

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138733/P3MA/2023
Date registered valid: 4 December 2023
Proposal: Prior Approval for change of use from offices (Class E - Commercial, Business and Service) to 24 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: David Lawless
Tel: 0161 234 4543
Email: david.lawless@manchester.gov.uk

Recommendation: REFUSE
Date of recommendation: 5 February 2024



Application details

Type of application: Prior Approval applications for change o

Development type: Notifications

Date of site visit: 5 January 2024

Standard consultations:

Printed: 12 December 2023

Expired: 2 January 2024

Neighbour notifications

Printed: 12 December 2023

Expired: 2 January 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

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 the 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 east is the exit road from the B and M retail outlet. Beyond the exit road lies a railway. To the north of the building there 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 and which is in private ownership.

Listed building: no

Conservation area: no

Tree Preservation Order: no

Description of development

The applicant is seeking prior approval for the change of use of most of the ground and first floor of the offices into a total of 24 self-contained flats. The portion of the office building closest to Kingsway would remain as a Class E (offices) use.

A total of 25 car parking spaces would be provided to the north of the building

Consultations & Notification Responses

Local Residents/Businesses – A petition of 265 signatures has been received from the adjoining mosque, the concerns raised are as follows:

- The use of the building as flats would cause disruption to the operation of the mosque on its busiest days, by hindering access to their associated car parking areas.

- Residents of the new flats would use the mosque car parking areas for their own use.
- The use of Harwood Road by future tenants would have an impact on highway safety and endanger visitors to the mosque.

Environmental Health – Suggests the imposition of a number of conditions designed to protect residential amenity and public health.

MCC Flood Risk Management – Suggests the imposition of a number of drainage conditions.

Highway Services – Has made the following comments:

- The number of vehicular trips associated with site is expected to not be significant and therefore it is accepted that the adjacent highway network can facilitate such additional demands with no highway safety or capacity concerns.
- Highways have no concerns about highway safety issues within the vicinity of the site.
- The site is well accessed by sustainable modes.
- It is recommended that the existing wall adjacent to the access be moved and proposed parking space adjacent to the bin store be removed.
- It is requested that servicing (including waste collection) is undertaken within the site.

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.

In order to obtain Prior Approval, the following tests (a - g) contained within Class MA1 of the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 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 sub-paragraph (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 is confirmed on the previous application forms for 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 can confirm 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 in none 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 none 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 tests set out in Section MA2 also need to be assessed, these are detailed below:

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

The proposals are considered to be located within a sustainable and accessible location and the access from Kingsway does not raise any significant highways issues, particularly given the fact the applicant has undertaken revisions to the scheme at the request of Highway Services, namely:

- Removal of the car parking accessed off Harwood Road and
- Removal of the brick wall adjoining the Kingsway access point.

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 contamination risks given the previous use and the existing use. However, as soil may be imported as part of a landscaping scheme it is considered prudent to attach condition 9 to any approval granted.

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. Despite this, it is considered prudent to attach the drainage conditions suggested by the Flood Risk Management Team to any consent granted.

d) impacts of noise from commercial premises on the intended occupiers of the development;

Following the assessment of the submitted noise assessment a condition is recommended from Environmental Health officers to ensure a suitable acoustic insulation scheme is installed 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

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

A total of 52 habitable rooms are to be provided, of which 12 would not benefit from a natural light source, i.e. an external window.

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;

Not applicable

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

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

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

Conclusion

The applicant has demonstrated that the proposal meets the tests contained within under section MA1 of the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021. In addition, the 24 apartments that either meet or exceed the nationally described space standards:

- 1 bed 1 person apartments have a floor area of between 37m² to 39.5m² (37m² minimum requirement)
- 1 bed 2 person apartments have a floor area of between 50.8m² to 51.8m² (50m² minimum requirement)

- 2 bed 4 person apartments have a floor area of between 70m² to 78m² (70m² minimum requirement)

However, while the proposal meets the majority of the requirements listed under section MA2, it does not provide a natural light source to all of the habitable rooms. Only 77% of the habitable rooms would benefit from a natural light source and accordingly part f of section MA2 has not been complied with.

Section W (Procedure for applications for prior approval under Part 3) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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, this application cannot be supported.

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

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

1) The Prior Approval application would fail to accord with the assessment criteria that seeks to safeguard residential amenity as specified within The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 Part 3 of Schedule 2, Class MA - commercial, business and service uses to dwellinghouses and Procedure for applications for prior approval under Part 3, Paragraph W, with particular regard to the failure to support the proposed configuration of internal spaces with the adequate provision of natural light. The proposed residential change of use would thereby be harmful to the amenity of future residents contrary to policies SP1 and DM1 of the Core Strategy for the City of Manchester.

Appendix 1 – List of consultees & neighbours notified

Highway Services

Environmental Health

MCC Flood Risk Management

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

101 Burnside Drive, Manchester, M19 2NA

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

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
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
82 Burnside Drive, Manchester, M19 2WA
Hairdressing Salon, Burnage Cricket And Social Club, Mauldeth Road, Manchester, M19 1AB
197 Mauldeth Road, Manchester, M19 1AX
103 Burnside Drive, Manchester, M19 2NA
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

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