

Planning

Growth & Development

Delegated officer report for planning application

Application no. 141213/P3MAP/2024

Date registered valid: 11 October 2024

Proposal: Prior Approval for change of use from Class E (hairdressers) to Class C3 to create two self contained dwellings

Address: First Floor, 149 Fog Lane, Manchester, M20 6FJ

Ward(s): Burnage Ward

Applicant: Ebbing

Agent (if any): Sam Golding, Gold Sketch Studios Ltd

Case officer: Tracie Simpson
Tel: 0161 234 4537
Email: tracie.simpson@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 3rd December 2024



Application details

Type of application: Prior approval- Class E-Dwell (Class MA)

Development type: Notifications

Date of site visit: 15 October 2024

Standard consultations:

Printed: 14 October 2024 Expired: 4 November 2024

Neighbour notifications

Printed: 14 October 2024 Expired: 4 November 2024

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

The proposed development is sited on the first floor level of 149 Fog Lane within a two storey end terrace building adjacent to United Reform Church on Parrs Wood Road in the Burnage ward area of Manchester. The site lies within a parade of 8 shops and commercial uses within this particular block, with multiple blocks making up the whole parade. The current use of the ground floor is a takeaway, whilst the first floor is currently in use as a hair and beauty salon.



Listed building: Not applicable
Conservation area: Not applicable
Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential on the side roads, with both sides of Fog Lane in this location being in commercial / retail use. There is residential accommodation in the form of flats above some of the ground floor commercial units. Christ Church United Reformed Church is located to the west of the property

Description of development

This application seeks a determination as to whether prior approval Class MA of Part 3, Schedule 2 of The Town, and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 is required for the *“change of use of first floor accommodation from Use Class E to 2 x self-contained dwellings (Use Class C3)”*.



Consultations & Notification Responses

Local Residents were informed - one representation has been received which raises issues with regard to ownership and the use of the first floor already in use as living accommodation and noise.

Highways - 'No Waiting At Any Time' and 'No Loading Mon-Fri 8am-9.30am and 4pm-6pm' restrictions are in place along the southern side of Fog Lane. There is no traffic regulation orders immediately adjacent to the site on Fog Lane.

HIGHWAYS RESPONSE The change of use will see the provision of 2no. residential apartments at the first floor of No.149 Fog Lane.

TRIP GENERATION AND JUNCTION CAPACITY: In comparison to the former use, the level of trips generated is not anticipated to be dissimilar and as such no highways concerns are expected.

SITE ACCESSIBILITY: The site is accessible by sustainable modes. Regular bus services are routed along Fog Lane and Kingsway. Burnage Railway Station is located within a short walking distance of the site providing connections to Manchester Piccadilly, Manchester Airport, Crewe and Liverpool Lime Street.

PARKING AND ACCESS: Based on the Proposed Plans and Elevation drawings, it appears that the existing pedestrian access from Fog Lane to the first floor of the premises is to remain unchanged. The existing rear stair access to the first floor of the premises also appears to be unchanged. There is no on-site car parking associated with the development and as such, all vehicular demands associated with the site are anticipated to contribute to the level of vehicles parked on-street.

CYCLE PARKING: In line with MCC Residential Guidelines, secure and sheltered cycle parking provision should be made, within the curtilage of the site, at a provision of one-per-unit.

REFUSE AND SERVICING: No information has been provided by the applicant on the location and servicing of the refuse bins associated with the proposed residential apartments. Highways requests that the applicant demonstrates on the proposed plan as to where the refuse bins for residents will be located. Highways requires the applicant to confirm where the refuse bins will be positioned on collection days for servicing.

CONSTRUCTION MANAGEMENT: Detail should be sought from the applicant in relation to any proposed construction or fitout arrangements, where there is an impact on the highway. The applicant is advised that any requirements for licensing, hoarding / scaffolding and any associated temporary traffic management arrangements, including Section 50, will need discussion and agreement with MCC Highways Network teams via Contact Manchester (Tel. 0161 234 5004)

Email-highwaylicences@manchester.gov.uk and
highwaynetworkmanagement@manchester.gov.uk

Environmental Health – Attach condition should the proposal be approved

a) Before the development commences a scheme for acoustically insulating the proposed residential accommodation against noise from Fog Lane shall be submitted to and approved in writing by the City Council as local planning authority. There may be other actual or potential sources of noise which require consideration on or near the site, including any local commercial/industrial premises (including the ground floor commercial property). The approved noise insulation and ventilation scheme shall be completed before any of the dwelling units are occupied.

