

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137476/LO/2023

Date registered valid: 4 July 2023

Proposal: Listed Building Consent for the: Restoration and/or replacement of existing timber sash windows and where necessary refurbishment of existing stained glass element.

Address: Marylands, Xaverian College, Lower Park Road, Manchester, M14 5RB

Ward(s): Rusholme Ward

Applicant: Xaverian College

Agent (if any): Miss Catherine Mulley, Pozzoni Architecture Ltd

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

Recommendation: Approve

Date of recommendation: 07.02.2024

Application details

Type of application: Listed Building Consent
Development type: Listed building alteration
Date of site visit: 17 July 2023

Standard consultations:

Printed: 13 July 2023 Expired: 3 August 2023

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

Posted: 17 July 2023 Expired: 7 August 2023

Press advert

Published: 25 July 2023 Expired: 8 August 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Grade II

Conservation area: Victoria Park Conservation Area 1972

Tree Preservation Order: N/A

Application Site

The application site forms part of Xaverian College campus which is located in the Rusholme ward of Manchester. The College occupies a mix of new and converted buildings focussed around an open area green space. Many of the older buildings are former residential villas which have been converted and extended to accommodate educational use.

The application proposals relate to 'Maryland' building constructed in the 1870s and located within the Victoria Park Conservation Area. Marylands forms part of the Xaverian Sixth Form College Campus and is accessed from Regent Street and Lower Park Road. Marylands is Grade II Listed Building and was purchased by the Xaverian order in the 20th Century.

Application Proposals

The application proposals seek listed building consent for works to the existing timber sash windows on the Grade II Listed Maryland building. The application details indicate that windows across the building have deteriorated over time and the majority require restoration/repairs.

Following surveys of the windows a number cannot be restored and will require to be replaced with like for like windows using hardwood cills and redwood for the sash. Details of the 8 windows to be replaced and 50 to be restored have been provided.

Where work involves restoration of a sash window, the following will be undertaken:

- Remove sashes from frame
- Remove excess paint from box frame
- Remove paint from both sides of sashes
- Prime all exposed woodwork as necessary
- Re-putty glass as necessary

- Rebalance sash weights; service pulleys and replace cords
- Refit the sashes

Following the request for further information a further schedule of the works has been submitted and is considered as part of this application.

Consultations & Notification Responses

Notification of the proposals was placed in the Manchester Evening News and a site notice was posted. No responses were received.

Policy

Section 38 (6) of the Town and Country Planning Act 2004 states that applications for development should be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The adopted development plan consists of the Core Strategy (adopted 2012) and the saved policies of the Unitary Development Plan. Due consideration in the determination of the application will also need to be afforded to national policies in the National Planning Policy Framework (NPPF) which represents a significant material consideration.

Core Strategy Development Plan Document

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.

Relevant policies in the Core Strategy are detailed below:

Policy SP1, Spatial Principles - Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy EN 3, Heritage - 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, Development Management - This policy states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:-

- o Appropriate siting, layout, scale, form, massing, materials and detail.
- o 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.

- o 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.
- o Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- o Community safety and crime prevention.
- o Design for health.
- o Adequacy of internal accommodation and external amenity space.
- o Refuse storage and collection.
- o Vehicular access and car parking.
- o Effects relating to biodiversity, landscape, archaeological or built heritage.
- o Green Infrastructure including open space, both public and private.
- o The use of alternatives to peat-based products in landscaping/gardens within development schemes.
- o Flood risk and drainage.
- o Existing or proposed hazardous installations.
- o Subject to scheme viability, developers will be required to demonstrate that new development incorporates sustainable construction techniques

Saved UDP Policies - Policies DC18, and DC19 are considered of relevance in this instance: Policy DC18, Conservation Areas - Policy DC18.1 states that the Council will give particularly careful consideration to development proposals within Conservation Areas by taking into consideration the following:

- a. The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:
 - i. the relationship of new structures to neighbouring buildings and spaces;
 - ii. the effect of major changes to the appearance of existing buildings;
 - iii. the desirability of retaining existing features, such as boundary walls, gardens, trees, (including street trees);
 - iv. the effect of signs and advertisements;
 - v. any further guidance on specific areas which has been approved by the Council.
- b. The Council will not normally grant outline planning permission for development within Conservation Areas.
- c. Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance of character of the area.
- d. Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.
- e. Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

Listed Buildings - Policy DC19.1 states that in determining applications for listed building consent or planning applications for development involving or having an impact on buildings of Special Architectural or Historic Interest, the Council will have regard to the desirability of securing the retention, restoration, maintenance and continued use of such buildings and to protecting their general setting. In giving effect to this policy, the Council will:

- a. not grant Listed building consent for the demolition of a listed building other than in the most exceptional circumstances, and in any case, not unless it is satisfied that every possible effort has been made to continue the present use or to find a suitable alternative use;

- b. not permit a change of use of a listed building, where it would have a detrimental effect on the character or appearance of the building;
- c. not permit any external or internal alteration or addition to a Listed building where, in its opinion, there would be an adverse effect on its architectural or historic character;
- d. seek to preserve and enhance the settings of listed buildings by appropriate control over the design of new development in their vicinity, control over the use of adjacent land, and where appropriate, by the preservation of trees and landscape features;
- e. permit demolition only where there are approved detailed plans for redevelopment and where there is evidence of a firm building contract;
- f. not permit alterations to a listed building which would prevent the future use of any part of the building, in particular upper floors or basements, or where poor maintenance is likely to result.

