Planning

Growth & Development

Delegated officer report for planning application

Application no.	137852/VO/2023
Date registered valid:	5 September 2023
Proposal:	City Council Development to replace the existing fence around the perimeter of the Zip World facility with new green mesh fencing to a maximum height of 4 metres
Address:	Zip World, Middleton Road, Manchester, M25 2SW
Ward(s):	Higher Blackley Ward
Applicant:	Mr Saul Mearns, Manchester City Council
Agent (if any):	
Case officer:	Janine Renshaw-Livesey Tel: 0161 234 4555 Email: janine.renshaw-livesey@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	18 March 2024

Application details

Type of application: Regulation 3 Consent

Development type: Minor Other

Date of site visit: 26 September 2023

Standard consultations:
Printed: 12 September 2023 Expired: 3 October 2023

Neighbour notifications
Printed: 12 September 2023 Expired: 3 October 2023

Site notice
Posted: 24 September 2023 Expired: 15 October 2023

Press advert
Published: 19 September 2023 Expired: 3 October 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Grade II

Conservation area: No

Tree Preservation Order: No

This application seeks consent to erect a new fence around Zip World, formerly known as Tree Top Trek.

The city council's anti-social behaviour unit has confirmed Tree Top Trek has been experiencing repeated trespass on site.

The anti-social behaviour team confirmed, the current fence is not fit for purpose and a child can easily access the site. The reports have included, threats, racist abuse, verbal abuse, weapons, refusing to leave, criminal damage, dangerous risk-taking behaviour, inappropriate behaviour and overall, massive safeguarding risks for the children who persistently enter the site.

In support of the application the anti-social behaviour team confirmed, they have chaired a multiagency meeting involving Parks, GMP, Tree Top Trek, and Mitie Security since May 2021, with the sole purpose of getting all the relevant stakeholders to agree to invest in a new, more robust fence. Whilst this process has been ongoing, we have had to put pressure on all stakeholders to make significant changes to the security and safety of the site, make alterations to the nets/course so as to limit access to the height risks, increase security patrols, CCTV, lighting, and get legal advice on corporate liability for site.
Since April 2021, there have been 40 ASB cases related to issues at the site. Since April 2021 there have been 58 interventions for individuals associated with ASB at Tree Top Trek.

In light of these statistics and the current situation, the application has been submitted to improve the fence line for Tree Top Trek so as to reduce the likelihood of children and young adults being able to access the course. This will reduce the likelihood of anyone coming to harm and will also reduce the need for all of the current security measures is required.

Heaton Park is registered as a Grade II landscape under the Historic Buildings and Ancient Monuments Act 1953 within the Register of Historic parks and Gardens by Historic England for its historic interest. Within the park landscape there are nine listed structures of Grade I, Grade II* and Grade II status. The walled garden area was used historically as the kitchen garden supplying fruit and vegetables for the whole of the Heaton Park Estate.

Description

City Council Development to replace the existing fence around the perimeter of the Zip World facility with new green mesh fencing to a maximum height of 4 metres.

Site History

113932/FO/2016 Creation of Treetop Trek Site to include two Treetop Trek course, a net course, reception and storage building (Class D2). Approved.

Consultations & Notification Responses

The application was advertised in the local press and a site notice was erected close to the site informing the public the proposal effected a listed structure and no representations were received.

The Design and Conservation Team were consulted and commented they are satisfied with the proposal from a conservation perspective as there will be less than substantial harm on the lower scale to the registered park and garden and the Grade I listed hall's setting, but this would be mitigated by improvements to local amenity (due to improve appearance and consistency of fencing), with the works otherwise justified and outweighed by public benefits of these works.

The Gardens Trust were consulted and raised no objection to the proposal.

Historic England- Raised no objection to the proposal.

Greater Manchester Police were consulted, and no representations were received.

Bury Metropolitan Borough Council were consulted, and no representations were received.

The Ecology Unit - confirmed no ecological information has been submitted with the application. While they did not have an objection to changing the type of fencing, given the sensitive location of the existing fence the works will need to be undertaken with care to not cause any additional disturbance to the woodland and the species is supports. As an example, one of the photos shows bluebells being present along the existing fence line. They would therefore advise that a Construction Environmental Management Plan for Biodiversity be required by condition, an appropriately worded condition has been added to the consent.

Issues

National Planning Policy Framework - This sets out the Government's Planning Policies for England and how these are expected to be applied. It states that the purpose of the planning

system is to contribute to the achievement of sustainable development. It states that the planning system should perform:

Section 16 of the NPPF outlines the Governments objectives in terms of conserving and enhancing the historic environment.
6. Conserving and enhancing the historic environment.

189. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of
existing and future generations.

190. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
c) the desirability of new development making a positive contribution to local character and distinctiveness; and
d) opportunities to draw on the contribution made by the historic environment to the character of a place

This scheme has been designed to respect the character and appearance of nearby heritage assets and is in broad accordance with the requirements of NPPF. The proposed

Core Strategy

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long-term strategic planning policies for Manchester's future development.
A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

The following specific policies are considered to be particularly relevant to the proposed development:

Policy EN 3 (Heritage) - this states that throughout the City, the Council will encourage development that complements and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods, including those of the City Centre. New developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment, the character, setting and accessibility of areas and buildings of acknowledged importance, including scheduled ancient monuments, listed buildings, registered parks and gardens, conservation areas and archaeological remains. Proposals which enable the re-use of heritage assets will be encouraged where they are considered consistent with the significance of the heritage asset.

