

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137538/JO/2023

Date registered valid: 12 July 2023

Proposal: Removal of Condition 10 (Use Class) attached to Planning Permission 134909/FO/2022.

Address: Ground Floor Rear, Beaver House, 125 Portland Street, Manchester, M1 4QA

Ward(s): Piccadilly Ward

Applicant: Mr Bell Portland Estates Ltd

Agent (if any): Andrew Burns Atelier MB

Case officer: Max Gibson
Tel: 0161 219 6359
Email: maximillian.gibson@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 06/09/2023

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Dwellings

Date of site visit:

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 19 July 2023 Expired: 9 August 2023

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: Whitworth Street Conservation Area 1985

Tree Preservation Order:

Description of area

The area relates to the western end of Portland Street, a major thoroughfare in Manchester's City Centre that runs from Oxford Street through to the far corner of Piccadilly Gardens. The character of the area comprises a number of different uses, including offices, retail, dining, hotel and residential.

The site relates to Beaver House, 125 Portland Street, a brick office building built in the 1970s. The materials and proportions of the building provide a visual consistency with the listed former warehouses on the street. The proposed development is to the rear of the building, where there is a courtyard with parking spaces and a number of mature trees. The Grade II-listed Portland Chambers overlook the development site.

Description of development

The application seeks the variation of Condition 10 (Use Class) of app. ref. 134909/FO/2022 which limits the use of the rear extension to Use Class E (b) (Sale of food and drink for consumption (mostly) on the premises). The proposal would vary condition to confirm the use as F1(a) Provision of education.

Consultations & Notification Responses

Publicity - letters were sent to surrounding occupiers informing them of the development. No responses have been received as a result of this publicity.

Issues

The applicant is seeking to vary the wording of Condition 10 which limits the use class of the extension to use as Class E (b) (Sale of food and drink for consumption (mostly) on the premises) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended). The change would confirm the use of the extension as an F1 (a) Provision of education, which would bring the use in line with the language school the operates on the ground floor.

The use of part of the ground floor, to which the extension is attached and will be accessed from, was granted permission for use as a D1 (Buddha meditation, teaching and learning centre) under app. ref. 104111/FU/2013/C2. Whilst a change of use to class E was granted under app. ref. 130103/FO/2021, this has not been implemented. Therefore, it is considered that the lawful use is as an education facility. Hence, the proposed restriction of the new extension to an F1 (a) use is considered to be in line with the current lawful use.

The agent has confirmed by email that the ground floor is mainly for use as administrative office space ancillary to the main education use, with teaching mainly on the first floor. They have confirmed that the intention is to use the extension in accordance with this as ancillary space to the main educational usage.

Given the above, the variation of Condition 10 to confirm the lawful use of the proposed extension as use class F1(a) Provision of education is considered acceptable as it would be consistent with established use of the ground floor. The application is hereby recommended for approval.

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

Officers have worked in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Appropriate conditions have been attached to the approval.

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 91 of the Town and Country Planning Act 1990.

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

- Drawing - Proposed P(201) REV B ELEVATIONS - SHEET 1
- Drawing - Proposed P(210) REV C ELEVATIONS - SHEET 2
- Drawing - Proposed P(234) REV D GROUND FLOOR ELEVATIONS - CRECHE
- Drawing - Proposed T(100) REV J GROUND FLOOR PLAN
- Tree survey or information TREE SURVEY REPORT

received by the City Council, as local planning authority, on 21/02/2023

-Heritage Statement
received by the City Council, as local planning authority, on 09/09/2022

-Design & Access Statement REV A
received by the City Council, as local planning authority, on 15/12/2022

-Drawing - Proposed P (170) REV E ROOF PLAN
received by the City Council, as local planning authority, on 02/06/2023

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) Prior to commencement, samples and specifications of the materials to be used on the external elevations of the building shall be submitted for approval in writing by the City Council as Local Planning Authority. This includes any brickwork, fixing and joining and new doorways and windows including specifications of frame widths. The approved materials shall be implemented as part of the development.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policies SP1 and DM1 of the Core Strategy.

4) The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of a Secured by Design accreditation.

Reason - To reduce the risk of crime pursuant to policies SP1 and DM1 of the Core Strategy and to reflect the guidance contained in the National Planning Policy Framework.

5) Notwithstanding the details contained within the approved documents (P(201) REV B ELEVATIONS - SHEET 1, P(210) REV C ELEVATIONS - SHEET 2, P(234) REV D GROUND FLOOR ELEVATIONS - CRECHE, T(100) REV J GROUND FLOOR PLAN), prior to the commencement of the development hereby approved, full and final details of the boundary treatment shall be submitted for approval in writing by the City Council, as local planning authority. The approved details shall be implemented as part of the development and be in place prior to the first occupation of the development.

The boundary treatments for each phase of development shall be retained and maintained in situ thereafter and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no boundary treatment shall be erected on site, other than that shown on the approved plans.

Reason - In the interest of visual amenity and security of the site pursuant to policies SP1 and DM1 of the Manchester Core Strategy (2012)

6) The window reveals and soffits for the development hereby approved shall be as follows:

- minimum 200mm;
- Soffits - brick.

The approved window and soffit detail shall be implemented as part of the development.

Reason - In the interest of preserving the architectural detailing on the scheme pursuant to policies EN1 and DM1 of the Manchester Core Strategy (2012).

