

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138876/NMC/2023

Date registered valid: 20 December 2023

Proposal: Non material amendment to application ref no 125573/FO/2019 as amended by 132553/NMC/2021, 132804/NMC/2022, 135358/NMC/2022, 135526/NMC/2022 and 138391/NMC/2023 to amend to revise to the description of development to reflect approved plans and updates to Use Classes Order and make relevant amendments to existing planning conditions (15,17,18,19 and 33)

Address: Block A/B, Plot 11, First Street Which Comprises Land Bound By Hulme Street To The North, Wilmott Street To The East, The Unite Parkway Gate Development And Mancunian Way To The South And Medlock Street To The West, Manchester

Ward(s): Deansgate Ward

Applicant: Downing Living (Manchester) Limited Partnership Incorpora...

Agent (if any): Kelly McCann Deloitte LLP

Case officer: Angela Leckie
Tel: 0161 234 4651
Email: angela.leckie@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 16-01-24

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Date of site visit: N/A

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

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

The site measures 1.2ha and is bounded by Hulme Street, Wilmott Street, the Parkway Gate student accommodation, Mancunian Way and Medlock Street. It is within part of the City Centre known as First Street which has been a regeneration priority for over a decade.

Consent was granted under application ref no 125573/FO/2019 for the construction of four buildings of heights varying from 10 storeys to 45 storeys together comprising Co-living bedspaces (use class sui generis) and associated amenity facilities, with ground floor commercial units (Use classes A3 (Café / Restaurant and D2 (Gym)), private amenity space and public realm comprising hard and soft landscaping, car parking and cycle facilities and other associated works.

Description of development

This Non-Material Amendment Application seeks to remove some minor discrepancies identified between the approved description of development, subsequent non material amendment applications and associated conditions, and approved plans and technical documents. The approved description of development refers to ground floor commercial use only, despite the approved First Floor Plan (10266-Z0-A-G100-PL-01-99001 REV P03) (138876/NMC/2023) showing commercial uses at both ground and first floor level, within Block B. The amendments also seek to capture the range of permitted uses now permitted under the equivalent parts of Class E of the current Use Classes Order and includes for permitting a hairdressers. In terms of the latter this would not have any additional impact that the previously named permitted uses would have on terms of amenity.

Given the above there is also a need to amend the description of development.

Consultations & Notification Responses

None

Issues**Principle of the changes as a non material amendment**

The proposed amendments would not result in any material change in the scale and massing of the proposed building or the external appearance of the scheme as a whole. The application seeks to remove some minor discrepancies identified between the approved description of

development, subsequent non material amendment applications and associated conditions, and approved plans and technical documents. The approved description of development refers to ground floor commercial use only, despite the approved First Floor Plan showing commercial uses at both ground and first floor level, within Block B. The amendments also seek to capture the range of permitted uses now permitted under the equivalent parts of Class E of the current Use Classes Order and includes for permitting a hairdressers. In terms of the latter this would not have any additional impact that the previously named permitted uses would have on terms of amenity.

In the context of the above an amended description of development as follows is acceptable:

Construction of four buildings of heights varying from 10 storeys to 45 storeys together comprising Co-living bedspaces (use class sui generis) and associated amenity facilities, with ground floor and first floor commercial and first floor commercial (Use Class E a (retail), E b (Cafe / restaurant), E (c) Hairdressers and E(d) (Gym), private amenity space and public realm comprising hard and soft landscaping, car parking and cycle facilities and other associated works.

Given the above the amendments are considered to be acceptable.

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) Reason 1: Following an assessment of the details and plans submitted, it is confirmed that the proposed amendments are considered to be of a non-material nature and acceptable to the City Council as Local Planning Authority. The City Council is satisfied that the proposed changes will have no material impact upon the previously approved scheme and the works will not adversely affect visual or residential amenity within the area or will they have any significant material impact upon the overall quality of the development

2) This Non-Material Amendment Application seeks to remove some minor discrepancies identified between the approved description of development, subsequent non material amendment applications and associated conditions, and approved plans and technical documents. The approved description of development refers to ground floor commercial use only, despite the approved First Floor Plan (10266-Z0-A-G100-PL-01-99001 REV P03) (138876/NMC/2023) showing commercial uses at both ground and first floor level, within Block B. The amendments also seek to capture the range of permitted uses now permitted under the equivalent parts of Class E of the current Use Classes Order and includes for permitting a hairdressers. In terms of the latter this would not have any additional impact that the previously named permitted uses would have on terms of amenity.