Policy DM1 of the Core Strategy sets out that development should have regard to:
- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

Policy SP1- Spatial Principles

Policy SP1 advises that the emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment.

Policy EN 13 - Green Belt

Policy EN13 states that the extent of Green Belt in Manchester will be amended in the vicinity of Manchester Airport, in accordance with policy MA1. Otherwise, there are no amendments to the Green Belt boundary to be effected through the Core Strategy. This does not preclude further consideration of sites currently within the Green Belt through subsequent Development Plan Documents. The whole of Heaton Park falls within the Green Belt. Given the nature of the proposed development being a minimal physical intervention. Therefore, it is considered that the scheme would not detract from visual amenities of the Green Belt.

Policy EN 14 - Flood Risk

In line with the risk-based sequential approach, development should be directed away from sites at the greatest risk of flooding, and towards sites with little or no risk of flooding; this should take account of all sources of flooding identified in the Manchester-Salford-Trafford Strategic Flood Risk Assessment (SFRA).

The Heaton Park character Area is a large, historic Grade II listed Municipal Park, containing a number of historic structures dating from its original use as a country estate. It is used for a mix of formal and informal recreation opportunities in a primarily informal landscape. It is the highest point in the City. A continuation to its historic landscape character as parkland with informal groups of trees, to enable the accommodation of the existing range of leisure activities is expected.

Unitary Development Plan - saved policies

Saved UDP policy DC19.1 (Listed Buildings) states that in determining applications for listed building consent or applications for development involving or having an impact on buildings of Special Architectural or Historic Interest, the Council will have regard to, amongst other things, protecting their general setting. The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the design of new development in their vicinity. The proposed fencing would replace unsightly fencing in the park, and enhance visitors experience with minimal impact on the listed buildings and structures within the park.

For the above reasons, the proposal is considered to be acceptable and consistent with policies EN3 and DM1 of the Core Strategy and saved policies DC19.1 of the Unitary Development Plan.

ISSUES

Visual Amenity

The Design and Conservation Team were consulted and commented they are satisfied with the proposal from a conservation perspective as there will be less than substantial harm on the lower scale to the registered park and garden and the Grade I listed hall's setting, but this would be mitigated by improvements to local amenity (due to improve appearance and consistency of fencing), with the works otherwise justified and outweighed by public benefits of these works.

It is considered that the proposed scheme has been designed to be sympathetic to the character and appearance of the listed park and nearby heritage assets. The proposal would improve security at the site within the historic park, and thus aid the experience of visitors using the historic park and help to facilitate increased visits to the park by the public.

Design and Appearance and impact on Listed Building/ setting of the Listed Park

Sections 16, and 66 of the Listed Buildings and Conservation Areas Act 1990 requires that special consideration is given to the preservation of the significant fabric and setting of listed buildings and conservation areas. Development decisions should, therefore, accord with the requirements of the NPPF and in the case of the proposed demolition, to section 16 (Conserving and Enhancing the Historic Environment).

It is a fundamental requirement of the NPPF that planning proposals contribute to the achievement of "sustainable development" (NPPF Paragraph 2). In order to meet this key planning objective, in this instance, it is essential to ensure that the development of the site sustains and contributes to the stimulation of a thriving historic environment.

Paragraph 190 of the NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be.

It is considered that the erection of the fencing would not detract from the appearance of the listed parkland, given the siting and appearance.

In view of the above it is considered that the proposed development would on balance be consistent with sections 2 and 16 of the National Planning Policy Framework policies SP1, DM1, and EN3 of the Core Strategy and saved UDP policy EN3 and DC19.

Conclusion

The scheme would facilitate the enhancement of facilities at a visitor attraction within Heaton Park. It is considered that the impact of the works on the character and appearance of the listed park would not diminish the historic qualities of the landscape and are therefore acceptable. Furthermore, the proposed extension would comprise a neutral new addition to the 20th century building, with no impact on the special interest of the registered park & garden and have no objections to the current scheme.

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: Approve

Article 35 Declaration

In assessing the merits of an application officers will seek to work with the applicant in a positive and proactive manner to seeking solutions to problems arising in relation to dealing with the application. In this instance this has included ongoing advice about the information required to be submitted to support the application and to address issues.

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

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Location Plan, stamped as received on the 5 September 2023,
Site Plan, Crime Data from Greater Manchester Police, Letter from Manchester City Councils Anti-Social Behaviour Team, stamped as received on the 15 August 2023 and the Security Fencing Specification Documentation, stamped as received on the 21 January 2024.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.

3) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

a) Risk assessment of potentially damaging construction activities.
b) Identification of "biodiversity protection zones".
c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
d) The location and timing of sensitive works to avoid harm to biodiversity features.
e) The times during construction when specialist ecologists need to be present on site to oversee works.
f) Responsible persons and lines of communication.
g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason - To ensure the protection of wildlife habitats in the locality, pursuant to policy EN15 of the Core Strategy for Manchester.

Appendix 1 – List of consultees & neighbours notified

Greater Manchester Police
Historic England (North West)
Greater Manchester Ecology Unit
The Gardens Trust
Bury Metropolitan Borough Council

Treetop Trek, Heaton Park, St Margarets Road, Manchester, M25 2GT

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
Site of Biological Interest - Name: Woodland near Heaton Hall
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Green Belt Land - Green Belt Area (LDF)
Green Belt Land - Greater Manchester Green Belt Local Plan 1984
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: NORTH AREA