Noise survey data shall include measurements taken during a rush-hour period and night time to determine the appropriate sound insulation measures necessary. The following noise criteria shall be required to be achieved:

Bedrooms (night time - 23.00 - 07.00)	30 dB LAeq (individual noise events shall not exceed 45 dB L _{Amax,F} by more than 10 times)
Living Rooms (daytime - 07.00 - 23.00)	35 dB LAeq
Gardens and terraces (daytime)	55 dB LAeq

b) Prior to first occupation of the residential units, a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the internal noise criteria have been met. Any instances of non-conformity with the recommendations in the verification report shall

be detailed along with any measures required to be undertaken prior to first occupation of the residential units to ensure compliance with the internal noise criteria.

Reason: To secure a reduction in noise from traffic or other sources in order to protect future residents from noise disturbance.

REF*

a) Before the development commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority.

New developments shall have refuse storage space for segregated waste collection and recycling. Internal and external storage areas are required.

b) The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health.

*The proforma/ Waste Management Strategy must include the following information:

- Estimated volumes and types of waste produced by the development;
- Details of internal and external stores for both waste and recycling, including any plans and designs;
- Location of the proposed collection point and details of the route the collection vehicle will take;
- Details of how waste will be transferred between stores and to the collection location; and
- Details of number and capacity of bins proposed and collection frequency.
- Other details as per 'Waste Proforma v1.0' - refer to guidance

at: http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy

10 units or below = low rise

11 or above = high rise

Legislation and Issues

The application is submitted for prior approval under Schedule 2, part 3, class MA (*commercial, business and service*) to *Class C3 (dwellinghouses)* of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended 2016). These regulations stipulate that such a change shall be permitted provided the scheme does not meet with objection on grounds of contaminated land, flood risk or highway safety and impacts of noise.

Outside of the above, Council policies do not therefore have a direct bearing on the determination of the application.

The legislation states the following:

Permitted development

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Development not permitted

MA.1.—(1) Development is not permitted by Class MA—

F2(a).

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

F3(c).

(d) if land covered by, or within the curtilage of, the building—

(i) is or forms part of a site of special scientific interest;

(ii) is or forms part of a listed building or land within its curtilage;

(iii) is or forms part of a scheduled monument or land within its curtilage;

(iv) is or forms part of a safety hazard area; or

(v) is or forms part of a military explosives storage area;

(e) if the building is within—

(i) an area of outstanding natural beauty;

(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;

(iii) the Broads;

(iv) a National Park; or

(v) a World Heritage Site;

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

(g) before 1 August 2022, if—

(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and

(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

(i) Class A1 (shops);

(ii) Class A2 (financial and professional services);

(iii) Class A3 (food and drink);

(iv) Class B1 (business);

(v) Class D1(a) (non-residential institutions - medical or health services);

(vi) Class D1(b) (non-residential institutions - crèche, day nursery or day centre);

(vii) Class D2(e) (assembly and leisure - indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

MA.2.—(1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport impacts of the development, particularly to ensure safe site access;

(b) contamination risks in relation to the building;

(c) flooding risks in relation to the building;

(d) impacts of noise from commercial premises on the intended occupiers of the development;

(e) where—

(i) the building is located in a conservation area, and

(ii) the development involves a change of use of the whole or part of the ground floor,

the impact of that change of use on the character or sustainability of the conservation area;

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

(h) where the development involves the loss of services provided by—

(i) a registered nursery, or

(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006,

the impact on the local provision of the type of services lost; and

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building]

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph [F6as if—

(a)for paragraph (e) of sub-paragraph (2) there were substituted—

"(e)where—

(i)sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;

(ii)sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,";

(b)in the introductory words in sub-paragraph (5), for "and highways impacts of the development" there were substituted "impacts of the development, particularly to ensure safe site access";

(c)after sub-paragraph (6) there were inserted—

"(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.";

(d)in sub-paragraph (7) for "(5) and (6)" there were substituted "(5), (6) and (6A)";]

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.]

