

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/23/0023

Date registered valid: 12 January 2023

Proposal: Discharge of conditions 9 (ground conditions) and 12 (noise) attached to planning permission referenced 106570/FO/2014/N1

Address: 29 Berry Brow, Manchester, M40 1GR

Ward(s): Miles Platting & Newton Heath Ward

Applicant: Mr Gerrard Stelfox

Agent (if any): Mr Bradley Clarke Clarkes Bespoke Design Ltd

Case officer: Janine Renshaw-Livesey
Tel: 0161 234 4555
Email: janine.renshaw-livesey@manchester.gov.uk

Recommendation: Approved and Refused

Date of recommendation: 30 January 2024

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 23 January 2023 Expired: 13 February 2023

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:

Tree Preservation Order:

Description of area

Description of development

Consultations & Notification Responses

Issues

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: Approved and Refused

Article 35 Declaration

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

9) The following information has been submitted in respect of this planning condition 9 (Ground Conditions)

PL-010 T1, The email from Rogers Geotechnical and The Phase 4 Report and the Report from Environmental Geotechnical Specialists, stamped as received on the 12 January 2023.

PI-001 P1, stamped as received on the 18 September 2023 and the Site Photos, stamped on the 11 July 2023.

The above information has been considered and is acceptable in order to discharge this planning condition. Condition 9 is therefore formally discharged.

PL-010 T1, 12 January 2023

PI-001 P1, 18 September 2023

12) Condition 12 (Noise) cannot be discharged as the applicant has not satisfactorily demonstrated the bedrooms of the development meet acceptable noise criteria, and failed to provide full details of the Mechanical Ventilation Heat Recovery System (MVHR) at the site. Therefore, condition 12 is not discharged.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

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 - Not Affected

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Historic Landfill Site 250m Buffer -

Historic Landfill Site 250m Buffer -

Area Team Boundary - Name: NORTH AREA