

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139664/FO/2024

Date registered valid: 2 April 2024

Proposal: Retention of reclaimed timber enclosure with planters and roller shutter, main entrance pergola, and external lighting.

Address: Duttons, 2 -10 Albert Square, Manchester, M2 6LW

Ward(s): Deansgate Ward

Applicant: Mr David Espley JW Lees

Agent (if any): Mr Michael Healy Michael Healy Limited

Case officer: Jack Naven
Tel: 0161 219 2095
Email: jack.naven@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: **23rd May 2024**

Application Details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 15 April 2024

Standard consultations:

Printed: 10 April 2024 Expired: 1 May 2024

Neighbour notifications

Printed: 10 April 2024 Expired: 1 May 2024

Site notice

Posted: 15 April 2024 Expired: 7 May 2024

Press advert

Published: 16 April 2024 Expired: 30 April 2024

Departure from Development Plan: No

Environmental Statement: Not required

Description of Site/Area

Listed building: Not applicable

Conservation area: Albert Square Conservation Area 1972

Tree Preservation Order: Not applicable

The proposal relates to the Founders Hall, a public house that was recently called Duttons, and is located within Albert Square in Manchester City Centre. It is located within the Albert Square Conservation Area.

Albert Square is currently undergoing a significant regeneration as a part of the works to improve Manchester Town Hall.

The public house takes up the ground floor and basement of the elevation of 2-10 Albert Square that faces out on to Albert Square. The upper levels of the building contain offices.

The building features an arched brick recess / colonnade on the building's principal elevation that faces on to Albert Square.

The external seating area is located beneath the colonnade and on the pavement directly in front of the public house on Albert Square.

The uses of the surrounding buildings are varied in nature and include offices, drinking establishments, cafes, restaurants.

The site must be considered within the context of various listed buildings, including the Grade I listed Manchester Town Hall, and the Albert Square Memorial, as well as the Grade II listed 1 Albert Square, Jubilee Fountain, Bright's Statue, Heywood's Statue, and Gladstone's Statue.

Description of Development

The application seeks the retention of reclaimed timber enclosure with planters and roller shutter, main entrance pergola, and external lighting.

The timber enclosure serves as a storeroom that provides a secure store for the tables, chairs and barriers during trading times when public events are taking place in Albert Square and also during non-trading hours.

The applicant notes that these works have been carried out following Manchester City Council's requests and Greater Manchester Police Design for Security recommendations.

It is acknowledged that a series of meetings were held between the applicant and the City Centre Growth & Infrastructure team and that during these meetings the Council requested that all external furniture located on the pavement in front of Founders Hall was securely stored during public event periods. However, it is understood that no specific advice on how this should be stored was given.

Related Applications

139665/AO/2024 - Retention of an internally illuminated individual letter sign and 2no. internally illuminated projecting signs.

Split decision issued in tandem with this application.

105713/FU/2014/C1 - Use of external paving for the siting of tables and chairs and ancillary equipment associated with and ancillary to the restaurant/bar within the ground floor of 2-10 Albert Square.

Approved October 2014.

Consultations & Notification Responses

Highway Services – Requested that an informative be added concerning any Highways related issues that may arise during construction. As the structure has already been built and is in place, this informative has not been added.

Environmental Health – No comment.

Publicity - Neighbour notification letters were sent to surrounding properties. A site notice and local press advert were also produced. At the time of writing this report, no representations have been received because of this publicity.

Policy

The following policy and guidance is considered relevant to the consideration of this application:

The Adopted Core Strategy for the City of Manchester

SP1 (Spatial Principles) - refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety, and well-being of residents, consider the needs of all members of the community, and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use

of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

EN1 (Design Principles and Strategic Character Areas) - advises that development provide opportunities for good design to enhance the overall image of the City should be fully realised and both reinforce and enhances the local character.

EN3 (Heritage) advises that new developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment.

CC9 (Design and Heritage) advises that development in Manchester should preserve or enhance the heritage assets affected.