History relating to 149 Fog Lane

131629/FO/2021 - Recv: 10.09.2021 - Application Approved - 05.11.2021 Erection of single storey rear extension and first floor rear extension to provide additional space for ground floor retail unit and first floor salon

110315/AO/2015/S2 - Recv: 26.10.2015 - Application Approved - 02.12.2015 Installation of internally illuminated ATM fascia signs

110314/FO/2015/S2 - Recv: 26.10.2015 - Application Approved - 02.12.2015 Retention of an ATM to front elevation

093987/FO/2010/S2 - Recv: 06.08.2010 - Application Approved - 07.10.2010 Erection of ground floor single storey rear extension to shop, and first floor extension to hair and beauty salon

028985 - Recv: 21.04.1987 - Application Approved - 18.06.1987 Change of use from a shop to a Licensed restaurant/bistro

027581 - Recv: 10.09.1986 - Application Approved - 09.10.1986 Change of use from a shop to a shop and solarium

(a) transport impacts of the development, particularly to ensure safe site access;

Initially, Highways had some concerns about matters such as cycle parking, refuse and servicing. These have been satisfactorily addressed by the applicant. Highways Services are satisfied that the proposals in comparison to the former use, would not raise the level of trips generated as it is not anticipated to be dissimilar and as such no highways concerns are expected. The site is accessible by sustainable modes

(b) contamination risks in relation to the building;

No comments have been received as a result of this proposal

(c) flooding risks in relation to the building;

No flooding concerns arise given the property lies within Flood Zone 1 which is assessed as having the lowest possibility of flooding

(d) impacts of noise from commercial premises on the intended occupiers of the development;

Impacts of noise from commercial premises on the intended occupiers of the development - It is not considered that noise breakout will be a significant issue that would cause any undue loss of amenity to both existing and prospective occupiers. A condition has been included which requires that the flats be acoustically insulated in accordance with a scheme to be submitted and agreed, in order to ensure prospective occupiers are protected from any undue noise impact associated with Fog Lane and neighbouring commercial uses. Provided this adhered to, no harmful noise impact is envisaged.

(e) where (i) the building is located in a conservation area, and (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

Not applicable.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

All habitable rooms benefit from windows which would afford satisfactory natural light.

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The application falls within a predominantly residential area and accordingly the site is not within an area that the Local Planning Authority considers to be important for general or heavy industry waste management, storage and distribution or a mix of such uses.

(h) where the development involves the loss of services provided by (i) a registered nursery, or (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost;

Not applicable, the applicant has confirmed that the 1st floor was run as a salon.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

Not applicable

Article 3(9A) imposes a further general exception in respect of space standards as follows:

Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015

The submitted plans clearly demonstrate that the internal floor area would meet required space standard accommodation which is satisfactory.

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: Approve

Article 35 Declaration

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

1) The City Council is satisfied that this development minimises the impact on the local highway network and there are no known highway impacts, contamination or flood risk, or impacts from noises at the site. The proposal therefore complies with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Received on 11th October 2024 numbered 003 Rev 2 Proposed Plans and Elevations

Received on 1st November 2024 numbered 502 Rev 1 Existing and Proposed Site Plan

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.

3) Notwithstanding the details provided for waste management arrangements indicated in the email dated 1st November 2024 and accompanying drawing numbered 502 Revision 1 , as received by the City Council, as Local Planning Authority, on 1st November 2024.

a) Before the development commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority.

New developments shall have refuse storage space for segregated waste collection and recycling. Internal and external storage areas are required.

b) The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health, pursuant to policies DM1 and SP1 of the Manchester Core Strategy.

4) The cycle parking scheme indicated in the email dated 1st November 2024 and accompanying drawing numbered 502 Revision 1, as received by the City Council, as Local Planning Authority, on 1st November 2024 shall be provided prior to the first occupation of the flats hereby approved and be retained and permanently reserved for cycle parking.

Reason - To ensure that adequate provision is made for bicycle parking so that persons occupying or visiting the development have a range of options in relation to mode of transport in order to comply with policies SP1, T1 and DM1 of the Core Strategy.

