MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	139780/P3MA/2024
Date registered valid:	15 April 2024
Proposal:	Prior approval for the change of use from physiotherapists, to a single residential dwellinghouse.
Address:	3 Warburton Street, Manchester, M20 6WA
Ward(s):	Didsbury East Ward
Applicant:	Ms B Hall
Agent (if any):	Mr Simon Miles S R Miles Ltd
Case officer:	Robert Griffin Tel: 0161 234 4527 Email: robert.griffin@manchester.gov.uk
Recommendation:	No Objection
Date of recommendation:	**30th May 2024**

Application details

Type of application: Prior Approval sui generis to dwell

Development type: Change of use

Date of site visit: 14th May 2024

Standard consultations:
Printed: 15 April 2024 Expired: 7 May 2024

Neighbour notifications
Printed: 15 April 2024 Expired: 7 May 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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area
The application property is a mid-terrace red brick two storey property and contains front and rear amenity areas but no dedicated off-street car parking, which was converted to a physiotherapy clinic in the mid 2000s from a dwellinghouse. Subsequent extensions and detached buildings to the rear garden area were installed as set out within the planning history section below. The property lies adjacent the Didsbury District Centre and in close proximity to a number of commercial properties including public houses. The property is well located in relation to Metrolink, the bus and cycle networks.

The property comprises a ground and first floor currently used as treatment rooms and administrative functions of the existing use.

Description of development

The application proposals relate to the prior approval for the change of use of the property to a single dwellinghouse which would comprise living space on the ground floor and bedroom and study room on the first floor. The property would comprise approximately 68.1sqm of floorspace which would be within the national described standards for a one bedroom two person two storey property (58 sqm).

Relevant Planning History

076013/FU/2005/S2- Change Of Use from dwelling to Physiotherapy clinic - Approved 15.07.2005

079741/FO/2006/S2 - Installation of ramp to front of building. - Approved 21.07.2006

085004/JO/2007/S2 - Variation of Condition No.4 on application 076013/FU/2005/S2 to increase hours of operation from 8.00 a.m to 8.00 p.m Monday to Friday to 8.00a.m to 9.00 p.m Monday to Friday - Refused 09.01.2008

114660/FO/2016 - Retention of detached outbuilding in rear garden - Approved 19.01.2017

111160/FO/2016/S2 - Erection of a single storey together with insertion of velux rooflight to front roof - Approved 08.03.2016

Consultations & Notification Responses

Neighbouring properties were notified of the proposals, no responses were received.

MCC Environmental Health – Recommend conditions be attached to any approval to agree waste storage details and acoustic insulation of the property from noise associated with local traffic and commercial premises.

MCC Highways – Raise no objections but request further details with regards to the storage and disposal of waste.

MCC Flood Risk Management – Raise no objection on flood risk grounds.

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 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;~~
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 building has been in continuous use as indicated by the applicant.*

The application site falls within Class E (e) at present 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.

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 1 dwelling 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.

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 local traffic.

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 premises would provide adequate natural light to habitable rooms.

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.

As the proposals meets the requirements of Schedule 2 Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there are no objections to this prior approval subject to conditions relating to acoustic insulation and waste management.

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: No Objection

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

1) The City Council is satisfied that this development has minimal transport impacts, that there are no known contamination or flood risks at the site, and that the proposal would provide adequate natural light to habitable rooms of the dwellinghouses.

The proposal therefore complies with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Approval is hereby granted in accordance with drawing numbered 24 422 PL200 Issue P1 'Proposed Plans and Elevations' received by the City Council, as Local Planning Authority on 15th April 2024.

Conditions

1) a) Before the development commences a scheme for acoustically insulating the proposed residential accommodation against noise from the local traffic network shall be submitted to and approved in writing by the City Council as local planning authority. There may be other actual or potential sources of noise which require consideration on or near the site, including any local commercial premises and associated externally fixed plant. The approved noise insulation and ventilation scheme shall be completed before any of the dwelling units are occupied.

b) Prior to first occupation of the residential units, a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the internal noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the internal noise criteria.

Reason: To secure a reduction in noise from traffic or other sources in order to protect future residents from noise disturbance pursuant to policy DM1 of the Core Strategy and saved Unitary Development Plan policy DC26.

2) a) Before the development commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority.

b) The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health pursuant to policy DM1 of the Core Strategy.

Informatives

1) 1) In order to discharge condition 1 of this approval noise survey data shall include measurements taken during a rush-hour period and night time to determine the appropriate sound insulation measures necessary. The following noise criteria shall be required to be achieved:
Bedrooms (night time - 23.00 - 07.00) 30 dB LAeq (individual noise events shall not exceed 45 dB LAmax,F by more than 10 times)
Living Rooms (daytime - 07.00 - 23.00) 35 dB LAeq
Gardens and terraces (daytime) 55 dB LAeq

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
MCC Flood Risk Management

671 Wilmslow Road, Manchester, M20 6RA
4 Warburton Street, Didsbury, Manchester, M20 6WA
Orchard Interiors, 2 Warburton Street, Didsbury, Manchester, M20 6WA
11 Warburton Street, Didsbury, Manchester, M20 6WA
15 Warburton Street, Didsbury, Manchester, M20 6WA
17 Warburton Street, Didsbury, Manchester, M20 6WA
9 Warburton Street, Didsbury, Manchester, M20 6WA
8 Warburton Street, Didsbury, Manchester, M20 6WA
6 Warburton Street, Didsbury, Manchester, M20 6WA
663A Wilmslow Road, Manchester, M20 6RA
5 Warburton Street, Didsbury, Manchester, M20 6WA
7 Warburton Street, Didsbury, Manchester, M20 6WA
Flat At, Dog And Partridge, 667 Wilmslow Road, Manchester, M20 6RA
Dog And Partridge, 667 Wilmslow Road, Manchester, M20 6RA
663 Wilmslow Road, Manchester, M20 6RA
661 Wilmslow Road, Manchester, M20 6RA
659 Wilmslow Road, Manchester, M20 6RA
O'Neills, 655 - 657 Wilmslow Road, Manchester, M20 6RA
661A Wilmslow Road, Manchester, M20 6RA
669 Wilmslow Road, Manchester, M20 6RA
1 Warburton Street, Didsbury, Manchester, M20 6WA

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
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA