

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137453/NMC/2023

Date registered valid: 3 July 2023

Proposal: Non-material amendment to Planning Permission APP/B4215/21/W/3287525 (129406/FO/2021) to amend conditions 3, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 20 and 35 to alter triggers associated with submission of details.

Address: Land At Deansgate South, Manchester, M3 4LB

Ward(s): Deansgate Ward

Applicant: Fusion Manchester DevCo Ltd

Agent (if any): Miss Claire Pegg Cushman & Wakefield

Case officer: Lucy Harrison
Tel: 0161 234 5795
Email: lucy.harrison@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 20.7.23

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Date of site visit:

Standard consultations:

No consultations have been printed and sent.

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

The site is situated at the junction of Chester Road/Bridgewater Viaduct and Deansgate. It measures 0.06 ha, is irregular in shape and occupies a prominent location on a key gateway route into the city centre. It has been vacant for some time and comprises hardstanding and scrub vegetation. It was last used as a garage and is now secured by a hoarding, with temporary use as a works area for the adjacent Deansgate Square development. There are two vehicular access points - one off Deansgate and one off Chester Road. The site slopes down from Chester Road along the southern edge to Deansgate with a boundary wall running along Deansgate.

To the north east is Deansgate Quay, a seven storey residential building with associated car parking. On the opposite side of Bridgewater Viaduct to the north west is the residential development of Castle Wharf. To the north east of the site are a variety of low-rise buildings that form the area of Knott Mill. To the south east is West Tower, which forms part of the Deansgate Square development, and to the south is a cleared site.

The site lies within the Great Jackson Street Development Framework area (SRF), the majority of which lies to the east and south of the site.

Planning permission was granted subject to conditions at appeal on 17 May 2022 for a 28-storey purpose-built student accommodation (PBSA) building (Sui Generis).

Description of Development

The proposal is to change the wording of the pre-commencement conditions to amend the condition triggers to enable demolition and site clearance works to take place in advance of the conditions being formally discharged. The demolition and site clearance works comprise the removal of the low level walls at the site, removal of the concrete slab and removal of the subterranean fuel tank. They have an associated programme of 4-5 weeks.

Consultations & Notification Responses

None required.

Issues

The main issue to consider is whether the proposed changes would constitute a material amendment to the planning permission.

The applicant has stated that the amendment to the condition triggers would enable the site clearance works to take place in August 2023, when the weather is generally better and the

surrounding area may be less busy due to the summer holiday period. It would also allow some of the significant ground works to be undertaken before Winter 2023.

The demolition and site clearance are minor as there are no existing buildings on the site and applications to formally discharge the pre-commencement conditions in question have already been submitted and are under consideration. Given this, it is considered that the proposed changes to the wording are non-material and should be approved.

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

1) The proposal seeks to amend the wording of conditions 3 (Wind Environment), 6 (Contaminated Land), 7 (Local Benefit Proposal), 8 (CMP), 9 (Dilapidation Survey), 10 (Materials), 11 (Public & Private Realm), 12 (SuDS), 14 (TV Reception), 15 (Radar Mitigation Scheme), 16 (Obstacle Lighting), 18 (Acoustics), 20 (Air Quality) and 35 (Window Obscuration Detail) to alter triggers associated with the submission of details to allow demolition and site clearance works to take place in advance of the conditions being formally discharged.

2) Following an assessment of the details submitted, I can confirm that the proposed amendments are 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 will not result in any significant material alterations to the planning approval.

3) a. Notwithstanding the details shown in the approved drawings and documents, the development hereby permitted shall not commence (other than demolition and site clearance), unless and until full details of the measures required to provide a safe and comfortable wind environment in and around the site for pedestrians and cyclists as a result of the development has been submitted to and approved in writing by the local planning authority. Where the mitigation includes tree planting, the details shall include:

i. A viability assessment for any tree planting within the highway, which shall include service plans, a ground penetrating radar survey and the digging of trial holes. The information derived from these investigations shall be used to illustrate within scaled plans the location of any services (including their depth) relative to the pavement edge and building line;

ii. Details of the overall numbers, size, species and planting specification (which should meet with the City Centre Tree Planting Specification Standards) and details of on going maintenance shall be submitted to and approved in writing by the City Council as local planning authority in accordance with the planting scheme as agreed above.

b. Any approved scheme shall be fully implemented prior to first occupation of the development. If within a period of 10 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

Reason - In the interests of amenity and public safety, pursuant to policy DM1 of the Core Strategy.

6) a) Prior to the commencement of development (other than demolition and site clearance), a report (the Preliminary Risk Assessment) to identify and evaluate all potential sources and impacts of any ground contamination, groundwater contamination and/or ground gas relevant to the site shall be submitted to and approved in writing by the local planning authority. The Preliminary Risk Assessment shall conform to City Council's current guidance document (Planning Guidance in Relation to Ground Contamination).

In the event of the Preliminary Risk Assessment identifying risks which in the written opinion of the Local Planning Authority require further investigation, the development shall not commence until a scheme for the investigation of the site and the identification of remediation measures (the Site Investigation Proposal) has been submitted to and approved in writing by the local planning authority.

The measures for investigating the site identified in the Site Investigation Proposal shall be carried out, before the development commences and a report prepared outlining what measures, if any, are required to remediate the land (the Site Investigation Report and/or Remediation Strategy) which shall be submitted to and approved in writing by the local planning authority.

b) When the development commences (other than demolition and site clearance), the development shall be carried out in accordance with the previously agreed Remediation Strategy and a Completion/Verification Report shall be submitted to and approved in writing by the local planning authority.

In the event that ground contamination, groundwater contamination and/or ground gas, not previously identified, are found to be present on the site at any time before the development is occupied, then development shall cease and/or the development shall not be occupied until, a report outlining what measures, if any, are required to remediate the land (the Revised Remediation Strategy) is submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the Revised Remediation Strategy, which shall take precedence over any Remediation Strategy or earlier Revised Remediation Strategy.

Reason - To protect the water environment pursuant to policies DM1 and EN18 of the Core Strategy.

7) a) Prior to the commencement of development (other than demolition and site clearance), details of a Local Benefit Proposal in order to demonstrate a commitment to recruit local labour for both the construction and operation elements of the development shall be submitted to and approved in writing by the local planning authority. The approved document shall be implemented as part of the construction and occupation phases of the development.

In this condition a Local Benefit Proposal means a document which includes:

- (i) the measures proposed to recruit local people including apprenticeships;
- (ii) mechanisms for the implementation and delivery of the Local Benefit Proposal; and
- (iii) measures to monitor and review the effectiveness of the Local Benefit Proposal in achieving the objective of recruiting and supporting local labour objectives.

(b) Within six months of first occupation of the development, details of the results of the scheme shall be submitted to the local planning authority.

Reason - To safeguard local employment opportunities pursuant to policy EC1 of the Core Strategy.

8) Prior to the commencement of development (other than demolition and site clearance), a detailed construction management plan outlining working practices during development shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt the construction management plan shall include:

- a) Display of an emergency contact number;
- b) Details of Wheel Washing;
- c) Dust suppression measures;
- d) Compound locations where relevant;
- e) Location, removal and recycling of waste;
- f) Routing strategy and swept path analysis;
- g) Parking of construction vehicles and staff;
- h) Sheeting over of construction vehicles;
- i) Communication strategy with residents that shall include details of how engagement, consultation and notification of residents during the works shall take place;

Development shall be carried out in accordance with the approved construction management plan.

Reason - To safeguard the amenities of nearby residents and highway safety pursuant to policies SP1, EN9, EN19 and DM1 of the Core Strategy.

9) Before development commences (other than demolition and site clearance), a full condition survey of the carriageways/footways on construction vehicle routes surrounding the site shall be undertaken and submitted to the local planning authority. When all construction/fitout works are complete, the same carriageway/footways shall be re-surveyed and the results submitted to the local planning authority for assessment. Should any damage have occurred to the carriageways/footways, they shall be repaired and reinstated in accordance with a scheme that shall first be submitted to and approved in writing by the local planning authority. The necessary costs for this repair and/or reinstatement shall be met by the developer.

