

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139335/NMC/2024

Date registered valid: 21 February 2024

Proposal: Variation of condition 10 (affordable housing) attached to planning permission ref: 135235/FO/2022 to allow for alternative wording

Address: Vacant Site Bound By The Boulevard, The Avenue, Didsbury High School And Existing Properties On Clearwater Drive, Manchester

Ward(s): Didsbury West Ward

Applicant: Southway Housing Trust Limited

Agent (if any): Mr Stephen Morgan-Hyland Sevo Planning Limited

Case officer: Robert Griffin
Tel: 0161 234 4527
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Recommendation: Approve

Date of recommendation: 11 March 2024

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent for this non material amendment application .

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: Not applicable

Tree Preservation Order: Not applicable

Description of the site

The site is located to the southwest of Princess Road, accessed via The Boulevard in the West Didsbury ward and is bounded by The Avenue to the west, the rear of residential properties on Clearwater Drive to the east and The Boulevard to the north. The site is comprised of overgrown scrub and a mixture of self-seeded and planted trees particularly along the eastern boundary as part of historic landscaping schemes associated with the wider redevelopment of adjacent land; the site is 0.3 hectares in size. This is the last remaining parcel of land following the clearance and redevelopment of the former Withington Hospital site that has taken place over the last 20 years. This redevelopment has provided a mix of residential dwellinghouses and apartments, offices, commercial space and more recently a secondary school to the south accessed via The Avenue. The site is generally flat, however, there are some level changes. To the west of the site on the opposite side of The Avenue is a 5-storey office building with associated basement and surface level car parking. To the southwest is a secondary school building with a maximum height of 4 storeys and associated areas of outdoor play and sports facilities, to the northwest on the opposite side of The Boulevard is a residential apartment block which has a maximum height of 6 storeys and directly opposite the site to the north beyond a landscaped gated garden set within The Boulevard is a four-storey mixed commercial and apartment building.

To its east are residential properties which vary in height from a four-storey apartment building on the junction between The Boulevard and Clearwater Drive to two and three storey contemporary designed semi-detached residential properties all with off street car parking in the

form of drives, integral garages and a rear parking court for the apartment building. The Boulevard contains several time limited parking bays. Cavendish Road Park is located approximately 310 metres to the east of the site, the commercial centre of Burton Road is 700 metres to the east, Cavendish Road Primary School is approximately 620 metres from the site, whilst Didsbury High School is adjacent the site to its southern boundary. The Metrolink stop at Burton Road is approximately 800 metres from the site whilst the Withington stop is approximately 440 metres to its north located off Princess Road. There are bus stops located on Princess Road and Burton Road, the closest being southbound along Princess Road 250 metres from the site whilst a northbound stop on Princess Road is approximately 360 metres away.

The western boundary of Albert Park Conservation Area is approximately 320 metres to the east of the site and is separated by residential properties developed as part of the redevelopment of the former Withington Hospital site. The grade II Listed Buildings associated with the former Withington Hospital are approximately 180 metres to the south of the site, these buildings were retained and converted to residential use as part of the redevelopment of the former Hospital site. These buildings are separated from the site physically and visually by highways and intervening residential buildings.

Description of the proposals

Planning permission reference 135235/FO/2022 was granted on the 19th January 2023 for the development of the site to provide 76 no. apartments and a ground floor medical centre within a part 8 and part 6 building. The proposals also include for the provision of an internal bike store to provide 76 no. cycle parking spaces, external cycle parking for visitors to the building and additional cycle parking for staff of the medical centre. Car parking is to be provided within a two tiered deck structure accessed from The Avenue with the ground floor parking area providing 28 spaces including 2 no. disabled parking spaces with direct level access into the ground floor medical centre, the upper deck accessed via a ramp would serve 28 no. car parking spaces including 2 no. disabled parking spaces with direct ramped access into a secondary first floor entrance into the residential apartments. A further four on street parking bays are to be provided in a layby on The Avenue together with an ambulance drop off bay.

The applicant is now seeking a non-material amendment to the wording of condition 10 (Affordable Housing) attached to the approval to make it clear the exemptions and exclusions that would apply to this condition.

Issues

Materiality

Section 96A of the 1990 Act (as inserted on 1st October 2009 by sec.190 of the Planning Act 2008) allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material this includes alterations to conditions of an approval. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted.

The current application seeks a non-material amendment to the permission to allow for an amendment to the affordable housing condition to provide more details of the type of exclusions and exemptions from the affordable housing through a future occupier utilising any acquired rights to purchase the property that would be allowed.

No other non-material amendments have been made by the applicant to the planning approval so there are no cumulative impacts associated with this proposed amendment.

Following assessment it is considered that the proposed amendment is non-material in nature and would result in an amendment that would have been agreed if submitted as part of a condition discharge as the Council could potentially be in conflict with a future tenants 'right to acquire' or a shared ownership product allowing a resident to staircase their ownership to a point of owning, as such the amendment can be approved. A respective alteration is required to conditions 10 to reflect the amended condition.

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

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

1) The proposed amendment relates to a change to the wording of condition 10 'Affordable Housing' to include the exclusions and exemptions that would be applicable to the affordable housing provided at the development.

2) Following an assessment of the details submitted, the City Council can confirm that the proposed amendment is considered to be of a non-material nature and acceptable to the City Council as the Local Planning Authority. The City Council is satisfied that the proposed changes are minor in nature and would not have any impact on the residential amenity of nearby properties or on the visual amenity of the wider local area and would not fundamentally alter the provision of affordable housing at the development.

Condition

10) Prior to the commencement of the development (excluding demolition works), a scheme for the provision of affordable housing on the site shall be submitted for approval in writing by the City Council, as Local Planning Authority. The scheme shall comprise:

i. the type and tenure (such tenures being consistent with the definition of affordable housing in Annex 2 of the NPPF or any definition of affordable housing that replaces it) which shall consist of 100% of the dwelling houses;

ii. confirmation that the affordable dwellings will be made available on affordable housing terms for both first and subsequent occupiers of the affordable housing dwellings (subject to such exclusions and exemptions as may be approved by the City Council); and

iii. the eligibility criteria to be used for determining who may occupy the affordable housing dwellings (which shall not be required to include any local connection criteria in the case of shared ownership housing).

iv. The approved affordable housing scheme shall be implemented as part of the development subject to the following exclusions and exemptions:

1. The affordable housing scheme shall not be binding upon a mortgagee, chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (however appointed) including a housing administrator (each a receiver) of the whole or any part of the affordable housing or any persons or bodies deriving title through such mortgagee or chargee or receiver.

2. The affordable housing scheme which is the subject of this condition shall cease to apply (and shall be of no further effect) to any dwelling that has been acquired by an individual owner/purchaser and/or their mortgagee OR any dwelling in respect of which a statutory or voluntary right to buy or acquire has been exercised.

Reason - To contribute to the delivery of affordable housing, pursuant to policy H8 of the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

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

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH AREA