DM1 (Development Management) - which states that all development should have regard to a number of specific issues the following of which are relevant to this application and for which more detailed guidance may be given within a supplementary planning document:

- o Impact on the surrounding areas in terms of the design, scale, and appearance of the proposed development.
- o Development should have regard to the character of the surrounding area.
- o Effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- o Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- o Community safety and crime prevention.
- o Design for health.
- o Refuse storage and collection.
- o Vehicular access and car parking.

The Unitary Development Plan for the City of Manchester

DC18.1 (Conservation Areas) states that the Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering issues including the effect of signs and advertisements.

DC19.1 (Listed Buildings) advises that in determining applications for listed building consent the Council will have regard to the desirability of securing the retention, restoration, maintenance and continued use of such buildings and to protecting their general setting. The City Council will:

- Not permit any external or internal alteration or addition to a listed building where in its opinion, there would be an adverse effect on its architectural or historic character.

The Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (Adopted 2007)

This document provides guidance to help develop and enhance Manchester. In particular, the SPD seeks appropriate design, quality of public realm, facilities for disabled people (in accordance with Design for Access 2), pedestrians and cyclists. It also promotes a safer environment through Secured by Design principles, appropriate waste management measures and environmental sustainability.

Paragraph 2.7 states that Chapter 2 'Design' - outlines the City Council's expectations that all new developments should have a high standard of design making a positive contribution to the City's environment, and encourages "the most appropriate form of development to enliven neighbourhoods and sustain local facilities. The layout of the scheme and the design, scale, massing and orientation of its buildings should achieve a unified form which blends in with, and links to, adjacent areas.

Places for Everyone

The Places for Everyone Plan is a Joint Development Plan Document, providing a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester.

Policy JP-P1 (Sustainable Places) aims to become one of the most liveable city regions in the world, consisting of a series of beautiful, healthy and varied places, each having the following key attributes that all development, wherever appropriate, should be distinctive, with a clear identity, visually stimulating, socially inclusive, resilient, adaptable, durable, resource efficient, safe, supported by critical infrastructure, functional and convenient, incorporating accessibility, legible easy to move around, well connected, comfortable and inviting, incorporating high quality and well managed green infrastructure and public realm, well served by local shops, services and amenities.

National Policy

Decisions should accord with the requirements of the **National Planning Policy Framework (2023)**, in particular to **Section 12 (Achieving Well-Designed Places)**, which states that:

"Development that is not well designed should be refused, specifically where it fails to reflect local design policies and government guidance on design. Developments should help to raise the standard of design more generally in an area and fit in with the overall form and layout of their surroundings" (NPPF paragraph 139).

Section 16 (Conserving and Enhancing the Historic Environment) addresses how proposals that affect heritage assets should be considered.

Paragraph 201 advises that Local Planning Authorities (LPAs) should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 202 advises that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 203. States that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness

Paragraph 206 States that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.

The **National Design Guide (January 2021)** illustrates how well-designed places that are beautiful, enduring, and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

There are 10 characteristics of well-designed places within the National Design Guide which are listed below:

- o Context - enhances the surroundings
- o Identity - attractive and distinctive
- o Built form - a coherent pattern of development
- o Movement - accessible and easy to move around
- o Nature - enhanced and optimised
- o Public Spaces - safe, social, and inclusive
- o Uses - mixed and integrated
- o Homes and buildings - functional, healthy, and sustainable
- o Resources - efficient and resilient
- o Lifespan - made to last

Other Legislation

Sections 16, 66, and 72 of the **Listed Buildings and Conservation Areas Act 1990** require that special consideration is given to the preservation of the significant fabric and setting of listed buildings and conservation areas.

Issues

As the unit in question is already within Class E use, and no further change of use is proposed, only Planning considerations related to the shopfront alterations themselves will be considered, not the use of the premises as a restaurant.

Principle of Development

The principle of the development for the timber enclosure is not accepted. There has not been a thorough options analysis provided that demonstrates the other options considered for the purposes of storing the tables and chairs and explains why these options have been discounted in favour of the timber enclosure.