Reason - To ensure an acceptable development pursuant to policy DM1 of the Core Strategy.

10) Prior to the commencement of development (other than demolition and site clearance), a programme for the submission of samples and specifications of all materials to be used on all external elevations of the development, including details of full sized sample panels, shall be submitted to and approved in writing by the local planning authority. Samples and specifications of all materials to be used on all external elevations of the development, which shall include jointing and fixing details, details of the drips to be used to prevent staining and a strategy for quality control management, shall then be submitted to and approved in writing by the local planning authority in accordance with the programme as agreed above. The development shall be carried out in accordance with the approved details.

Reason - In the interests of the visual amenity of the area pursuant to policies SP1 and DM1 of the Core Strategy.

11) a. Prior to the commencement of development (other than demolition and site clearance), a programme for the submission of final details of the public and private realm works for the development shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include submission and implementation timeframes for the following details:

- a. Details of the proposed hard landscape materials;
- b. Details of the materials, including natural stone or other high quality materials to be used for the reinstatement of the pavements within the public highway and for the areas between the pavement and the line of the proposed building;
- c. Details of the proposed tree species within the public realm including proposed size, species and planting specification including tree pits and design;
- d. A strategy detailing on-going maintenance of the proposed trees;
- e. Details of measures to create potential opportunities to enhance and create new biodiversity within the development to include bat boxes and bricks, bird boxes and appropriate planting;
- f. Details of any external furniture including seating, bins and lighting;

b. The above details shall then be submitted to and approved in writing by the local planning authority and fully implemented in accordance with the approved timeframes.

If within a period of 10 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out pursuant to policies SP1, DM1, EN1, EN9 EN14 and EN15 of the Core Strategy.

12) No development (other than demolition and site clearance) shall take place until surface water drainage works have been implemented in accordance with Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement

national standards and details that have been submitted to and approved in writing by the local planning authority.

In order to discharge the above drainage condition the following additional information shall be provided:

a) A Flood Risk Assessment shall be carried out, as the site is located within close proximity to a Main River and the site is shown to be located within an Environment Agency (EA) Flood Warning Area;

b) A Drainage Strategy, which shall be set out in accordance with National Planning Policy Framework and follow the drainage hierarchy;

c) The River 'Medlock Tunnel' (which connects the River Medlock) runs within close proximity to the site, therefore site investigation works and correspondence with the Environment Agency shall be carried out to confirm that this culvert is not located within the site boundary and that the proposed building does not encroach into the culvert easement;

d) Consideration of alternative green SuDS solution (that utilises infiltration or attenuation) if practicable;

e) Details of surface water attenuation that offers a reduction in surface water runoff rate in line with the Manchester Trafford and Salford Strategic Flood Risk Assessment, i.e. at least a 50% reduction in runoff rate compared to the existing rates, as the site is located within Conurbation Core Critical Drainage Area;

f) Runoff volume in the 1 in 100 year, 6 hours rainfall shall be constrained to a value as close as is reasonable practicable to the greenfield runoff volume for the same event, but never to exceed the runoff volume from the development site prior to redevelopment;

g) Evidence that the drainage system has been designed (unless an area is designated to hold and/or convey water as part of the design) so that flooding does not occur during a 1 in 100 year rainfall event with allowance for 40% climate change in any part of a building;

h) Assessment of overland flow routes for extreme events that is diverted away from buildings (including basements). Overland flow routes shall be designed to convey the flood water in a safe manner in the event of a blockage or exceedance of the proposed drainage system capacity including inlet structures. A layout with overland flow routes shall be presented with appreciation of these overland flow routes with regards to the properties on site and adjacent properties off site;

i) Where surface water is connected to a Main River, any works within or adjacent to the river that would affect it would require consent from the Environment Agency (EA). An email of acceptance by the EA of proposed flows and/or new connection will suffice;

j) Where surface water is connected to the public sewer, agreement in principle from United Utilities (UU) is required that there is adequate spare capacity in the existing system taking future development requirements into account. An email of acceptance by UU of proposed flows and/or new connection will suffice. In the event of surface water draining to the combined public sewer, the pass forward flow rate to the public sewer shall be restricted to 5 l/s;

k) Hydraulic calculation of the proposed drainage system;

l) Construction details of flow control and SuDS elements.