The National Planning Policy Framework – December 2023

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The NPPF states that plans and decisions should apply a presumption in favour of sustainable development which for decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Section 16 (Conserving and enhancing the historic environment) states that in determining planning applications, local planning authorities should take account of:

- a. the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b. the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c. the desirability of new development making a positive contribution to local character and distinctiveness.

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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a. the nature of the heritage asset prevents all reasonable uses of the site; and b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c. conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d. the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

Legislative Requirements

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of the power to determine planning applications the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of the power to determine planning applications for any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Issues

Principle – The principle of restoring and replacing windows as part of the ongoing maintenance and management of a designated heritage asset in this case a Grade II Listed Building is considered to be acceptable subject to consideration of matters relating to the impact on the listed building of the works and on the Victoria Park Conservation Area where the building is located.

Impact on the Victoria Park Conservation Area - The application site lies within Victoria Park Conservation Area which was designated in 1972. Victoria Park was conceived in the first half of the 19th Century and has been subject to modern additions since it was first designated. The houses in Victoria Park are large and are set in spacious grounds. Several of the roads are laid out in gently undulating curves, whilst others are straight and relatively short. They are nearly all wide, and some of them have grass verges. Not all the large old houses in Victoria Park have survived, a relatively small proportion of houses from the 1830s and 1840s still exist, and where they were demolished there now stand either groups of smaller houses or large, institutional buildings, such as schools, colleges, churches, university halls of residence and blocks of flats. Despite these changes in many cases the large spaces between buildings have been maintained and a significant number of trees retained. Architecturally, the conservation area is home to a variety of building styles ranging from Victoria villas to 20th century dwellings, educational buildings and offices that are typically between 2 to 4 storeys in height.

The requirement to preserve or enhance the Conservation Area, and the setting of the Listed Buildings, in this case Maryland is a key requirement within policy EN3 of the Core Strategy, saved policies DC18 and DC19 of the UDP along with the objectives of the NPPF. As such, any

new development must seek to retain the character of the area through careful detailing and, where appropriate, the use of compatible materials.

The conservation area has changed since it was designated and within the conservation area appraisal and the only mention of Maryland or Xavarian College is to note its presence within the conservation area.

The proposed works seek to repair existing windows and replace where necessary on a like for like basis. As such the proposals, subject to approval of an appropriate external paint finish to the windows frames repaired and restored, are not considered to impact on the ability of the building to positively contribute and enhance the conservation area in accordance with Policy EN3 and DC 18 and section 16 of the NPPF.

Impact on the Maryland Listed Building - When considering the overall harm to the listed building and the wider conservation area, the proposal will not lead to 'substantial harm' or the total loss of the significance of the heritage asset. The key features of the heritage asset, i.e. the Maryland building will remain broadly unchanged. Any potential harm to the building is limited only to the removal and installation of replacement window casements which are to be undertaken by appropriately experienced contractors. The replacement windows and repairs would be on a like for like basis retaining the glazing elements of interest such as college crest and sashes. In this instance the proposals seek to retain those features of significance and would have a positive benefit to the ongoing use of the building for further education. The proposed works are considered to give rise to less than substantial harm to the heritage asset.

In accordance with Paragraph 208 of the NPPF 'where a development proposal will lead to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal, including securing its optimum viable use. The key benefits of the proposals are:

- The repair and replacement of windows would improve the comfort of users within the existing educational rooms in the building.

In this instance it is considered that the public benefits deriving from the proposals and allowing the college to function effectively within the designated heritage asset outweigh the identified less than substantial harm.

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

The application has been considered in a positive and proactive manner. In this instance discussions were held with the applicant's agent to review options for the proposed works as a result appropriately worded conditions are proposed.

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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

'Maryland -Window Schedule including elevation schedule' and 'G'16-G'21'

all as received on the 22nd January 2024

Details contained in the email from Pozzoni to the City Council as local planning authority dated 5th February 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) Within 3 months of the date of this decision details of the paint to be used on the repaired and replaced windows together with a timescale for the completion of the painting works to windows shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details.

Reason- To ensure that the proposed works to a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest are undertaken in accordance with best conservation practice to protect the character and appearance of this building and in accordance with saved policy DC19.1 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Heritage & Urban Design

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

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Conservation Area - Victoria Park Conservation Area 1972

Area Team Boundary - Name: SOUTH AREA