

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137232/FU/2023

Date registered valid: 9 June 2023

Proposal: Change of Use to mezzanine level of retail units T1 and T5 of Vita Living North (Circle Square Plots 5 & 6) from commercial (class E) to ancillary residential amenity areas (Class C3)

Address: Vita Living North, Circle Square (Plots 5 & 6), Oxford Road, Manchester, M1 7GB

Ward(s): Deansgate Ward

Applicant: Manchester Charles Street Residential Scottish LP

Agent (if any): Mr John Cooper Deloitte LLP

Case officer: Michael Pearson
Tel: 0161 219 2735
Email: michael.pearson@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 11/10/2023

Application details

Type of application: Change of use Consent

Development type: Change of use

Date of site visit: 21 June 2023

Standard consultations:

Printed: 21 June 2023 Expired: 12 July 2023

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

Posted: 21 June 2023 Expired: 12 July 2023

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

The application relates to retail units T1 and T5 of Vita Living North, set within the part 16 storey part 34 storey tower block present at Circle Square Plots 5 & 6, situated on Charles Street. The commercial units are two storey and neighbour communal amenity areas, which includes a gym, that serve the residential accommodation situated in the upper floors of the block. The commercial units are currently vacant, with the submitted supporting information stating they have struggled to find commercial occupiers who are willing to occupy both floors of the unit.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The neighbouring area is characterised by the wider Circle Square development that is bound by Charles Street, Oxford Road, Brancaster Road and Princess Street. Circle Square is characterised by multiple tower blocks completed in red metal cladding, with wide landscaped public realm spaces separating said blocks. To the west of the site lies the Grade II listed Dancehouse Theatre. The proposal lies within the Oxford Road Corridor, an area with a high number of properties in commercial use that acts a major thoroughfare between St Peters Square and the campuses of the University of Manchester and Manchester Metropolitan University.

Description of development

The application seeks consent for the change of use of the mezzanine floor within the application site from commercial (class E) to ancillary residential amenity areas (class C3) for the apartments located within the upper floors of Vita Living North.

The application would see the loss 441sqm of commercial floor space, in order to create an enlarged communal residential area at first floor that would see the addition of a creator room, open workspace, meeting room and gym studio room.

The proposed amenity areas are aimed to respond to changes in living patterns, as part of an overall re-branding strategy for the residential offer of both blocks 5, 6, 7 and 8 of Circle Square.

Planning History

A high number of applications are on record for the application site, the most relevant of which are shown below:

130365/NMC/2021 - S96 (Non material amendment) to reconfigure unit T4 and T5 with an additional double doorset at ground floor level and split unit T5 at mezzanine to provide additional area for unit T4. Louvres within spandrel panels are to be added for existing plant room for unit T4. A full height louvred panel and opaque glazing panel are to be added to a new plant room at mezzanine - Approved June 2021.

111026/FO/2016/C1 - Blocks 5 and 6 - Erection of part 17, part 36 storey building to comprise 411 residential apartments (Class C3) (14 studios, 136 x 1 bed, 228 x 2 bed and 33 x 3 bed) with mid and top roof level private dining / media room/ gardens, ground and mezzanine floor residential amenity uses including a gym,, plus lower ground, ground and mezzanine level commercial uses (Class A1 (shop), A2 (Financial and Professional Services), A3 (Restaurant and Cafe), A4 (Drinking Establishment), B1 (Offices), D1(Non-residential Institutions Creche only) and D2 (Assembly and Leisure - Gym only)) and associated junction improvements to Oxford Road / Charles Street, access, servicing, and landscaping – Approved August 2017.

Consultations & Notification Responses

Environmental Health – No objection subject to conditions relating to restrictions of the proposed use, a management plan and verification report.

Publicity – None received.