Reason - To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution pursuant to policies EN08 and EN14 of the Core Strategy.

14) Before development commences (other than demolition and site clearance), studies containing the following with regard to television reception in the area of the site shall be submitted to and approved in writing by the local planning authority.

a) Measure the existing television signal reception within the potential impact areas identified in the Television and Radio Reception Impact Assessment Issue 0.3 dated 07/01/2021 by GTech Surveys Limited before development commences. The work shall be undertaken either by an aerial installer registered with the Confederation of Aerial Industries or by a body approved by the Office of Communications, and shall include an assessment of the survey results obtained.

b) Assess the impact of the development on television signal reception within the potential impact area identified in (a) above within one month of the practical completion of the development or before the development is first occupied, whichever is the sooner, and at any other time during the construction of the development if requested in writing by the local planning authority in response to identified television signal reception problems within the potential impact area. The study shall identify such measures necessary to maintain at least the pre-existing level and quality of signal reception identified in the survey carried out in (a) above. The measures identified must be carried out either before the building is first occupied or within one month of the study being submitted to the local planning authority, whichever is the earlier.

Reason - To ensure that the development does not adversely affect existing levels and quality of television reception pursuant to policy DM1 of the Core Strategy.

15) Development (other than demolition and site clearance) shall not commence on site unless and until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with NATS (En Route) PLC and submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved RMS.

Reason - In the interests of aviation safety pursuant to policy DM2 of the Core Strategy.

16) Development (other than demolition and site clearance) shall not commence unless and until a scheme for the provision of obstacle lighting has been submitted to and approved in writing by the local planning authority, in consultation with the Aerodrome Safeguarding Authority for Manchester Airport. The approved obstacle lighting scheme shall be implemented before first occupation of the development and retained thereafter.

Reason - In the interests of aviation safety pursuant to policy DM2 of the Core Strategy.

18) a. Notwithstanding the details shown in the approved drawings and documents, before the development (other than demolition and site clearance) commences a scheme for acoustically insulating the proposed student accommodation against noise from Bridgewater Viaduct, Deansgate, and the nearby tram and railway lines shall be submitted to and approved in writing by the local planning authority.

The potential for overheating shall also be assessed and the noise insulation scheme shall take this into account. The approved noise insulation and ventilation scheme shall be completed before any of the units are occupied.

Noise survey data shall include measurements taken during a rush-hour period and night time to determine the appropriate sound insulation measures necessary. The following noise criteria shall be required to be achieved:

Bedrooms (night time 23:00 to 07:00) - 30 dB L Aeq (individual noise events shall not exceed 45 dB L AmaxF by more than 15 times);

Living rooms (daytime 07:00 to 23:00) - 35 dB L Aeq

Gardens and terraces (daytime) - 55 dB L Aeq.

b. Prior to first occupation of the student accommodation units, a verification report to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report shall be submitted to and approved in writing by the local planning authority. The report shall include post completion testing to confirm that the internal noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the internal noise criteria. Those measures shall be implemented in full before any of the units are first occupied.

Reason - To protect future residents from noise nuisance pursuant to policies SP1, H1 and DM1 of the Core Strategy.

20) a) Prior to commencement of the development (other than demolition and site clearance), mitigation measures to safeguard local air quality shall be submitted to and approved in writing by the local planning authority.

b) Prior to occupation of the development any agreed mitigation measures shall be implemented and verified as such in writing by the local planning authority and shall remain in situ whilst the use or development is in operation.

Reason - To protect existing and future residents of the area from air pollution pursuant to policies EN16, SP1 and DM1 of the Core Strategy.

35) Prior to commencement of the development hereby permitted (other than demolition and site clearance), a scheme for obscuration of the three windows at mezzanine level in the north elevation of the building shall be submitted to and approved in writing by the local planning authority. The three windows when installed shall be obscured in accordance with the approved scheme and shall thereafter be maintained in perpetuity.

Reason - To protect the privacy of residents of Deansgate Quay pursuant to policy DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

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