

## **Planning**

## **Growth & Development**

### **Delegated officer report for planning application**

**Application no.** CDN/23/0590

**Date registered valid:** 31 August 2023

**Proposal:** Discharge of conditions 11 (parts 1 and 2) (ground conditions), 19 (archaeology), 20 (external lighting) and 35 (local benefits) attached to planning permission referenced 134775/FO/2022

**Address:** Land Off Louisa Street, Manchester

**Ward(s):** Clayton & Openshaw Ward

**Applicant:** Mr Steven Ludlam Westchurch Homes Ltd

**Agent (if any):**

**Case officer:** Sue Wills  
Tel: 0161 234 4524  
Email: [sue.wills@manchester.gov.uk](mailto:sue.wills@manchester.gov.uk)

**Recommendation:** SPLIT DECISION

**Date of recommendation:** **26.02.2024**

## **Application details**

**Type of application:** Approval of condition application

**Development type:** Notifications

**Date of site visit:**

**Standard consultations:**

Printed: 7 September 2023

Expired: 28 September 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**

GMAAS - A previous application for condition discharge (CDN/23/0426) submitted in July 2023 was supported by a Written Scheme of Investigation (WSI) prepared by Lanpro in consultation with GMAAS in June 2023. GMAAS was pleased to recommend approval of that WSI, which set out appropriate methodologies for the historic building investigation and initial evaluation trenching, in line with the requirements of Condition 19 and satisfying the pre-commencement element of the condition wording. The historic building investigation was carried out by Salford Archaeology in July 2023 and the results presented in a report that has been submitted with the current application for condition discharge. GMAAS reviewed this report prior to submission and a finalised copy has been uploaded onto the Historic Environment Record. The agreed programme of evaluation trenching has also been completed by Salford Archaeology. This demonstrated that extensive remains of the historic iron foundry survived below-ground and warranted further investigation via an open-area excavation targeted on the footprint of the

cupola house. In view of these interesting results, Lanpro compiled an updated WSI in consultation with GMAAS in July 2023 that set out an agreed approach to delivering the open-area excavation coupled with a watching brief. The area targeted for excavation measured approximately 68m by 20m (1363m<sup>2</sup>), whilst the watching brief is to monitor construction groundworks within the remainder of the historic iron foundry's footprint. GMAAS is pleased to recommend approval of this updated WSI, a copy of which has been submitted in support of the current application. The open-area excavation was carried out by Salford Archaeology in August 2023. This uncovered some fairly remarkable remains, including what appears to be a huge iron-sided casting pit, together with fascinating evidence for the internal layout of the foundry. Analysis of the dataset is likely to yield some interesting results that may inform some of the current Research Objectives set out in the North West Historic Environment Research Framework. GMAAS attended a site monitoring meeting on 1st September and was content that the open-area excavation had been completed satisfactorily, although construction groundworks in several small areas within the site will still need to be monitored by an archaeologist with a view to resolving specific questions regarding the layout of the foundry. An appropriate methodology for the watching brief is set out in the Updated WSI submitted with the current application. In summary, good progress is being made towards satisfying the requirements of Condition 19 and, apart from the targeted watching brief, all elements of the fieldwork have been completed (Part 1 of the condition). However, a final report on the excavation and watching brief needs to be prepared, and a copy of the final report deposited with the Greater Manchester Historic Environment Record, together with an appropriate level of dissemination and deposition of the project archive (Parts 2-5 of Condition 19) need to be completed before full discharge of the planning condition can be recommended.

#### Further comments 25.01.2024

They advise that they consider the report was superb – good documentary research, comprehensive site narrative and sensible conclusion that makes sense of what was uncovered, coupled with excellent images and great drawings. All in all, an impressive result. They raised on small point of inconsistency that needed addressing - paragraph 7.5.2 of the report notes: 'It is anticipated that the results of this investigation will be written up in article form for broader dissemination within an appropriate academic journal, such as Industrial Archaeology Review', a conclusion with which they wholeheartedly agree as this would be the most appropriate means of dissemination, as required by Part 4 of the condition.

The final paragraph in the Summary of the report, however, suggests 'no additional reporting will be recommended by GMAAS', which isn't the case. They discussed this with consultant who was happy to amend the Summary and agreed that publication as a journal article was proportionate and reasonable given the results. They understand that the applicant has received a costed proposal to prepare this publication but has yet to respond to the consultant / archaeological contractor. They further advise they would be pleased to advise that Condition 19 can be discharged in full as soon as the preparation of the publication article has been commissioned, together with an outline timetable for its production from the archaeological contractor. In practice, it would take at least 12 months for the article to appear in print they do not suggest waiting that long before recommending condition discharge – more than happy to agree that recommendation once the contractor is in receipt of a formal instruction / purchase order. It was a fascinating and quite important excavation, and publication of the results will add to the (inter)national perception that Manchester was a world-leading centre for textile-machinery engineering. In summary, all elements of Condition 19 have been satisfied with the exception of Part 4 (highlighted below), which could be satisfied by instructing the archaeological contractor to progress the production of the publication article.

Further comments 16.02.2024

Have reported that the archaeological contractor (Salford Archaeology) has now been commissioned to produce the publication article required to satisfy the requirements of Part 4 of the condition. The article will be published in *Industrial Archaeology Review*, the leading national / international journal for 19<sup>th</sup>- and 20<sup>th</sup>-century archaeology. I have no doubt that the published article will be very well received by the journal's readership and will reinforce Manchester's incredibly rich industrial heritage / archaeology to a national audience.

Given that the production of the article has been commissioned, coupled with a firm commitment from Salford Archaeology to complete the publication to an agreed timetable, GMAAS is satisfied that the appropriate level of dissemination has been secured and is content that Condition 19 can be discharged in full at this stage.

Highway Services –

Condition 20) The submitted information is sufficient to allow them to recommend the discharge of this condition from a Highways perspective.

Environmental Health- 27.10.2023

Condition 11 (ground conditions)

They have reviewed the submitted EGG Geoenvironmental Site Investigation Report (ref. A4755/22/SI dated June 2022) and Remediation Strategy (ref. A4755/23/RMS dated August 2023) and would comment as follows:

1. Please supply the calibration certificate for the ground gas monitoring equipment for relevant monitoring periods.
2. The proposed sampling rate for imported soils to be used for the cover system would not be acceptable for soils of unknown provenance; minimum sampling rates should be in accordance with MCC's guidance.
3. The specified clean cover depths in MCC's guidance are recommended for all private garden areas unless comprehensive justification is provided for why cover thickness should vary in different areas.
4. The proposals for the delineation of identified contaminant hotspots are accepted, and the chemical test results and updated risk assessments should be submitted in due course together with any necessary updates to the remedial strategy.
5. Minor point that the RS states that "Earthworks will only take place during normal working hours... 8.00am to 13:00pm on Saturdays". As per the CMP, noisy works should not start before 8:30am on Saturdays. Due to the above outstanding items they cannot currently recommend the condition discharge.

Condition 20 (external lighting) The proposed external lighting strategy is acceptable from an Environmental Health point of view, but as the condition reason includes "adverse impact on protected species" it may be worth checking with GMEU.

Further comments 30.10.2023

Confirmed that they can't recommend discharge of parts 1 and 2 of condition 11 due to the outstanding details required for the SI and RS.

Further comments 22.12.2023

Have reviewed the submitted updated EEG Remediation Report (Ref: A4755/23/RMS/V2 dated 22 Oct 23) and the appended Chemical Testing Letter Report (Ref: A4755/23 3<sup>rd</sup> October 2023) for the above site and cannot currently advise that any parts of the condition can be discharged.

They previously (email 27/10/23) provided the following comments on the previously submitted

SI and Remediation Strategy (RS dated Aug23), and now include updated comments in bold against each point:

1. *Please supply the calibration certificate for the ground gas monitoring equipment for relevant monitoring periods.*

**Remains outstanding.**

2. *The proposed sampling rate for imported soils to be used for the cover system would not be acceptable for soils of unknown provenance; minimum sampling rates should be in accordance with [MCC's guidance](#).*

**Not addressed.** The Remediation Report states that, following the additional testing work, a capping system is no longer deemed necessary but recommends that all landscaped areas be covered by imported topsoil. Notwithstanding that the additional testing report requires clarification and approval (see point 4) before it can be accepted that clean cover is not required, any imported soils (or site-won materials) for use as a cover system or suitable growing medium in soft landscaped areas are subject to [MCC's sampling requirements](#).

3. *The specified clean cover depths in MCC's guidance are recommended for all private garden areas unless comprehensive justification is provided for why cover thickness should vary in different areas.*

**Not fully addressed - see point 4 and we would add that the proposed growth medium rooting depths, of 150mm for grass and 300mm for shrubs, are not in accordance with our guidance. As asbestos fibres were also identified at the site (albeit low levels at limited locations) the use of a marker membrane in soft landscaped private garden areas is also recommended as a precautionary measure.**

4. *The proposals for the delineation of identified contaminant hotspots are accepted, and the chemical test results and updated risk assessments should be submitted in due course together with any necessary updates to the remedial strategy.*

**Not fully addressed.** The letter report recommends the excavation of hotspot WS1 due to the presence of naphthalene, however the Remediation Report states that this material is no longer present due to archaeological excavations. Further evidence of the extent of these excavations is required. Figures 3 and 4 of the Chemical Testing Letter Report show exploratory location WS1 in two different locations; this point should be also clarified.

They add that the EA's opinion should be sought regarding the letter addressed to them.

Further comments 12.02.2024

Have no objection to the conclusions of the report, that there are no significant risks to controlled waters beneath the site, however they advise that the EA's opinion is sought on this matter. They also advise that the items remain outstanding as per our emails of 27 Oct 23 and 22 Dec23 and they therefore cannot recommend the discharge of any part of the condition:

Environment Agency- 02.11.2023 - have reviewed the submission of the following report pursuant to the application to discharge conditions 11 (ground conditions), 19 (archaeology), 20 (external lighting) and 38 (local benefits), attached to planning permission reference no. 134775/FO/2022:

- Remediation Strategy by Earth Environmental and Geotechnical [dated August 2023], report ref. no. A4755/23/RMS

They are aware that delineation of contamination hotspots and chemical testing is still required around areas of identified contamination. They also ask for another round of intrusive groundwater sampling across the site, as only two samples have been taken in one round of sampling in May 2022. At this time, based on the submissions to date, they are unable to discharge condition 11.