Without this justification and options analysis, the Local Planning Authority have to conclude that there has been insufficient evidence to support the need for this.

There principle of installing a main entrance pergola and external lighting is accepted.

Visual Amenity

The timber structure blocks up one of the arches of the elevation facing Albert Square. The blocking of this arch is considered to cause harm to the visual amenity of the building, surrounding street scene, and conservation area, by interrupting the previously clear and consistent architectural feature of open arches across this elevation.



Structure in place

Notwithstanding the issue of principle as detailed above, in any event the timber materials are not considered to be consistent with the materiality of structures within the Albert Square conservation area, and adjacent listed buildings which primarily features structures built of brick and stone. The introduction of such an incongruous and alien feature is not supported in this area.

Although there is a temporary attempt to screen the shutter on site (please refer to the photograph below), this is not considered to be significant enough to screen the entirety of the shutter from view. In any case, there is no mention on any of the plans or supporting documents about any formal process as to how this roller shutter will be screened.



Structure within context of the Albert Square elevation

The timber enclosure and roller shutter are considered to cause less than substantial harm to the building, surrounding street scene, conservation area, and nearby listed buildings. Albert Square and the conservation area are an important historical area. The modern buildings and structures have been constructed to be sympathetic to the historic importance of this prominent square outside the Town Hall.

There are no obvious public benefits that would outweigh the less than substantial harm as required by paragraph 206.

It is not considered that the works preserve or enhance the character of Albert Square Conservation Area, or that they preserve or enhance the heritage assets affected. Core Strategy Policy CC9 (Design and Heritage) advises that development in Manchester should preserve or enhance the heritage assets affected and UDP policy DC18.1 (Conservation Areas) states that the Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering issues including the effect of signs and advertisements. This is echoed by the requirements of S66 and S72 of the Planning and Listed Buildings Act in relation to setting.

These works are not considered to be in keeping with the high-quality design of the surrounding area and are particularly considered to not be complimentary to the high-quality public realm amenity of Albert Square, which is currently undergoing significant regeneration as a part of the Town Hall Regeneration Project. This project has an entire budget of £330 million across the Town Hall and Albert Square, and any works in the surrounding area should complement this significant regeneration project.



Roller Shutter in place

Public Safety

There are no public safety concerns with the proposals. The timber structure raised no highway safety concerns.

The Design for Security team at Greater Manchester Police have advised the applicant that *“The tables, chairs and temporary barriers should be removed and secured within a locked storage area no later than 11pm”*. and *“Albert Square is often used for large public events; all outdoor furniture should be removed from this area during those times”*.

Whilst the Local Planning Authority (LPA) support the recommendation to secure the tables, chairs, temporary barriers, and any other associated outdoor furniture, and this would certainly improve public safety, it is has been clearly demonstrated to the LPA as to what other options have been considered in order to achieve this, and a thorough justification has not been provided.

Access

The existing pedestrian access points to the public house will remain as existing.

Conclusion

Whilst the works of installing a main entrance pergola and external lighting are acceptable, the retention of the timber enclosure with planters and roller shutter, has been recommended to be refused on the ground of adverse visual amenity, harm to the setting of heritage assets and failure to preserve or to enhance setting for reasons outlined above. The development is therefore contrary to policies EN1, EN3, SP1, CC9, and DM1 of the Manchester Core Strategy (2012) and saved policy DC18 and DC19 of the Unitary Development Plan for the City of Manchester, and the NPPF.

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: Refuse

Article 35 Declaration

Officers have worked with the applicant/agent in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Reasons for Refusal