Policy

The Manchester Core Strategy – Development Plan Document 2012-2027 (“the Core Strategy”) was adopted by the City Council on the 11th of July 2012:

- Policy SP1 – Spatial Principles
- Policy EC1 – Employment and Economic Growth in Manchester
- Policy CC1 – Primary Economic Development Focus: City Centre and Fringe
- Policy CC2 – Retail
- Policy DM1 – Development Management

Saved Unitary Development Plan for Manchester - The following saved UDP Policies are of relevance to this application:

- Policy 26 – Development and Noise

Corridor Manchester Strategic Vision to 2025
Oxford Road Corridor Strategic Regeneration Framework Guidance (September 2018)
Oxford Road Corridor Strategic Spatial Framework (March 2018)

National Planning Policy Framework
- Chapter 12 – Achieving Well Designed Places

National Planning Policy for Waste

Other Material Considerations

The Places for Everyone Plan is a Joint Development Plan Document, providing a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester. Once the Places for Everyone Plan is adopted it will form part of Manchester's development plan.

To date, five consultations have taken place in relation on the Plan. The Examination of Plan, following its submission in February 2022, began in November 2022. Following the completion of the Examination of the Plan, main modifications have now been proposed which will now become the subject of further public consultation.

The City Council's Executive agreed the Main Modification on 4 October 2023 and endorsed an 8 week period of public consultation on the Main Modifications commencing no earlier than 9 October 2023.

Any representations will be forwarded to the Examination team managing the Plan. The Inspectors will consider all representations on the proposed Modifications before finalising the examination report.

Given the stage the Plan has reached, and level of public consultation and scrutiny it has received, the Plan and its policies is now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance.

Issues

Principle of the Development

The development would see the loss of commercial Class E floor space in favour of the expansion of ancillary Class C3 residential communal areas. The submission has been accompanied by a Marketing Report that details that the two units subject to the application were marketed for the last six months with minimal interest due to occupiers being unwilling to occupy the units due to them being set over two stories rather than one. The report then goes on to state that the owners of the unit are in receipt of multiple offers to occupy units T1 and T5 on the basis of that the proposed development is implemented i.e. the floor space of both units is reduced. It is noted that whilst the proposal, would see a reduction in the floor space of the commercial units on site, there would not be a reduction in the number of commercial units themselves and an active ground floor frontage would be retained on site.

As such, it is considered if implemented the proposal would allow for the occupation of multiple commercial units within the City Centre, that would generate employment opportunities, thereby helping the regeneration of the City Centre, all in accordance with Core Strategy Policies SP1, EC1, CC1, CC2 and DM1, the Corridor Manchester Strategic Vision document, Oxford Road Corridor Strategic Regeneration Framework Guidance, the Oxford Road Corridor Strategic

Spatial Framework, the Places for Everyone Plan and the National Planning Policy Framework, subject to the matters discussed below.

Residential Amenity

As stated previously within this report, residential apartments are located within the upper floors of Vita Living North, and a gym is located within the existing communal area located at first floor. The development would see the expansion of the gym with the addition of a “studio gym”, this would then be accompanied by other amenity areas, albeit though spaces that would be unlikely to generate a significant level of noise i.e. a creator room, open workspace room and meeting room. The submission has been accompanied by a Noise assessment and subsequent addendum letter.

The documents conclude with the implementation of mitigation measures, occupiers of the upper floors would be exposed to acceptable noise levels. Environmental Health do not object to the findings but have requested that in the event of an approval the proposal be conditioned so that the proposed gym remain ancillary to the residential accommodation above and not be open to the public; that no free weights be used within the proposed studio gym room in order to prevent the transmission of noise/vibrations through the structure of the building; that a management plan for the studio gym be submitted and approved in writing by the Local Planning Authority, that shall detail a system for the processing of noise complaints from local residents if received; and that a verification report for the proposed noise mitigation measures be submitted for approval prior to the first use of the studio. Subject to such conditions it is considered that the proposed use would have an acceptable impact on neighbouring amenity in accordance with Core Strategy Policy DM1, Saved Unitary Development Plan Policy 26 and the National Planning Policy Framework.

