

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/25/0082

Date registered valid: 30 January 2025

Proposal: Discharge of conditions 5c (Contaminated land Remediation Verification) and 7 (Drainage Verification and Maintenance and Management details) from planning approval reference 140488/JO/2024

Address: Land To The North Of Lawton Street, New Smithfield Market, Manchester

Ward(s): Clayton & Openshaw Ward

Applicant: E&E Barton Estates Limited

Agent (if any): Steven Shaw, C4 Projects

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

Recommendation: Refuse

Date of recommendation: 26 March 2025

Application details

Type of application: Approval of condition application

Development type: Notifications

Standard consultations:

Printed: 4 February 2025 Expired: 25 February 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

Environmental Health 24.02.2025

The application form states the following with respect to the details being submitted for approval:

Condition 5C: Submission of statement and supporting evidence to demonstrate that the remediation works have been completed in accordance with the Remediation Strategy Report dated September 2023.

The only information submitted is a letter from Barnfield Construction dated 21st January 2025, stating that Phase 1 groundworks "were done as the validation report by E3P". This statement is not sufficient, and any validation report should be submitted for approval. They cannot therefore currently recommend discharge of the condition.

Further comments following receipt of Validation report 18 .03.2025

They advise that they currently cannot recommend discharge of condition 6c of approved variation 140488/JO/2024 due to the following reasons:

1. The Validation Report (VR) states in section 7 that "*Prior to construction, further works to remediate the southeast of the site will be required*". It would therefore appear that the enabling works remediation is incomplete.
2. The VR proposes 300 mm clean cover in soft landscaped areas, while the approved E3P Remediation and Enabling Works Strategy (Ref: 12-757-R4-8, dated January 2023 - as referenced in the VR) states: "*Provision of a 450 mm cover system using certified material with appropriate validation within proposed areas of public open space and soft landscaping*."
3. Whilst it will be possible to review and accept satisfactory VRs for the various phases of the development, including enabling works and construction phase, as per the condition wording it will not be possible to recommend the discharge of condition 6c until remedial works are demonstrated to have been completed satisfactorily for all phases.

Local Lead Flood Authority – Advised that a Management and maintenance plan for the lifetime of the development, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime, needed to be submitted for consideration.

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: Refuse

Article 35 Declaration

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

Condition no. 5c (Contaminated land Remediation Verification)

5c) The content of the Letter from Barnfield Construction dated 21st January 2025; received 30th January 2025 and Validation report ref: 12-757- R6- 1 dated September 2023 received 25th February 2025 have been reviewed. On the basis of the information referenced above, condition no.6c cannot be discharged at this time.

The Validation Report ref: 12-757- R6- 1 dated September 2023 states in section 7 that "*Prior to construction, further works to remediate the southeast of the site will be required*". It would therefore appear that the enabling works remediation is incomplete. In addition the Validation Report ref: 12-757- R6- 1 also proposes 300 mm clean cover in soft landscaped areas, while the approved E3P Remediation and Enabling Works Strategy (Ref: 12-757-R4-8, dated January 2023 - as referenced in the Validation Report) states: "*Provision of a 450 mm cover system using certified material with appropriate validation within proposed areas of public open space and soft landscaping.*"

Condition no.7 (Drainage Verification and Maintenance and Management details)

7) The content of the Letter from XOSquare Limited dated 16th January 2025 in relation to drainage, the New Smithfield Market Drainage Inspection report ref: 041124 and as built drainage plan ref: 180-XOS-XX-XX-C-DR-5570 rev.AB1, have been reviewed in regard to phase 1 of planning approval reference: 140488/JO/2024. However, the wording of condition no.7 includes a requirement for the submission of a management and maintenance plan for the lifetime of the development, which also incorporates the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

On the basis that a management and maintenance plan for the lifetime of the development, which includes the information referenced in the wording of the condition has not been provided for consideration, condition no. 7 in relation to phase 1 of planning approval reference:

140488/JO/2024, is not discharged.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
MCC Flood Risk Management

Appendix 2 – Planning constraints

Article 4 Direction - North Manchester PD Restriction - Class B1(c) To C3
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 -
Area Team Boundary - Name: NORTH AREA