

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138877/FO/2023

Date registered valid: 20 December 2023

Proposal: Change of use of ground and first floor commercial units from cafe/restaurant (Use Class E(b)) and gym (Use Class E(d)) to retail (Use Class E(a)), cafe / restaurant (Use Class E(b)), hairdressers (Use Class E(c)) and gym / fitness centre (Use Class E(d)).

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 Incorporated

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: 13-02-24

Application details

Type of application: Full Application Consent

Development type: Change of use

Date of site visit: 22 December 2023

Standard consultations:
Printed: 22 December 2023 Expired: 15 January 2024

Neighbour notifications
Printed: 2 January 2024 Expired: 23 January 2024

Site notice
Posted: 22 December 2023 Expired: 15 January 2024

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.

The planning permission has been subject to a series of subsequent Non-Material Amendment Applications (Ref. 132553/NMC/2021, 132804/NMC/2022, 135358/NMC/2022, 135526/NMC/2022, 138391/NMC/2023 and 138876/NMC/2023).

A Non-Material Amendment application 138876/NMC/2023 has recently been approved to update the description of development and a number of conditions. The amended description of development is as follows:

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.

Description of Area.

The application lies within part of the City Centre known as First Street which is a key regeneration area within the City Centre. First Street is in a pivotal location between the strategic regeneration areas of Manchester's Civic Quarter, Whitworth Street West and Great Jackson Street, and the residential area of Hulme. It is also located within Corridor Manchester.

There are a variety of uses in the surrounding area including offices, hotel, retail and bar and restaurant uses as well as the HOME Arts Centre and an established residential population that has grown over the past 15 years.

Description of development

Whilst there are no restrictive planning conditions in place to limit the way in which the ground and first floor units can operate under Use Class E, the Applicant seeks comfort that the approved commercial units can also operate flexibly under Use Classes E(a) and E(c).

This application will effectively be a stand alone consent for a Change of use of ground and first floor commercial units from cafe/restaurant (Use Class E(b)) and gym (Use Class E(d)) to retail (Use Class E(a)), cafe / restaurant (Use Class E(b)), hairdressers (Use Class E(c)) and gym / fitness centre (Use Class E(d)).

Given the above NMC the applicants have agreed that this applicant isn't strictly necessary, but they needed either a Full Planning or CLEUD Decision Notice to appease their funders on this matter.

This application does not propose to make any external amendments; nor does it seek to increase the amount of commercial floorspace provided. This application simply seeks greater flexibility in how the approved commercial units can operate.

Consultations & Notification Responses

Publicity – A Site notice was displayed adjacent to the site and occupiers of adjacent properties were notified about the application and no representations have been received

Highway Services – No objections

Environmental Health – No objections subject to conditions relating to acoustic insulation of the uses and any plant, fume extraction, hours of operation and the storage and disposal of refuse.

Issues

National Planning Policy Framework – As with the original 2019 consent the ground and first floor uses would support Section 1 - Building a strong and competitive economy and Section 2 (Ensuring the Vitality of Town Centres)- which promotes competitive town centre environments.

Core Strategy – As with the original 2019 consent the ground and first floor uses would subject to relevant conditions support the following policies:

Policy CC1 (Primary Economic Development Focus: City Centre and Fringe)

Policy CC2 (Retail)

Policy CC7 Mixed Use Development.

Policy CC 10 (A Place for Everyone)

Policy SP1 (Spatial Principles)

Policy DM1 (Development Management)

And

Policy T2 (Accessible Areas of opportunity and need)

The Unitary Development Plan for Manchester – As with the original 2019 consent the ground and first floor uses would subject to relevant conditions support the following policies:

DC10 'Food and Drink Uses'

and

Other Material Considerations

Places for Everyone

The Places for Everyone Plan is a Joint Development Plan Document, which provides a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester. Once the Places for Everyone Plan is adopted it will form part of Manchester's development plan.

To date, five consultations have taken place in relation on the Plan. The Examination of Plan, following its submission in February 2022, began in November 2022. Following the completion of the Examination of the Plan, main modifications have now been proposed which will now become the subject of further public consultation.

The City Council's Executive agreed the Main Modification on 4 October 2023 and endorsed an 8-week period of public consultation on the Main Modifications commencing no earlier than 9 October 2023.

Any representations will be forwarded to the Examination team managing the Plan. The Inspectors will consider all representations on the proposed Modifications before finalising the examination report.

Given the stage the Plan has reached, and level of public consultation and scrutiny it has received, the Plan and its policies is now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance.

Policy JP-P 1 (Sustainable Places) aims to become one of the most liveable city regions in the world, consisting of a series of beautiful, healthy and varied places, each having the following key attributes that all development, wherever appropriate, should be distinctive, with a clear identity, visually stimulating, socially inclusive, resilient, adaptable, durable, resource efficient, safe, supported by critical infrastructure, functional and convenient, incorporating accessibility, legible easy to move around, well connected, comfortable and inviting, incorporating high quality and well managed green infrastructure and public realm, well served by local shops, services and amenities.

Policy JP-Strat1: Core Growth Area -aims protect and enhance the economic role of the Core Growth Area, with sustainable development supporting major growth in the number of jobs provided across the area providing opportunities to create jobs for local communities, complementary to, but not at the expense of, its economic function.

Policy JP-J1: Supporting Long-Term Economic Growth – promotes a thriving, inclusive and productive economy will be sought in all boroughs.

The proposals are considered to align with the above policies.

S17 Crime and Disorder Act 1998 provides that in the exercise of its planning functions the Council shall have regard to the need to do all that it reasonably can to prevent crime and disorder.

Principle of the Proposals

The specific inclusion of a retail and hairdresser use within the range of uses that can operate from the ground and first floor commercial units would not create any additional impacts to be considered beyond those of the previously approved uses.

