MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	139559/P3MA/2024
Date registered valid:	18 March 2024
Proposal:	Prior Approval for change of use from offices (Class E - Commercial, Business and Service) to 28 self-contained flats (Class C3 - Dwellinghouses).
Address:	Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Ward(s):	Burnage Ward
Applicant:	Superstan Property Ltd
Agent (if any):	Mr Steve Buckley Peacock + Smith
Case officer:	Robert Griffin Tel: 0161 234 4527 Email: robert.griffin@manchester.gov.uk
Recommendation:	REFUSE
Date of recommendation:	**25.04.2024**

Application details

Type of application: Prior Approval applications for change o

Development type: Notifications

Date of site visit: 16.04.2024

Standard consultations:
Printed: 25 March 2024 Expired: 17 April 2024

Neighbour notifications
Printed: 19 March 2024 Expired: 11 April 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

Listed building: No
Conservation area: No
Tree Preservation Order: No

Description of site/building/area

This application relates to an L-shaped 2 storey office building (Kingsway Business Centre) setback from Kingsway and located at the rear of a mosque and several commercial properties on Mauldeth Road.

To the east of the site there is a car park which is utilised by visitors to the mosque, while to the west is an access road serving the car parking for the Mauldeth Road train station and adjacent retail outlet. The mainline railway lies beyond this access road. To the north of the existing on-site buildings is a hard surfaced area and beyond that a large electrical sub-station. Vehicular access to the site is gained via Kingsway and Harwood Road, a small cul-de-sac off Mauldeth Road.

Description of development

The applicant is seeking prior approval for the change of use of the existing building to form 28 self-contained flats over the ground and first floors.

It is indicated that a total of 25 car parking spaces would be provided to the north of the building together with bin store and cycle parking area.

Consultations & Notification Responses

Local Residents/Businesses – Were notified of the proposals, 1 comment objecting to the proposal was received on behalf of Kingsway residents. The comments made were:

Future occupiers would be exposed to unacceptable noise levels from Kingsway traffic and the adjacent sub station 24 hours.

Health risk from exposure to EMF radiation that has been linked to several health risks, including an increased risk of cancer, changes in brain function, and DNA damage.

Electric power substations may also be affected by environmental factors such as lightning, extreme temperatures, and floods, which may result in equipment damage and power outages.

There is already an overflow of vehicles in the area. This new proposal states that along this part of Kingsway it is well lit - this is not the case as there is no lighting on that side of the road.

Birds, Bats, Wildlife that is living along the railway banks - been there for years.

Residents already living on Kingsway are already suffering with the air quality due to the amount of traffic that is on Kingsway

Highway Safety - Given the width of the frontage onto Mauldeth Road, and the extent of parking congestion along it ,the proposal will indicate traffic congestion in this point of the road.

Vehicle movements in both the AM and PM peak hours: The proposed development would create an already massive increase of additional traffic.

The increase in on-street parking will have a detrimental impact upon the levels of pedestrian and highway safety enjoyed within the vicinity of the site, contrary to Policy DM1 in the Manchester Core Strategy Development Plan Document.

Street parking stress - the surrounding roads are subject to parking restrictions.

Harwood Road, a short cul-de-sac, is allocated to the south of the proposed site and provides access to Mauldeth Road - this side road is and has always been filled with vehicles as the Neighbouring Mosque is there which has a high volume of vehicles the mosque car park is too small and people park on Kingsway/Mauldeth Road and use the side streets too.

The proposed development would not provide enough on-site car parking spaces.

These proposed dwellings with an average of 84 people will require a need for GP's, Schools for kids, Dentists, Opticians etc - there is a massive shortage in the area, with long waits already for all these services as they are oversubscribed so creating even a bigger struggle.

The proposal would have a substantial detrimental impact on the character and appearance of the area.

Would fail to make an appropriate contribution towards affordable housing.

Can a good standard of amenity be achieved whether the overall effect of the noise exposure

The surrounding area is characterised by low rise development consisting mostly of 2 storey properties, and there are no tall buildings in the vicinity, it would be considerably out of character of this area of private homes.

MCC Environmental Health – Recommend conditions relating to acoustic insulation of the property, air quality exposure assessment, contaminated land remediation strategy and

verification, waste management strategy, and ,a scheme for the provision of electric vehicle charging points.

MCC Flood Risk Management – No objection.

MCC Highway Services – Do not raise highway capacity or safety concerns but do recommend a number of conditions including Cycle Parking, electric vehicle charging points, Off-Site Highways Works, resurfacing of footway, TROs, Formalised vehicular access from Kingsway, Travel Plan, and construction management plan.

