

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/24/1021

Date registered valid: 1 November 2024

Proposal: Discharge of Conditions 11 (Contaminated Land), 12 (Piling) and 13 (Ground Conditions Verification) attached to planning permission 134775/FO/2022

Address: Land Off Louisa Street, Manchester

Ward(s): Clayton & Openshaw Ward

Applicant: Ms Kirsty Wright Westchurch Homes Limited

Agent (if any):

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

Recommendation: Split decision

Date of recommendation: 18 December 2024

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 7 November 2024 Expired: 28 November 2024

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 – 27.11.2024 - have considered the information submitted for the above CDN application (listed in the covering letter from Westchurch Homes Ltd as 'A4755 – Site Investigation Summary Report' and 'A4755 – Additional Environmental Assessment Letter Report') and advise that these documents do not constitute the required verification report specified in the condition.

They have not commented on the information submitted for Conditions 11 (Contaminated Land) and 12 (Piling) as they previously advised (their email of 02/08/24) that they have no further comments on the former, and the latter is for the Environment Agency's comment.

(For completeness comments made on 02.08.2024 Condition 11 (contaminated land):

The outstanding issues of their email of 28 March 2024 have been addressed with respect to Condition 11 with the exception of the EA's opinion being required on the controlled waters issues.

Condition 13 (contaminated land verification):

As per their previous comments, Condition 13 requires a verification report which should be submitted following completion of site works and should confirm the watching brief; that no changes to any approved remediation strategy were necessary. The VR should also include imported/reused material sampling results and any waste transfer documentation - further details of what is required in a satisfactory verification report are provided in MCC's guidance).

17.12.2024 – Have provided the following comments regarding the submitted EEG Garden Validation Letter Report for Plots 1 to 19, Ref. A4755/23/VR/Plots 1 to 19, dated 16th December 2024:

The letter report states that "The growing medium was chemically validated at source by EEG and E3P from two greenfield sources, Inverbeg Drive in Bolton and Charter Lane in Charnock Richard". Several appended EEG reports state that the Inverbeg Drive site was formerly used as a football pitch. They advise that a football pitch is not necessarily a greenfield site, and some photographs included within the appended EEG reports (titled Appendix C Site Photographs in each appended report), although unclear, appear to show brick rubble within the photographed material (pdf page 65 - Plate 2, and page 96 - Plate 1). It is also understood that a small amount of asbestos-impacted material was identified within a subsoil stockpile at the Inverbeg Drive site and the stockpile subsequently removed from site.

As indicated above, the Inverbeg Drive provenance photographs provided within the appended reports are unclear and all of the stockpile labels are indecipherable (pdf page 96).

The appended EEG report states that twelve soil samples were taken in total (6 each of topsoil/subsoil) from stockpiles at the Inverbeg Drive site. The number of samples per volume of material is not provided.

The appended EEG reports for Inverbeg Drive state that "It is understood that stockpiled subsoil and topsoil will be used on site (within garden/landscaped areas) and also used on other nearby Westchurch projects". The report does not state that samples were taken from a stockpile specifically allocated to the Louisa Street site and, as stated above, the photographed source site stockpile labels are indecipherable.

With respect to the second referenced imported material source site, Charter Lane in Charnock Richard, aside from haulage notes, an E3P Stockpile Sample Plan, and 3no. soil chemical analysis results (not stated as topsoil or subsoil, but sample refs begin TS so assumed to be topsoil), no further details are included of the site's historical land uses or clarification of its 'greenfield' status. Again, the number of samples per volume of stockpiled material is not provided, and the samples are not stated as being taken from a stockpile allocated to the Louisa Street site.

MCC's guidance states: "The Environmental Protection Team does not routinely accept off-site validation of fill material (whether this is top-soil, sub-soil or other substrate), as this often results in chemical testing of different material to that actually imported to site. It is therefore difficult to prove the exact chemical nature of the material eventually imported, as off-site validation tends to involve composite samples taken from a 'typical batch' of the material intended for import. As such, validation testing of imported fill materials should be carried out in-situ, after materials have been imported to site. An exception will be made if samples can be

taken at source from a stockpile which has already been allocated to the site in question and this can be proven in the validation report."

As a minor point, the EEG report appendix title pages and appendices of the appended reports are not in sequence, and the Charter Lane sample plan and lab results are included between the numerous appended EEG reports for Inverbeg Drive. These issues add to the report's lack of clarity.

The above matters should be addressed before they can recommend that the condition be discharged for the plots applied for.

Environment Agency 04.12.2024- have reviewed the following submissions made by the applicant / agent:

- Site Investigation Summary Report – Louisa Street, Openshaw. Prepared by Earth Environmental & Geotechnical on the behalf of Westchurch Homes. Report Ref: A4755/22/SISR/V2. Dated October 2024.

- Additional Site Investigation Letter Report – Louisa Street, Openshaw. Prepared by Earth Environmental & Geotechnical. Ref: A4755/23/LR4. Dated 31st October 2024.

- Ground Improvement Risk Assessment – Louisa Street, Openshaw. Prepared by Earth Environmental & Geotechnical on the behalf of Westchurch Homes. Report Ref: A4755/22/GRA/V2. Dated October 2024.

Review of the above reporting submissions has been made by their GWCL Team with regards to the protection of controlled waters only.

They advise that have no objection to the discharge of condition 11, 12 and 13 attached to planning permission 134775/FO/2022.

From their assessment of the site investigation data collected and presented to date and review of the site conceptual model, they are satisfied that (noting the partially developed status of the site) a retrospective controlled waters remediation not required in this instance.

Whilst it has been possible in the instance of 134775/FO/2022 for us to be able to offer no objection to discharge the three conditions in question under CDN/24/1021, it should be noted by the applicant/developer, for any future development proposal, an approach of retrospective discharge of pre-commencement and/or relevant control conditions (e.g. piling) must be avoided. Occurrences of repeat non-compliance with regulatory requirements will be noted and factored whereby our discretionary services are concerned.

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. 11 (Contaminated Land)

11) The Site Investigation Summary Report (ref: A4755/22/SISR/V2) version B.0 dated 31st October 2024 and the Additional Site Investigation Letter Report (ref: A4755/23/LR4) dated 31st October 2024 received 31st October 2024 have been reviewed and are considered to be acceptable. On the basis that the development is implemented in accordance with the measures within the reports referred to above, condition no.11 is discharged.

Condition no.12 (Piling)

12) The Ground Improvement Risk Assessment (ref: A4755/22/GRA/V2) version B.0 dated October 2024 has been reviewed. and is considered to be acceptable. On the basis that the development is implemented in accordance with the measures within the report referred to above, condition no.12 is discharged.

Condition no.13 (Ground Conditions Verification)

13) The Site Investigation Summary Report (ref: A4755/22/SISR/V2) version B.0 dated 31st October 2024 and the Additional Site Investigation Letter Report (ref: A4755/23/LR4) dated 31st October 2024 received 31st October 2024 have been reviewed, together with a Garden Validation Letter Report in respect of plot nos. 1-19 dated 16th December 2024 (ref A4755/23/VR/ Plots 1-19) received 17th December 2024.

I can advise you that advise that the Site Investigation Summary Report (ref: A4755/22/SISR/V2) version B.0 dated 31st October 2024 and the Additional Site Investigation Letter Report (ref: A4755/23/LR4) dated 31st October 2024 do not constitute the required verification report specified in the condition.

In respect of the Garden Validation Letter Report in regard to plot nos. 1-19 , I can advise you that there is insufficient information in the document to enable condition no.13 to be discharged.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Environment Agency

Appendix 2 – Planning constraints

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

Article 4 Direction - North Manchester PD Restriction - Class B1(c) To C3

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Historic Landfill Site 250m Buffer -

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 (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: NORTH AREA