MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	CDN/24/0768
Date registered valid:	15 August 2024
Proposal:	Discharge of condition 24a (tree retention) attached to planning permission referenced 139720/JO/2024
Address:	Site Of Former Victoria Park Probation Centre, Laindon Road, Manchester, M14 5YJ
Ward(s):	Rusholme Ward
Applicant:	Britannia Victoria Limited
Agent (if any):	Miss Louisa Fielden, AshtonHale
Case officer:	Sue Wills Tel: 0161 234 4524 Email: sue.wills@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	8 October 2024

Application details

Type of application: Approval of condition application

Development type: Notifications

Standard consultations:
Printed: 21 August 2024 Expired: 12 September 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

Consultations & Notification Responses
Arboriculturalist – Having looked back on our original comments and it appears that concerns were expressed about the loss of trees on this site and the impact the proposed development would have on the trees being retained.

It appears that the application was granted approval and as such there has been a proposal as to how they development will be constructed without having an adverse effect on the trees being retained.

They have looked through the proposals and whilst measures have been put in place to minimise developments impact on the trees, it is their opinion that this development will have a negative impact on the trees. The extent of the impact will be determined over the next 5-10 years.

This development will need an independent arboricultural consultant embedded in the project to oversee and advise on any development stage that will potentially have an impact on the surrounding trees.

Issues
During consideration of the original application Arboricultural officers raised concerns over the impact on the retained trees on this site due to, in their view, the inevitable damage to the rooting areas and the constraints of the building lines and landscape requirements. They advised that careful monitoring and site supervision by the appointed arboricultural consultant would be required to ensure that the tree protection fencing is installed correctly and is regularly checked, and suggest this should be included as a condition if planning is permitted for this site.

On this basis it was recommended that this aspect of the scheme was conditioned, and that the condition made specific reference to a tree consultant being present during excavations of the foundations to supervise and ensure the roots are protected. Furthermore, that the development shall be carried out in accordance with the agreed method statement, and that all tree work should be carried out by a competent contractor in accordance with British Standard BS 3998 "Recommendations for Tree Work".

Condition 24 therefore required that

‘In this condition "retained tree" means an existing tree, shrub or hedge which is to be as shown as retained on the approved plans Tree protection plan (sheet 1 of 2) – Demolition Phase 6785 .04 rev.D ;Tree protection plan (sheet 2 of 2) – Construction Phase 6785 .05 rev.D received 2nd June 2023, specified in condition no.2 and particulars; and paragraphs (c) and (d) below shall have effect until the expiration of 5 years from the date of the first occupation of the development for its permitted use.
(a) Finalised details of how the how the foundations will be constructed to prevent damage or loss to the retained trees and their root systems in proximity to the apartment block, block 8 terrace of houses and the detached house adjacent to no.14 Merwood Road shall be submitted to and approved in writing prior to the implementation of the foundations to those dwellings . The development shall be implemented in accordance with the approved scheme.
(b) A tree consultant must be present during excavations of the foundations to supervise and ensure the roots are protected. The development shall be carried out in accordance with the agreed method statement. All tree work should be carried out by a competent contractor in accordance with British Standard BS 3998 "Recommendations for Tree Work".
(c) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)
(d) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
(e) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Consent at this time is being sought to discharge part (a) of the above condition. The remaining parts of condition no.24 need to be complied with.

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 polices 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

24a) The details shown on the drawings referenced below have been reviewed, together with the content of the letter from the planning agent dated 15th August 2024, in particular that the areas where construction is near to tree root protection zones are limited to a small section of the northeast corner of Block 8 and the northwest corner of Block 1, and that the fencing positions in the Arboricultural Impact Assessment and Method Statement (ref: Rev D)shows the demarcation point to where no works should take place. It is also noted that the foundation construction does not affect any area beyond the fencing.

Block 1 Foundation Piled Arrangement plan ref: J7986/S100 rev.D;

Block 6A Foundation Arrangement plan ref: J7986/S603 rev. B;

Block 8 Foundation Arrangement plan ref: J7986/S800 rev. B;

On the basis that the development is implemented in accordance with the foundation details drawings referenced above, together with the tree protection measures within the Arboricultural Impact Assessment and Method Statement (ref: Rev D), condition no.24 part (a) is discharged.

Appendix 1 – List of consultees & neighbours notified

Neighbourhood Team Leader (Arboriculture)

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
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: NORTH AREA