Cadent Gas- No objection subject to inclusion of an informative.

Issues

In August 2021 Class MA 'Commercial, business and service uses to dwellinghouses' was introduced which required the need for a Prior Approval application to be submitted to the local authority. Such proposals would be assessed against contamination, flood risk, impacts of noise from commercial premises, natural light to all habitable rooms and the storage of domestic waste. Further amendments were made to Class MA in March 2024 removing two of the tests from class MA (a and c) and these are highlighted with strikethroughs below.

In order to obtain Prior Approval, the following tests (a - g) contained within Class MA1 of the Town and Country Planning (General Permitted Development.) (England) Order 2015 as amended must be complied with:

Class MA requires that that development is not permitted if :
~~a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval; - The applicant has confirmed that the building has been vacant for a continuous period of at least 3 months immediately prior to the submission of this application.~~
b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

The application site falls within Class E at present. This has been confirmed on the previous application forms which identify the site falling within Use Class B1. Further to the amendments of the Use Classes Order in September 2020, these uses have been subsumed into the new Class E. Therefore, the building is Class E. The applicant confirms that the site has been in use for over 2 years for such purposes.

~~c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres; The application proposes the partial change of use under Class MA, with the remainder remaining available for Class E. The proposed area to be changed is 1483sq m – below the 1,500sq m threshold.~~

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;

The site is not within any of the above designations:

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(1);
(iii) the Broads;
(iv) a National Park; or
(v) a World Heritage Site;

The site is in not within any of the above designations

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

The site is not an agricultural tenancy.

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.

None of these apply to the site.

Notwithstanding the above, a number of conditions set out in Section MA.2. in relation to the matters required for determination by a local planning authority as to whether the prior approval is required are:

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

The Council's Highway Services team raise no objections to the proposals in relation to highway or pedestrian safety or impacts on the highway network. Some concerns are raised with regards to the level of car parking provisions and existing issues around on-street parking along Harwood Road, the preference being 100% provision. There are concerns regarding waste collection with collection from Kingsway not being supported and the lack of restrictions on Harwood Road. Servicing is recommended to take place within the site.

Given the sites sustainable location and that measures to improve cycle parking at the site could be secured It is not considered that the provision of 24 dwellings would give rise to significant highway impacts in this location.

b) contamination risks in relation to the building;

The building is an established and long-standing premises, and it is not considered there would be significant contamination risks given the previous use and the existing use. However, it is noted that the submitted Phase 1 desk study was prepared to support proposals to redevelop the site which made a series of recommendations in relation to further investigation and monitoring given the historic use of the land.

c) flooding risks in relation to the building;

There are not perceived to be any flooding risks associated with the premises, it is located within Flood Zone 1 having the lowest probability of flooding.

d) impacts of noise from commercial premises on the intended occupiers of the development;
No objection has been raised by the Council's Environmental Health team with respect to noise impacts. A condition has been proposed in relation to sound insulation for residential amenity purposes to protect occupiers from noise generated by neighbouring uses and wider area.

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 in this instance as the property is not located within a conservation area.

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

The proposals are for the provision of 28 number apartments within the ground and first floors of the building. It has been identified from a review of historic and more recent photographs that there are discrepancies between the submitted proposed floor plans and the external elevations of the building. There are a number of windows serving habitable rooms shown on proposed floor plans that do not exist on the building, this is in relation to apartment numbers 1,2,5,8,10,22 and 24. There are also queries over apartment number 7 and 9 where historic openings were previously blocked up (shown in 2015 and 2021 as blocked up). As a result 11 habitable rooms would not benefit from a natural light source, i.e. an external window which would rise to 13 when including the historic blocked up windows serving apartments 7 and 9.

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 area is not one that is 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

The proposal would not result in the loss of services provided by either a registered nursery or health centre.

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

Not applicable the building does not meet the fire risk condition.

Conclusion

The applicant has demonstrated that the proposal meets the tests contained under section MA1 of the Town and Country Planning (General Permitted Development.) (England) Order 2015 (as amended). In addition, the 28 apartments either meet or exceed the nationally described space standards:
- 1 bed 1 person apartments have a floor area of between 37m² to 43.8m² (37m² minimum requirement)
- 1 bed 2 person apartments have a floor area of between 50m² to 58.7m² (50m² minimum requirement)

-2 bed 3 person apartments have a floor area of between 64.9 m² to 68.1 m² (61 m² minimum)
- 2 bed 4 person apartments have a floor area of between 70.6m² to 71.6m² (70m² minimum requirement)

However, while the proposal meets the majority of the requirements listed under section MA2, the proposals do not provide adequate natural light in all of the habitable rooms with 11 rooms in 7 apartments not having any windows providing a natural source of light and 2 other rooms in 2 apartments believed to not currently have external windows. There are no clauses within Class MA that would permit external elevational changes to a building required in this instance to provide what is indicated on the submitted proposed plans.