Widening the uses permitted will provide the Applicant with more flexibility in terms of how they can market and let the space. Furthermore, allowing the units to operate in accordance with market demand will help to limit periods of vacancy, which will in turn will enhance the vibrancy and vitality of Plot 11, and support long-term regeneration ambitions for First Street.

Given the above it is considered that the access arrangements would be consistent with Core Strategy Policies CC1, CC7, CC10, T2, SP1 and DM 1 and saved UDP policy DC10.

Residential Amenity / Hours of Operation

Conditions limiting the hours during which the uses can be operate, acoustic insulation of the uses and any associated plant, refuse storage and disposal. This will ensure that any disturbance from such activity is confined to acceptable hours of the day. It is not considered that there would be any additional potential impacts on residential amenity from a retail or hairdressing use beyond those previously considered to be acceptable in this location.

Given the above it is considered that the proposals would be acceptable and consistent with Core Strategy Policies SP1 and DM1 and saved UDP policies DC10.1, 10.2, 10.3 and 10.4 and DC26.1 and 26.5.

Disabled Access

There would be level access to the ground floor units and lift access to the 1st floor.

Given the above it is considered that the access arrangements would be consistent with Core Strategy Policy DM1.

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

Article 35 Declaration

Officers have worked with the applicant in a positive and pro-active manner to seek solutions to problems arising in relation to dealing with the planning application. No such issues have arisen on this application

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:

(a) Site Location plan 10266-Z0-A-G100-SK-XX-006 stamped as received on 20-12-23; and

(b) Dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 stamped as received on 20-12-23; and

(c) Waste and Servicing Strategy, Block A/B, Plot 11, First Street South, Manchester, Downing Living (Manchester) Limited Partnership Inc

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to Core Strategy SP 1, H1, CC3, CC9 , EN3 and DM 1 and saved Unitary Development Plan policies DC19.1.

3) Before use of any units as a gym within the commercial units as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 commences a scheme for acoustically insulating the space to ensure that there is no unacceptable level of noise transfer from this unit to the residential accommodation above or any unacceptable noise break out shall be submitted to and approved in writing by the City Council as local planning authority. Noise from gym activities such as impact machines and free weights areas will need to be included within the assessment and details of any acoustic insulation / acoustic floor build up recommendation for these areas.

Where entertainment noise is proposed the LAeq (entertainment noise) shall be controlled to 5dB below the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive location.

The approved noise insulation scheme shall be completed before the use of the gym commences. The approved details shall be implemented and remain in place for as long as the unit is in use

Prior to the use commencing 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 building occupiers from noise nuisance, pursuant to policies SP1 and DM1 of the Core Strategy and saved UDP Policy DC26.

4) Before use of each of the Use Class E (a) retail, E (b) (Cafe / restaurant) and E (c) Hairdressers units within ground floor and first floor commercial units as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 commences a scheme for acoustically insulating the units to ensure that there is no unacceptable level of noise transfer from the ground floor and first floor uses to the residential accommodation above or any unacceptable noise break out 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 the use of each unit commences and shall remain in situ whilst the use or development is in operation.

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.

5) Before each of the Use Class E (a) retail, E (b) (Cafe / restaurant), E (c) Hairdressers and E (d) (Gym) units as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 commences final details of the method of extraction of any fumes, vapours and odours from any kitchen within each ground floor and first floor commercial unit 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 commencement of the use of each unit 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

6) Before use of each of the Use Class E (a) retail, E (b) (Cafe / restaurant), E (c) Hairdressers and E (d) (Gym) units within ground floor and first floor commercial units as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 commenced 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 each unit 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.

7) 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 as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03, 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.

8) Refuse collections and storage shall be carried out in accordance with the Waste and Servicing Strategy Block A/B, Plot 11, First Street South, Manchester Downing Living (Manchester) Limited Partnership Inc but notwithstanding this 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 as set out in dwgs 10266-Z0-A-G100-PL-00-99001 REV P03 and 10266-Z0-A-G100-PL-01-99001 REV P03 commence details of how the units will be laid out to include space for the required number of bins for each use shall be submitted to and approved in writing by the City Council as Local Planning Authority.

The details shall be implemented prior to the first use of each unit and thereafter retained and maintained in situ.

Reason - In order to ensure that adequate provision is made within the development for the storage and recycling of waste in accordance with policies DM1 and EN19 of the Core Strategy for the City of Manchester.

9) Deliveries, servicing and collections associated with the management of the building and ancillary uses within it including waste collections shall not take place outside the following hours:

07:30 to 20:00 Monday to Saturday

10:00 to 18:00 Sundays and Bank Holidays

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.

10) The development hereby approved shall include for full disabled access to be provided to via the main entrances and to the floors above.

Reason - To ensure that satisfactory disabled access is provided by reference to the provisions Core Strategy policy DM1

11) The windows within the podium and at ground floor facing the central public realm and private landscaped areas shall be retained as a clear glazed window opening at all times and views into the premises shall not be screened or obscured in any way unless they relate to service areas.

Reason - The clear glazed window(s) is an integral and important element in design of the ground level elevations and are important in maintaining a visually interesting street-scene consistent with the use of such areas by members of the public, and so as to be consistent with saved policy DC14 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Flat 83, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 79, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 75, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 74, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 56, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 55, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 52, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 34, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 13, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 10, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 158, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 148, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 135, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 181, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 168, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 129, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 114, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 107, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 92, Parkway Gate, 50 Chester Street, Manchester, M15 6JE
Flat 94, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 71, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 59, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 51, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 48, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 16, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GH
Flat 12, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GG
Flat 3, MacIntosh Mills, 4 Cambridge Street, Manchester, M1 5GG

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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

Area Team Boundary - Name: CENTRAL