1) The retention of the timber enclosure with planters and roller shutter, by reason of its siting, design, appearance, and materiality, forms an incongruous and unsympathetic feature to the existing building, appearing out of context and out of character with both the building and the surrounding area. The development has therefore resulted in an unduly harmful impact on visual amenity together with the setting of the Albert Square Conservation Area and the recently improved Albert Square Public Realm, and nearby Grade I and Grade II listed buildings including the Grade I listed Town Hall and Albert Square Memorial. This has resulted in less than substantial harm to the setting of these important heritage assets and the required public benefits do not exist to outweigh this harm. The development is therefore contrary to policies EN1, EN3, SP1, CC9, and DM1 of the Manchester Core Strategy (2012) and saved policy DC18 and DC19 of the Unitary Development Plan for the City of Manchester, and the NPPF.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Level 1, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
First Floor Offices, 9 Princess Street, Manchester, M2 4DN
9 Princess Street, Manchester, M2 4DN
Fifth Floor, 9 Princess Street, Manchester, M2 4DN
Ground Floor, 57 Cross Street, Manchester, M2 4JW
Fourth Floor, 1 Princess Street, Manchester, M2 4DD
Basement, 3 - 5 Princess Street, Manchester, M2 4DF
Town Hall, Albert Square, Manchester, M2 5DB
Level 3, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Basement, 2 - 10 Albert Square, Manchester, M2 6LW
Ground Floor, 2 - 10 Albert Square, Manchester, M2 6LW
Fifth Floor, 2 - 10 Albert Square, Manchester, M2 6LW
Maray Restaurant, 2 - 10 Albert Square, Manchester, M2 6LW
Xana Health Manchester Clinic, 1 Albert Square, Manchester, M2 6LW
Second Floor, 1 Albert Square, Manchester, M2 6LW
59A Cross Street, Manchester, M2 4JW
1 Princess Street, Manchester, M2 4DF
City Council Engineers And Surveyors, Albert Square, Manchester, M2 5HD
Level 5, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Level 7, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Fourth Floor, 2 - 10 Albert Square, Manchester, M2 6LW
50 - 52 Brazennose Street, Manchester, M2 5EA
Northern Assurance Building, 9 - 21 Princess Street, Manchester, M2 4DN
Pearl Assurance House, 23 Princess Street, Manchester, M2 4EN
57 Cross Street, Manchester, M2 4JW
Ground Floor, 59 Cross Street, Manchester, M2 4JW
Johnson THE CLEANERS, 61 Cross Street, Manchester, M2 4JW
Front And North Wings Level 6, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Second Floor, 2 - 10 Albert Square, Manchester, M2 6LW
Third Floor, 9 Princess Street, Manchester, M2 4DN
8 - 10 Clarence Street, Manchester, M2 4DW
23A Princess Street, Manchester, M2 4EN
First And Second Floor, 59 Cross Street, Manchester, M2 4JW
3 - 5 Princess Street, Manchester, M2 4DN
7 Princess Street, Manchester, M2 4DN

Third Floor Office, 1 Princess Street, Manchester, M2 4DF
First Floor, 2 - 10 Albert Square, Manchester, M2 6LW
Optimax Laser Eye Clinic, Third Floor, 1 Albert Square, Manchester, M2 6LW
Fourth Floor, 9 Princess Street, Manchester, M2 4DN
Ground Floor And First Floor, 3 - 5 Princess Street, Manchester, M2 4DN
Second Floor Offices, 1 Princess Street, Manchester, M2 4DF
First Floor, 1 Princess Street, Manchester, M2 4DF
Sixth Floor, 9 Princess Street, Manchester, M2 4DN
Slug And Lettuce, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Level 2, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Third Floor, 2 - 10 Albert Square, Manchester, M2 6LW
1 Albert Square, Manchester, M2 3FU
Skin Clinics, Fourth Floor, 1 Albert Square, Manchester, M2 6LW
25 Princess Street, Manchester, M2 4HH
Basement And Ground Floor, 25 Princess Street, Manchester, M2 4HH
Level 4, Heron House, 11 - 12 Albert Square, Manchester, M2 5HD
Ditto, 2 - 10 Albert Square, Manchester, M2 6LW
Basement To First Floor, 1 Albert Square, Manchester, M2 3LW
Second Floor, 9 Princess Street, Manchester, M2 4DN
Ground Floor, 7 Princess Street, Manchester, M2 4DF
Basement, 9 Princess Street, Manchester, M2 4DN

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - Albert Square Conservation Area 1972
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: CENTRAL