In addition to the failure to provide any windows to 11 and potentially 13 proposed habitable rooms, there are further concerns around the provision of adequate natural light to a further 8 habitable rooms in apartment numbers 1,4,6,7 on the ground floor by virtue of the relatively small size of these windows, sited on the western side of the building; and a further bedroom window to apartment 27 on first floor which is of an extremely small sized sited on the northern elevation. All 8 of these windows are considered to fail the requirement of MA.2. f) for the provision of adequate natural light to the habitable rooms of the dwellinghouses that they serve. It is also noted that Paragraph W (Procedure for applications for prior approval under Part 3) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) under clause bc) indicates an application must be accompanied by details of the position and dimensions of windows. The submitted information fails to provide this information.

Paragraph W also states under part (2A) that:
Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses. Given the above consideration of this matter, this application cannot be supported as the submitted details indicate windows to habitable rooms that do not form part of the existing building and there is no provision within Class MA to undertake building operations reasonably necessary to convert the building subject to the prior approval application.

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: REFUSE

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

1) The Prior Approval application for a Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) fails to accord with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA , Paragraph W (2A), with regard to the failure to provide adequate natural light to all habitable rooms.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
MCC Flood Risk Management
Electricity Northwest

Hairdressing Salon, Burnage Cricket And Social Club, Mauldeth Road, Manchester, M19 1AB
197 Mauldeth Road, Manchester, M19 1AX
247A Kingsway, Manchester, M19 1AL
199 Mauldeth Road, Manchester, M19 1AX
Unit S1C, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
First Floor, 189 Mauldeth Road, Manchester, M19 1BA
197B Mauldeth Road, Manchester, M19 1AX
Unit W8, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W7, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
5 Harwood Road, Manchester, M19 1TN
138 Kingsway, Manchester, M19 1BB
Mauldeth Road Railway Station, Mauldeth Road, Manchester, M14 6SG
Burnage Cricket And Social Club, Mauldeth Road, Manchester, M19 1AB
Flat At, Mauldeth Hotel, Kingsway, Manchester, M19 1BB
Suite 8, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 7, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
STEPHEN A BLEASE AND ASSOCIATES, Suite 6, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 5, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 4, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 3, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 2, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W6, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W5, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W4, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W3, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit W2, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Suite 1, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Unit S1A-B, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
247 Kingsway, Manchester, M19 1AL
187A Mauldeth Road, Manchester, M19 1BA
227 Kingsway, Manchester, M19 2WB
187 Mauldeth Road, Manchester, M19 1BA
243 Kingsway, Manchester, M19 2NB
Burnage Cricket Club, Kingsway, Manchester, M19 1AL
Khankah Naqashbandia, 181A Mauldeth Road, Manchester, M19 1BA
Units W1, Kingsway Business Centre, 140 Kingsway, Manchester, M19 1BB
Flat Rear Of, 251 Kingsway, Manchester, M19 1AL
179 Mauldeth Road, Manchester, M19 1BA
188 Mauldeth Road, Manchester, M19 1BF
237 Kingsway, Manchester, M19 2WB
Kingsway Service Station, Kingsway, Manchester, M19 1BB
B And Q, Kingsway, Manchester, M19 1BB
235 Kingsway, Manchester, M19 2WB
233 Kingsway, Manchester, M19 2WB
231 Kingsway, Manchester, M19 2WB
229 Kingsway, Manchester, M19 2WB

189 Mauldeth Road, Manchester, M19 1BA
181 Mauldeth Road, Manchester, M19 1BA
190 Mauldeth Road, Manchester, M19 1BF
186 Mauldeth Road, Manchester, M19 1BF
184 Mauldeth Road, Manchester, M19 1BF
182 Mauldeth Road, Manchester, M19 1BF
180 Mauldeth Road, Manchester, M19 1BF
Rainbows Day Nursery At Mauldeth Hotel, Kingsway, Manchester, M19 1BB
197A Mauldeth Road, Manchester, M19 1AX
245 Kingsway, Manchester, M19 2NB
241 Kingsway, Manchester, M19 2NB
239 Kingsway, Manchester, M19 2NB
253 Kingsway, Manchester, M19 1AL
251 Kingsway, Manchester, M19 1AL
249 Kingsway, Manchester, M19 1AL
183 - 185 Mauldeth Road, Manchester, M19 1BA

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
Area Team Boundary - Name: SOUTH AREA