Further comments 22.01.2024

The following reports have been reviewed pursuant to the application to discharge condition 11 (parts 1 and 2) (ground conditions):

- Remediation Strategy Report, Prepared by Earth Environmental & Geotechnical, Dated: 30th August 2023, Reference: A4755/23/RMS

- Remediation Report, Prepared by Earth Environmental & Geotechnical, Dated: 22nd October 2023, Reference: A4755/23/RMS/V2

They have previously identified that there was insufficient information to allow for adequate assessment of the ground and possible risks to environmental receptors. This position remains unchanged. They do not believe that there is sufficient investigation and assessment of the site to allow for an adequate assessment of risk to controlled waters and the safe reuse of materials on site and are therefore unable to recommend the discharge of condition 11 (parts 1 and 2) (ground conditions) at this time.

Further comments 23.02.2024

Have assessed information contained in the submitted letter report for the proposed redevelopment of land off Louisa Street, Openshaw, Manchester by EEG Ltd dated January 2024 and believe that it is insufficient to address the requirements of parts 1 and 2 of condition 11 (ground conditions) attached to planning permission referenced 134775/FO/2022.

The site has been identified as having a history of industrial land use that could pose an adverse risk to controlled waters.

They have already identified that the site is in a sensitive environmental location. They have additionally identified that there are indications of the contamination at other locations around the site not just trial pit one which was identified in the June 2022 Ground Investigation report by EEG Ltd. Assessment of this report at the time of submission, as well as this more contemporary letter report, has identified that sampling appears to have concentrated in the top 1m of the site with very few samples being taken below this depth especially where contamination has been identified in the borehole logs at a depth of greater than 1m. They have further identified that substantial sub-floor voids are present on site with materials in those voids likely to pose a risk to controlled waters. They appreciate that the voids can only be investigated (along with the large area in the middle of the site, under the current floor slab which appears not to have been investigated yet) during the enabling works process, but this investigation is an integral part of the site characterisation that is covered by parts 1 and 2 of Condition 11. They are therefore unable to recommend to the local planning authority that parts 1 and 2 of condition 11 (ground conditions) attached to planning permission referenced 134775/FO/2022 for the proposed development of land off Louisa Street, Manchester can be discharged at this time.

Work & Skills team – Happy to approve condition no.35.

## 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:** SPLIT DECISION

#### **Article 35 Declaration**

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

Condition no. 11 (parts 1 and 2) (ground conditions)

11) The content of the reports below has been reviewed.

Remediation Strategy Louisa Street dated August 2023 ref: A4755/23/RMS received 31<sup>st</sup> August.2023

Email from Earth Environmental & Geotechnical to the applicant dated 19<sup>th</sup> November 2023;

Remediation Report Louisa Street dated October 2023 ref: A4755/23/RMS/V2 received 27<sup>th</sup> November.2023

Soil & Ground water Assessment ref: A4755/23/LR/3 dated 31<sup>st</sup> January 2024 received 2nd February 2024. It is considered that there is currently insufficient information in relation to proposed sampling for imported soils; matters in relation to the variation in clean cover depths; issues relating to the excavation of hotspot WS1, and the lack of sampling at a depth of greater than 1m. On this basis condition no.11 parts 1 and 2 are not discharged.

Condition no. 19 (archaeology)

19) The content of the reports below has been examined and are considered to be acceptable.

- Historic Building Investigation Report version 1.1 dated 29.08.2023.

- Written Scheme of Investigation for Archaeological Excavation and Watching Brief dated July 2023 ref: 4627.

Received 31<sup>st</sup> August 2023

-Post Excavation Assessment report received 17<sup>th</sup> January 2024

On the basis that the development is implemented in accordance with the content of the documents referenced above, condition no.19 is discharged.

Condition no.20 (external lighting)

20)The details and specifications on the plans and documents referenced below have been examined and are considered to be satisfactory.

- Section 38 (Adoptable) Lighting Layout - SHD758 Rev R0

- Private Lighting Design - SHD761 Rev R0

- External Lighting to the front and rear of Dwellings – Specifications document

Received 31<sup>st</sup> August 2023

On the basis that the development is implemented in accordance with the plans and documents referenced above, condition no.20 is discharged.

Condition no. 35 (local benefits)

35)The content of the Land at Louisa Works, Louisa Street, Openshaw Local Benefit Proposal – July 2023 received 31<sup>st</sup> August 2023 has been reviewed and is considered to be acceptable. On the basis that the development is implemented in accordance with the details in the Land at Louisa Works, Louisa Street, Openshaw Local Benefit Proposal – July 2023, condition no.35 is discharged.

## Appendix 1 – List of consultees & neighbours notified

Highway Services  
Work & Skills Team  
Greater Manchester Archaeological Advisory Service

## Appendix 2 – Planning constraints

[illegible]