

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139338/NMC/2024

Date registered valid: 21 February 2024

Proposal: Variation of condition no. 4 (affordable housing) attached to planning permission 134603/FO/2022 to allow for alternative wording

Address: Pellowe House , Francis Road, Manchester, M20 4XP

Ward(s): Withington Ward

Applicant: Southway Housing Trust (Manchester) Limited

Agent (if any): Mr Stephen Morgan-Hyland Sevo Planning Limited

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

Recommendation: Approve

Date of recommendation: 11 March 2024

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 the site

The application site comprises a part two/part single storey industrial building constructed of brick with its main frontage to Francis Road and rear area of hardstanding given over to car parking and accessed via a narrow access road running from Cotton Lane. Immediately to the south of the site is a two-storey building 'Kingslea House' in use by the NHS which has accesses to the front and rear.

The western boundary of the site is marked by a mixture of brick wall and concrete post and panel fence beyond this is the rear alleyway with vegetation and trees on the boundary separating the site from the two storey terraced properties located on Henwood Road. The existing buildings' gable wall forms the northern boundary of the site with a rear alleyway to the rear gardens of numbers 24-28 Cotton Lane. The Francis Road frontage of the site is dominated by the existing building which extends along the full extent of the application site separated from the pavement by hard standing marked out as car parking.

Description of proposals

Planning permission 134603/FO/2022 was granted on the 16th December 2022 for the erection of three storey building to provide 24 apartments following demolition of existing buildings and including the creation of a new vehicular access from Francis Road, parking provision, landscaping and associated works. The applicant has confirmed that the proposals relate to the provision of an affordable housing scheme with all proposed 24 no. units to be provided as

affordable homes for affordable or social rent. The proposals incorporate 16 no. 1 bedroom and 8 no. 2 bedroom apartments arranged over three floors with an undercroft access road to the northern section of the building.

The applicant is now seeking a non-material amendment to the wording of condition 4 (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 4 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 4 '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.
- 4) 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

Area Team Boundary - Name: SOUTH AREA