5) 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) none of the apartments hereby approved shall be used for any other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) other than the purpose(s) of C3(a).

Reason - In the interests of residential amenity, to safeguard the character of the area and to maintain the sustainability of the local community through provision of accommodation that is suitable for people living as families pursuant to policies DM1 and H11 of the Core Strategy for Manchester and the guidance contained within the National Planning Policy Framework.

6) a) Notwithstanding details submitted, before the development commences a scheme for acoustically insulating the proposed residential accommodation against noise from Fog Lane shall be submitted to and approved in writing by the City Council as local planning authority. There may be other actual or potential sources of noise which require consideration on or near the site, including any local commercial/industrial premises (including the ground floor commercial

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

Noise survey data shall include measurements taken during a rush-hour period and night time to determine the appropriate sound insulation measures necessary. The following noise criteria shall 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 10 times)
Living Rooms (daytime - 07.00 - 23.00)	35 dB LAeq
Gardens and terraces (daytime)	55 dB LAeq

b) Prior to first occupation of the residential units, a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the internal noise criteria have been met. Any instances of non-conformity with the recommendations in the verification report shall be detailed along with any measures required to be undertaken prior to first occupation of the residential units to ensure compliance with the internal noise criteria.

Reason: To secure a reduction in noise from traffic or other sources in order to protect future residents from noise disturbance.

Informatives

1) CONSTRUCTION MANAGEMENT: Detail should be sought from the applicant in relation to any proposed construction or fitout arrangements, where there is an impact on the highway. The applicant is advised that any requirements for licensing, hoarding / scaffolding and any associated temporary traffic management arrangements, including Section 50, will need discussion and agreement with MCC Highways Network teams via Contact Manchester (Tel. 0161 234 5004) Email -highwaylicences@manchester.gov.uk and highwaynetworkmanagement@manchester.gov.uk

2)
*The proforma/ Waste Management Strategy must include the following information:

Estimated volumes and types of waste produced by the development;
Details of internal and external stores for both waste and recycling, including any plans and designs;
Location of the proposed collection point and details of the route the collection vehicle will take;
Details of how waste will be transferred between stores and to the collection location; and
Details of number and capacity of bins proposed and collection frequency.
Other details as per 'Waste Proforma v1.0' - refer to guidance at:

http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy
10 units or below = low rise
11 or above = high rise

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

224A Fog Lane, Manchester, M20 6EL
Christ Church, Parrs Wood Road, Manchester, M20 6EE
Church Hall, Fog Lane, Manchester, M20 6FJ
149 Fog Lane, Manchester, M20 6FJ
Ground Floor, 149 Fog Lane, Manchester, M20 6FJ
271 Parrs Wood Road, Manchester, M20 6JZ
151 Fog Lane, Manchester, M20 6FJ
38 Leafield Avenue, Manchester, M20 6EJ
32 Leafield Avenue, Manchester, M20 6EJ
29 Leafield Avenue, Manchester, M20 6EJ
26 Leafield Avenue, Manchester, M20 6EJ
216 Fog Lane, Manchester, M20 6EL
159A Fog Lane, Manchester, M20 6FJ
163A Fog Lane, Manchester, M20 6FJ
224 Fog Lane, Manchester, M20 6EL
161 Fog Lane, Manchester, M20 6FJ
159 Fog Lane, Manchester, M20 6FJ
269 Parrs Wood Road, Manchester, M20 6JZ
155 Fog Lane, Manchester, M20 6FJ
36 Leafield Avenue, Manchester, M20 6EJ
34 Leafield Avenue, Manchester, M20 6EJ
30 Leafield Avenue, Manchester, M20 6EJ
28 Leafield Avenue, Manchester, M20 6EJ
218 Fog Lane, Manchester, M20 6EL
1A Elmsmere Road, Manchester, M20 6EY
220 - 222 Fog Lane, Manchester, M20 6EL
163 Fog Lane, Manchester, M20 6FJ
157 Fog Lane, Manchester, M20 6FJ
153 Fog Lane, Manchester, M20 6FJ
161A Fog Lane, Manchester, M20 6FJ

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA