

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139274/NMC/2024

Date registered valid: 20 February 2024

Proposal: Non-material amendment to the wording of condition 33 (Scheme for provision of affordable housing) attached to planning permission 136878/FO/2023

Address: 4B Albany Road, Manchester, M21 0AW

Ward(s): Chorlton Ward

Applicant: Bowsall Developments Ltd and Southway Housing Trust

Agent (if any): Mrs Beverley Moss Hourigan Planning

Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: APPROVE

Date of recommendation: 11.03.2023

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 area

The application site currently comprises a single storey industrial unit currently occupied by Autometers Systems Limited, and car parking. The building forms part of the Albany Road Trading estate which extend to the south of the site. The site is bound to the east by a Metrolink line and to the north is the Quadrangle, a three and four storey apartment block. To the west of the site are three storey residential terraces which face Albany Road. The site is generally flat but is approximately 1.5m below the existing pavement /highway level, bounded by a chain link fence and a grass bank. The site has limited vegetation, however there are existing trees that share the boundary with the Metrolink line. The Chorlton District Centre boundary lies a short distance to the north, south and west of the application site. The existing building forms one of many industrial units on the Albany Road Trading Estate which contains a variety of businesses including building and plumbing suppliers, MOT testing centres, car services and repairs and a recording studio. There are limited hours of use restrictions on the units within the trading estate and the unit on the application site has no such restrictions on its hours of operation.

Description of development

Planning permission was granted in October 2023 for the demolition of the existing industrial building on the site and the redevelopment of the site to provide a 4-storey building comprising 40no. self-contained apartments which would all be provided as affordable housing through a Shared Ownership model that would be operated by an affordable housing registered provider.

The scheme would provide car parking spaces for 20 vehicles accessed via a ramp leading down from Albany Road underneath the building, whilst an internal covered and secure bicycle store is provided for 40 no. bike spaces. The proposals incorporate landscaping and installation of boundary treatments around the site and provision of waste bin store.

The applicant is now seeking a non-material amendment to the wording of condition 33 (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 33 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 33 '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.

Amended condition 33

33) 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 and thereafter observed 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

Flood Zones Type 2 (low to medium risk) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH AREA