Waste Management

The submission has been accompanied by a Waste Management Review Letter that details that the existing waste management arrangements on site shall be left unaltered. As such, as there is to be no material alteration to this aspect of the development, the proposal is considered to be acceptable in this regard and is therefore in accordance with Core Strategy Policy DM1 and the National Planning Policy for Waste.

Conclusion

In light of the above it is considered, subject to appropriate planning condition that the proposal is acceptable and is thus in accordance with Core Strategy Policies SP1, EC1, CC1, CC2 and DM1, Saved Unitary Development Plan Policy 26, the Corridor Manchester Strategic Vision document, Oxford Road Corridor Strategic Regeneration Framework Guidance, the Oxford Road Corridor Strategic Spatial Framework, the Places for Everyone Plan and the National Planning Policy Framework. The proposal is therefore 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

In assessing the merits of an application officers will seek to work with the applicant in a positive and proactive manner to seeking solutions to problems arising in relation to dealing with the application. In this instance, this has included ongoing advice that has resolved the issues associated with the proposal.

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:

- o CSAR-FCBS-XX-XX-DR-A-1000 Rev P01: Site Location Plan (Received 16/06/2023)
- o CSAR-FCBS-ZT-MZ-DR-A-1101 Rev P01: GA Plan - Mezzanine - Strip Out (Received 16/06/2023)
- o CSAR-FCBS-ZT-MZ-DR-A-1102 Rev P01: GA Plan - Mezzanine Proposed (Received 16/06/2023)

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) The studio gym room hereby approved shall be wholly ancillary to the residential accommodation on site and shall not be open to the public for use at any time for the lifetime of the development.

Reason - To safeguard the amenity of the occupiers of the building and other nearby properties. Pursuant to policy DM1 of the Core Strategy, Saved Policy DC26 of the Unitary Development Plan and the National Planning Policy Framework.

4) No free weights shall be used within the studio gym room hereby approved for the lifetime of the development.

Reason - To safeguard the amenity of the occupiers of the building and other nearby properties. Pursuant to policy DM1 of the Core Strategy, Saved Policy DC26 of the Unitary Development Plan and the National Planning Policy Framework.

5) Prior to the first use of the studio gym room hereby approved, a management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented upon the first use of the development and then be adhered to for the lifetime of the development. The management plan shall include a system for the processing of noise complaints from local residents if received.

Reason - To safeguard the amenity of the occupiers of the building and other nearby properties. Pursuant to policy DM1 of the Core Strategy, Saved Policy DC26 of the Unitary Development Plan and the National Planning Policy Framework.

6) a) The development hereby approved shall proceed in accordance with the submitted Technical Acoustic Note (Prepared by Fisher Acoustics; Dated 24/05/2023; Received 16/06/2023) and subsequent addendum note (Prepared by Fisher Acoustics; Dated 21/08/2023; Received 22/08/2023). The proposed noise mitigation measures shall be installed prior to the first use of the development hereby approved and shall be retained for the lifetime of the development.

b) Prior to the first use of the development hereby approved, a verification report to validate that the work undertaken throughout the development conforms to the recommendations and requirements listed in the approved Technical Acoustic Note and subsequent Addendum Note shall be submitted to and approved in writing by the Local Planning Authority. The report shall also undertake post completion testing to confirm that acceptable 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 agreed noise criteria.

Reason - To safeguard the amenity of the occupiers of the building and other nearby properties. Pursuant to policy DM1 of the Core Strategy, Saved Policy DC26 of the Unitary Development Plan and the National Planning Policy Framework.

7) The development shall proceed in accordance with the submitted Waste Management Review Letter (Prepared by SLR Consulting; Dated 26/05/2023; Received 16/06/2023) and shall be implemented upon the first use of the development and adhered to for the lifetime of the development.

Reason - To secure proper waste storage and collection arrangements on site in accordance with Core Strategy Policy DM1.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

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

Flood Zones Type 2 (low to medium risk) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: CENTRAL