

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/23/0564

Date registered valid: 16 August 2023

Proposal: Discharge of conditions 15 (fencing), 16 (scaffolding) 20 (vehicular safety measures), 37 (boundary treatment) attached to planning permission referenced 135270/FO/2022

Address: Land Between 121-131 Levenshulme Road , Manchester, M18 7NF

Ward(s): Longsight Ward

Applicant: Mr Rob Watson Watson Construction Ltd

Agent (if any):

Case officer: Sue Wills
Tel: 0161 234 4524
Email: sue.wills@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: **19th December 2023**

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 22 August 2023 Expired: 12 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

Highways Services – 30.08.2023 -In regard to Condition 20 (Vehicular Safety Measures) plan 'Proposed External Works' and Risk Assessment, Method Statement and Rescue Plan provides details on the vehicle safety measures. The information is sufficient to allow them to recommend the discharge of the condition from a Highways perspective.

In regard to Condition 37 (Boundary Treatment) plans 'Proposed Site Plan with Setting Out Co-ordinates' and 'Boundary Treatment Details' provides details on the proposed boundary treatment has been submitted. The information is sufficient to allow them to recommend the discharge of the condition from a Highways perspective.

Network Rail 10.10.2023 - Advise that they cannot discharge the conditions. The OP hasn't returned a signed copy of the BAPA agreement which was issued in July therefore they cannot review any documentation without a mechanism to recover NR costs.

13.10.2023 – Advise they were only made aware of the Company Name discrepancy last month, and it was amended and reissued on the 26/09/2023 so they suggest it should be expected back in due course, once received they advise they will discharge the conditions.

28.11.2023 - have still not received a signed BAPA from Watson Homes and Network Rail cannot continue to support the development or discharge the conditions until they do so. Network Rail are regulated by the Office of Rail Regulation (ORR) and are obligated under our Network Licence to ensure the safe and efficient operation of the Network to the reasonable satisfaction of railway service providers and funders, the BAPA is a standard form of agreement approved by the ORR to make Outside Party works adjacent and is a non-negotiable for them.

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:

Article 35 Declaration

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

Conditions 15 (fencing)

15) Condition no.15 relates to a need for boundary treatment to prevent access to the rail line. Whilst the Proposed External Works plan sheet 2 of 2 ref: 23-2405/A1/110 rev.P3 ;Boundary treatment details plan ref: 221310 20 rev.P1;and Proposed plan with setting out coordinates ref: 221310- 0101 rev.P4 have been examined , as a signed copy of a Basic Asset of Protection Agreement has not been submitted and the works lie on the boundary to an operational rail line condition no.15 cannot be discharged at this time.

Condition 16 (scaffolding)

16) Condition no.16 relates to a need for a method statement giving details of any scaffolding works within 10m of the boundary with the railway, together with measures to be taken to prevent construction materials from the development reaching the railway (including protective fencing).

Whilst the scaffolding details dated 14.07.2023, and Risk Assessment, Method Statement and Rescue plan dated 19.07.2023 have been examined, as a signed copy of a Basic Asset of Protection Agreement has not been submitted and the works would be in proximity to the boundary to an operational rail line condition no.16 cannot be discharged at this time.

Condition 20 (vehicular safety measures)

20) Condition no. 20 relates to submission of details of appropriate vehicle safety protection measures along the boundary with the railway. Whilst the details on the Proposed External Works plan sheet 2 of 2 ref: 23-2405/A1/110 rev. P3, and the submitted Berry System P224 Rigid post fencing design have been examined, as a signed copy of a Basic Asset of Protection Agreement has not been submitted and the works would be in proximity to the boundary to an operational rail line condition no.20 cannot be discharged at this time.

Condition no. 37 (boundary treatment)

Condition no.37 requires that :-

- a) The boundary treatment shall be implemented in accordance with the identified locations on the Proposed site plan ref: 02 rev. P21 and Email from agent confirming the incorporation of a litter guard /plinth below the railing type boundary treatments 'E' and 'F' received 25th January 2023 (including drawn image), (notwithstanding the treatment to the boundary treatment to the adjacent railway cutting to the rear of the apartment block and associated curtilage).
- b) Finalised elevational designs of all boundary treatments annotated on the Proposed site plan ref: 02 rev. P21 are to be submitted and approved prior to above ground works.

The elevational design approach on Boundary treatment details plan ref: 221310 20 rev.P1 is accepted in relation to boundary treatment type A, type B, type D, type E , type F , and type H , however, as types C and G form part of the consideration of condition no.16 , and condition no.16 cannot be discharged as a signed copy of a Basic Asset of Protection Agreement has not been submitted , condition no.37 cannot be discharged at this time.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Greater Manchester Police
Network Rail

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

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: NORTH AREA