MANCHESTER CITY COUNCIL

Town & Country Planning Act 1990 (as amended)

Refusal of Planning Permission

Applicant

Kempton Homes
C/o Agent

Agent (if used)

Mrs Caroline Payne
Emery Planning
Units 2 - 4 South Park Court
Hobson Street
Macclesfield
SK11 8BS

Part 1 – Particulars of the application/development

Proposal: Variation of condition 10 (Servicing Hours) attached to application reference 131730/JO/2021 as amended by 139154/NMC/2024

Location: Land Off Oldham Street And Spear Street, Manchester, M4 1LF

Date of application: 23 February 2024

Application number: 139360/JO/2024

Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **Refused** in accordance with the application and plans submitted for the reason(s) listed below.

Article 35 Declaration

Reason(s) for decision

1) The proposed extension of servicing hours for Unit 1 Block B of the building, particularly early mornings, would constitute a potential noise nuisance and would result in an unduly harmful impact on surrounding residential amenity particularly residential accommodation at the Burton Building, 90-94 Oldham Street on the opposite side of Houldsworth Street to Block B and in the vicinity of the site. The proposal is contrary to Policies DM1 (Development Management), CC4 (Tourism, Culture and Leisure) and SP1 (Spatial Principles) and saved Unitary Development Plan Policies DC10.1 and 10.4 (Food and Drink Uses), DC26 (Development and Noise) and Policy JP-P 1 (Sustainable Places) JP-P 6 (Health) of Greater Manchester's emerging Places for Everyone Guidance, Government Guidance contained in Section 8 (Promoting healthy and safe communities.

2) There is insufficient evidence to demonstrate that the noise levels generated by the extended servicing hours for Unit 1 of Block B of the development, would not cause

unacceptable noise levels. In particular it has not been possible to demonstrate that the proposal would not cause any unduly harmful impacts on nearby residential accommodation at the Burton Building, 90-94 Oldham Street, which is located on the opposite of Houldsworth Street to Block B. The proposal would therefore be contrary to policies CC7 (Mixed Uses), DM1 (Development Management) and SP1 (Spatial Principles) of the Core Strategy and saved policy DC26 (Development and Noise) of the Unitary Development Plan, Policy JP-P 1 (Sustainable Places) JP-P 6 (Health) of Greater Manchester's emerging Places for Everyone Guidance, Government Guidance contained in Section 8 (Promoting healthy and safe communities).

Date: 19 April 2024

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-decision. The Inspectorate will publish details of your appeal on the internet. Alternatively If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the City Council (planning@manchester.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.