MANCHESTER CITY COUNCIL

Town & Country Planning Act 1990 (as amended)
Planning (Listed Building & Conservation Area) Act 1990 (as amended)

Refusal of details reserved by condition

Applicant

Mr Johnathon Lowe
Miller Homes North West
103 Dalton Avenue
Birchwood
Birchwood Park
Warrington
WA3 6YF

Agent (if used)

Part 1 – Particulars of the application/development

Proposal: Discharge of Condition 4b (Contaminated Land) attached to planning permission 131147/FO/2021

Location: Manchester College Arden Centre, Sale Road, Manchester, M23 0DD

Date of application: 2 February 2024

Application number: CDN/24/0071

Part 2 – Particulars of decision

Manchester City Council gives notice that the detail(s) referred to in Part 1 are **Refused** in accordance with the information set out below.

Condition 4b - Contaminated Land
Although the substation has now been demolished, there is no additional information regarding the condition of the land or whether any sampling has been completed on this section of the site.

The submitted information doesn't appear to address the comments made in the decision issued against condition discharge reference CDN/23/0815 for information those comments were:

"The recommendations of section 5 of the Smith Grant LLP Environmental Consultancy report reference R3186-R02 dated October 2023 will need to be completed fully in order to discharge condition 4b:-

It is recommended that once the substation is decommissioned and removed, inspection of the ground conditions is undertaken by an independent consultant to confirm the ground conditions and absence of any contamination indicators.

To allow completion of the remediation of the Site in accordance with the recommendations in the Remediation Strategy, the developer is required to place a high-visibility geotextile and 600mm of clean validated soils within all private gardens, or a reduced 300mm cover in areas of soft landscaping and POS.

Due to the limited volume of recovered topsoil, it is considered that the import of clean validated subsoil and/or topsoil will be required. Testing of imported soils will be as per the Strategy requirements and will be subject to the provenance of the soils as follows:
- Confirmed Greenfield Source: 1 sample per 250m3 (minimum 3 samples per single source)
- Characterised Brownfield Source: 1 sample per 100m3 (minimum 3 samples per single source)
- Unknown source: 1 sample per 50m3 (minimum 3 samples per single source)

Validation of the depth of the placed cover soils will be required with 1 depth entry per 3 plots with photographic evidence to show the presence of the geotextile and depth of soil cover.

Production of a verification report will be required and should include representative photographs from the depth validation inspection, confirmation of subsoil and/or topsoil sources and corresponding laboratory test certificate."

Date: 25 March 2024

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 (as amended) or Planning (Listed Building & Conservation Area) Act 1990 (as amended) does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 or sections 20 and 21 of the Planning (Listed Building & Conservation Area) Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet.

Alternatively, appeals can be made on a form which is obtainable from Planning Inspectorate, Customer Support Unit, Room 3/15, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 or by telephone 0117 372 6372.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.