As such the description of development will be amended to the following:

Construction of four buildings of heights varying from 10 storeys to 45 storeys together comprising Co-living bedspaces (use class sui generis) and associated amenity facilities, with ground floor and first floor commercial and first floor commercial (Use Class E a (retail), E b (Cafe / restaurant), E (c) Hairdressers and E(d) (Gym), private amenity space and public realm comprising hard and soft landscaping, car parking and cycle facilities and other associated works.

15) (a) In relation to the residential accommodation, the development shall be carried out in accordance with the following, as approved under ref. CDN/23/0533: DOWNING LIVING. PLOT 11, FIRST STREET SOUTH, MANCHESTER, DISCHARGE OF PLANNING CONDITION 15,28 July 2023 AEC REPORT: P3921/R9/PJK by AEC. The approved scheme shall be completed before the premises is occupied and a verification report submitted for approval by the City Council as local planning authority and any non-compliance suitably mitigated in accordance with an agreed scheme prior to occupation. The approved scheme shall remain operational thereafter.

(b) Prior to occupation of each of the ground floor and first floor commercial units

a scheme for the acoustic insulation of any externally mounted ancillary equipment associated with the development to ensure that it achieves a background noise level of 5dB below the existing background (La90) at the nearest noise sensitive location shall be submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the equipment. The approved scheme shall be completed before the premises is occupied and a verification report submitted for approval by the City Council as local planning authority and any non compliance suitably mitigated in accordance with an agreed scheme prior to occupation. The approved scheme shall remain operational thereafter.

Reason - To secure a reduction in noise in order to protect future residents from noise nuisance, pursuant to policies SP1, H1 and DM1 of the Core Strategy.

17) Before each of (a) the residential accommodation and (b) each of the Use Class E a (retail), E b (Cafe / restaurant), E (c) Hairdressers and E (d) (Gym) units within Block A/ B commences a scheme for acoustically insulating the ground and first floor units (defined in b above) to

ensure that there is no unacceptable level of noise transfer from the ground floor and first floor uses to the residential accommodation above shall be submitted to and approved in writing by the City Council as local planning authority.

Where entertainment noise is proposed the LAeq (entertainment noise) shall be controlled to 10dB below the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive location, and internal noise levels at structurally adjoined residential properties in the 63Hz and 125Hz octave frequency bands shall be controlled so as not to exceed (in habitable rooms) 47dB and 41dB, respectively.

The approved noise insulation scheme shall be completed before any of the approved uses commence.

Prior to occupation a post completion report to verify that all of the recommended mitigation measures have been installed and effectively mitigate any potential adverse noise impacts in adjacent residential accommodation arising directly from the proposed development shall be submitted and agreed in writing by the City Council as local planning authority. Prior to occupation any non compliance shall be suitably mitigated in accordance with an agreed scheme.

Reason - To secure a reduction in noise in order to protect future residents from noise nuisance, pursuant to policies SP1 and DM1 of the Core Strategy and saved UDP Policy DC26.

18) Before each of the Use Class E (a) retail, E (b) (Cafe / restaurant), E (c) Hairdressers and E (d) (Gym) units within the ground and first floor of Block A/ B commence details of the proposed opening hours shall be submitted to and approved in writing by the City Council as local planning authority. The units shall be not be operated outside the hours approved in discharge of this condition.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

19) Final details of the method of extraction of any fumes, vapours and odours from any kitchen within each of the Use Class E a (retail), E b (Cafe / restaurant), E (c) Hairdressers and E (d) (Gym) units within the ground and first floor of Block A/ B shall be submitted to and approved in writing by the City Council as local planning authority prior to commencement of those uses. The details of the approved scheme shall be implemented prior to occupancy and shall remain in situ whilst the use or development is in operation.

Defra have published a document entitled 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (withdrawn but still available via an internet search). It describes a method of risk assessment for odour, guidance on minimum requirements for odour and noise control, and advice on equipment selection. It is recommended that any scheme should make reference to this document (particularly Annex B) or other relevant guidance or documents which supersede this guidance. Details should also be provided in relation to replacement air. The applicant will therefore need to consult with a suitably qualified ventilation engineer and submit a kitchen fume extract strategy report for approval.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy

33) The proposed communal uses within the building hereby approved (excluding the Class E (a,b,c and d) units) shall be ancillary to the residential use of the building and not operate as separate planning units or commercial uses for which a separate application for planning consent would be required.

Reason - For the avoidance of doubt and in order to secure a satisfactory form of development due to the particular circumstance of the application site, and in the interest of residential amenity, pursuant policy DM1 of the Core Strategy for Manchester.

Appendix 1 – List of consultees & neighbours notified

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

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: CENTRAL