06), adjacent to the rail line would result in two rear gardens having gradients within the rear gardens of 1:13 and one having a 1:17 gradient, which is of concern. Furthermore, the gradients of the rear gardens to the plots in the southwestern corner of the site (plot nos. 10 – 14) vary from 1:11 to 1:5, which is not acceptable on the basis that these are gardens serving dwellinghouses for families, and would not deliver satisfactory private usable amenity space. Whilst the annotation on plan ref: VSG-RDG-XX-XX-DR-C-0001_P06 in respect of plot nos. 11-14 states that the preferred gradient over these rear gardens is to be confirmed, there are no details to revise these levels. On the basis of levels/ gradients indicated Proposed Site Layout & Levels (Drawing Ref: VSG-RDG-XX-XX-DR-C-0001_P06) condition no.40 is not discharged.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Network Rail

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Historic Landfill Site 250m Buffer -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (More) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: NORTH AREA