

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139334/NMC/2024

Date registered valid: 21 February 2024

Proposal: Variation of condition no. 24 (affordable housing) attached to planning permission ref: 135508/JO/2022 to allow for alternative wording

Address: Car Park To The Rear Of Chorlton Irish Club , Cross Road,
Manchester, M21 9DJ

Ward(s): Chorlton Ward

Applicant: Southway Housing Trust Limited

Agent (if any): Mr Stephen Morgan-Hyland Sevo Planning Limited

Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 11th March 2024

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent for this non-material amendment application.

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

Description of area

The site measuring 0.20 hectares was part of the car park for the Chorlton Irish Club and is located on Cross Road to the north of Beech Road Park. The site is bounded by the Chorlton Irish Club to the north which fronts High Lane and other residential property fronting High Lane. To the east lies residential properties on the other side of Cross Road and to the west residential properties on Thornbridge Avenue. The site is less than 100m as the crow flies from commercial units fronting Barlow Moor Road to the east which form part of Chorlton District Centre. The site is within Chorlton ward on the boundary with Chorlton Park ward.

Description of development

Planning permission 132708/FO/2022 was granted by Planning Committee on the 1st September 2022 for the development of part of the open surface level car park for the provision of a part three, part four storey development to provide 29 (10 x one, 18 x two bed and 1 x studio) residential units with associated vehicular and cycle parking, refuse store and landscaping. The units would provide 100% affordable shared ownership C3 (Use Class) built to meet the Council's approved space standards. 29 car parking spaces would be provided on site for the 29 apartments (including an accessible space and electric vehicle charging points for 7 spaces with ducting provided to the remaining 22 spaces). Bin storage would be provided and cycle storage for 39 bicycles, equivalent to 134% provision.

The site would utilise a widened existing vehicular access to gain vehicular access into the site.

This permission was subject to a variation of condition application reference 135508/JO/2022 to provide alternative wording to condition 24 relating to affordable housing. This consent was granted on the 10th February 2023.

The applicant is now seeking a non-material amendment to the wording of condition 24 (Affordable Housing) attached to the approval to make it clear the exemptions and exclusions that would apply to this condition.

Issues

Materiality

Section 96A of the 1990 Act (as inserted on 1st October 2009 by sec.190 of the Planning Act 2008) allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material this includes alterations to conditions of an approval. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted.

The current application seeks a non-material amendment to the permission to allow for an amendment to the affordable housing condition to provide more details of the type of exclusions and exemptions from the affordable housing through a future occupier utilising any acquired rights to purchase the property that would be allowed.

One other non-material amendment application has been approved as part of this scheme (reference 138660/NMC/2023) relating to design amendments, comprising alterations to entrance features, upper floor balustrade from glass to metal railings, profile of windows, fenestration detailing, boundary treatment next to the entry gate, inclusion of 2 x hidden doors for fire escape purposes and increase in footprint by 150mm in length. It is not considered that the current application together with previous 96A amendment would give rise to such cumulative impacts to indicate that the amendments would become material in nature as a result of this proposed amendment.

Following assessment it is considered that the proposed amendment is non-material in nature and would result in an amendment that would have been agreed if submitted as part of a condition discharge as the Council could potentially be in conflict with a future tenants 'right to acquire' or a shared ownership product allowing a resident to staircase their ownership to a point of owning, as such the amendment can be approved. A respective alteration is required to conditions 24 to reflect the amended condition.

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

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

1) The proposed amendment relates to a change to the wording of condition 24 'Affordable Housing' to include the exclusions and exemptions that would be applicable to the affordable housing provided at the development.

2) Following an assessment of the details submitted, the City Council can confirm that the proposed amendment is considered to be of a non-material nature and acceptable to the City Council as the Local Planning Authority. The City Council is satisfied that the proposed changes are minor in nature and would not have any impact on the residential amenity of nearby properties or on the visual amenity of the wider local area and would not fundamentally alter the provision of affordable housing at the development.

Condition

24) Prior to the commencement of the development, a scheme for the provision of affordable housing as part of the development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme, or any amended scheme in relation to the tenure mix subsequently approved in writing by the City Council as local planning authority, and shall meet the definition of affordable housing in Annex 2 of the NPPF (or any future guidance that replaces it). The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of a minimum 20% of the dwelling houses;
- ii. the timing of the construction of the affordable housing;
- iii. a strategy to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing scheme shall be implemented as part of the development and thereafter observed subject to the following exclusions and exemptions:

- a) The affordable housing scheme shall not be binding upon a mortgagee, chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (however appointed) including a housing administrator (each a receiver) of the whole or any part of the affordable housing or any persons or bodies deriving title through such mortgagee or chargee or receiver.
- b) The affordable housing scheme which is the subject of this condition shall cease to apply (and shall be of no further effect) to any dwelling that has been acquired by an individual owner/purchaser and/or their mortgagee OR any dwelling in respect of which a statutory or voluntary right to buy or acquire has been exercised.

Appendix 1 – List of consultees & neighbours notified

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 Zone - All Exceeding 90M

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH AREA