7) Prior to the commencement of the development a detailed construction management plan outlining working practices during development shall be submitted to and approved in writing by the local planning authority, which for the avoidance of doubt should include:

- o The routing of construction traffic;
- o Detail the vehicular activity associated with the construction including appropriate swept-path assessment;
- o Details of the location and arrangements for contractor parking;
- o The identification of the vehicular access points into the site;
- o Identify measures to control dust and mud including on the surrounding public highway including details of how the wheels of contractor's vehicles are to be cleaned during the construction period;
- o The details of an emergency telephone contact number for the site contractor to be displayed in a publicly accessible location;
- o For large schemes a highway dilapidation survey including photographs and commentary on the condition of carriageway/footways on construction vehicle routes surrounding the site.

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

Reason: To ensure that the development is acceptable in the interests of the highway safety and the amenity of the locality, pursuant to policies SP1, DM1, CC5, CC10, T1, EN15, EN16, EN17 and EN18 of the Core Strategy and Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (April 2007).

8) a) Before the first use of the development hereby approved, a scheme for the storage and disposal of refuse shall be submitted for approval in writing by the City Council as local planning authority.

b) The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health accordance with Core Strategy Policy DM1.

9) The cycle parking indicated on the approved plan (Drawing - Proposed T(100) REV J GROUND FLOOR PLAN) shall be made available for use prior to the occupation of the development hereby approved.

The cycle parking shall then be available at all times whilst the site is occupied.

Reason - To ensure that there is adequate parking for the development proposed when the building is occupied in order to comply with policy DM1 of the Manchester Core Strategy.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no part of the development shall be used for any purpose other than the purpose of F1 (Learning and non-residential institutions - (a) Provision of education) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason - To safeguard the amenities of the neighbourhood by ensuring that other uses which could cause a loss of amenity do not commence without prior approval pursuant to Core Strategy policies SP1 and DM1.

11) Prior to the occupation of the development hereby approved, a scheme shall be submitted detailing coverage for any CCTV systems, alarms and access control to check all areas of the development are covered shall be submitted to and approved in writing by the City Council, as local planning authority. The approved scheme shall be implemented in full for the duration of the use of the development.

Reason - in the interest of public safety pursuant to policies DM1 and SP1 of the Manchester Core Strategy.

12) The external areas within the application site shall only be used in accordance with a Management Plan that shall be submitted to and approved in writing by the City Council as local planning authority before the development is first occupied and shall include:

- a schedule of days and hours of operation;
- number of occupiers (capacity); and
- statement of intended use.

The approved management plan shall be implemented upon the first use of the development hereby approved and thereafter retained.

No amplified sound or any music shall be produced or played in any part of the site outside the building.

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to policies SP1 and DM1 of the Core Strategy.

13) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

07:30 to 20:00, Monday to Saturday

10:00 to 18:00 Sunday/Bank Holiday

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation and in accordance with Core Strategy Policy DM1.

14) No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

Reason - In order to protect wildlife from works that may impact on their habitats pursuant to policy EN15 of the Manchester Core Strategy (2012).

15) In this condition "retained tree" means an existing tree, shrub or hedge which is to be as shown as retained in the approved document (T(100) REV J GROUND FLOOR PLAN) paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with policies EN9 and EN15 of the Core Strategy.

16) All tree work should be carried out by a competent contractor in accordance with British Standard BS 3998 "Recommendations for Tree Work" and BS5837 "Trees in relation to design, demolition and construction".

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with policies EN9 and EN15 of the Core Strategy.

17) Prior to commencement, full and final details of the design of the green roof of the building shall be submitted for approval in writing by the City Council as Local Planning Authority. This

shall include cross sections and materials. The approved design shall be implemented as part of the development.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policies SP1 and DM1 of the Core Strategy.

18) Prior to any above ground works, the specification of the hard and soft landscaping (including materials) shall be submitted for approval in writing by the City Council, as Local Planning Authority, The approved details shall be implemented as part of the development and thereafter retained and maintained for as long as the development is in use.

Reason - In the interest of an appropriate landscaping scheme being prepared for the site and in the interest of visual amenity pursuant to policies SP1, EN1 and DM1 of the Manchester Core Strategy (2012).

Appendix 1 – List of consultees & neighbours notified

Second And Third Floor, Linley House, Dickinson Street, Manchester, M1 4LF
Buildings Suite 1A To 1E And 2F04, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Exchange Food & Drink Lounge, 102 Portland Street, Manchester, M1 4GX
Third Floor, Beaver House, 125 Portland Street, Manchester, M1 4QA
Second Floor, Beaver House, 125 Portland Street, Manchester, M1 4QD
Basement Suite Ba And Ground Suite Ga, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suites 2C And 2D And 2E, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3D, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3F, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suites 2A 2B And 3B2, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3b1, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 1da, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3E, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3C, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Buildings Suite 3A, Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
Beaver House, 125 Portland Street, Manchester, M1 4QD
First Floor, Beaver House, 125 Portland Street, Manchester, M1 4QA
Eighth Floor, Linley House, Dickinson Street, Manchester, M1 4LF
First Floor, Linley House, Dickinson Street, Manchester, M1 4LF
Ground Floor, Linley House, Dickinson Street, Manchester, M1 4LF
Fourth Floor And Fifth Floor, Beaver House, 125 Portland Street, Manchester, M1 4QA
Ground Floor Front, Beaver House, 125 Portland Street, Manchester, M1 4QA
Portland Buildings, 127 - 129 Portland Street, Manchester, M1 4PZ
106 Portland Street, Manchester, M1 4RJ
117 - 119 Portland Street, Manchester, M1 6ED
MY HOME MOVE LTD, Fifth And Sixth Floor, Linley House, Dickinson Street, Manchester, M1 4LF
Fourth Floor, Linley House, Dickinson Street, Manchester, M1 4LF

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
Conservation Area - Whitworth Street Conservation Area 1985
Area Team Boundary - Name: CENTRAL