

Town & Country Planning Act 1990 (as amended)
Planning (Listed Building & Conservation Area) Act 1990 (as amended)

Refusal of details reserved by condition

Applicant

Robert House Property Limited
14 Alliance House
Westpoint Enterprise Park
Trafford Park
M17 1QS

Agent (if used)

Mr Kassim Bahsoon
Robert House Property Limited
14 Alliance House
Westpoint Enterprise Park
Trafford Park
M17 1QS

Part 1 – Particulars of the application/development

Proposal: Application to discharge condition no. 6 (Contaminated Land) attached to planning permission 120849/FO/2018

Location: The Limes, 816 Wilmslow Road, Manchester, M20 2RN

Date of application: 26 September 2022

Application number: CDN/22/0695

Part 2 – Particulars of decision

Manchester City Council gives notice that the detail(s) referred to in Part 1 are **Refused** in accordance with the information set out below.

Condition no. 6 (Contaminated Land)

Condition no. 6 (Contaminated Land) - As the following information, requested on 17 March 2023 is still outstanding, this condition cannot be discharged.

1) The cover system does not comply with section 5.1 of the agreed remediation strategy Ref 12-312-L1 dated 6th January 2021 The landscaping drawing number L-90-100 dated 13.07.19 shows areas where trees and shrubs are proposed, and the validated cover system does not reflect this. A 300mm cover system has been validated but this is not what was approved (see below).

5.1. PLACEMENT OF COVER SYSTEM

The Remediation and Enabling Works Strategy for the site, with respect to human health of the future site users includes the provision of a chemically suitable clean material to be installed in all garden and landscaped areas; the construction of the clean cover / placement of clean material shall consist of:

Within gardens containing grass and plants:

300mm subsoil; and,
150mm topsoil.

Within areas of shrubs:
450mm subsoil; and,
150mm topsoil.

Within areas of trees:
750mm subsoil; and,
150mm topsoil.

2) The applicant has said that 655m³ of topsoil was utilised but does not clarify the source / sources of the imported material. Was it greenfield / brownfield etc.? I need this information to see if the sampling was done in accordance with section 5.1 of the approved remediation strategy.

3) The validation photos of the garden plots 2 & 3 did not appear to have the 300mm of cover stated on the report sheet, and the photos were taken at an angle that made it look like the cover was greater than it was.

Date: 18 May 2023

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 (as amended) or Planning (Listed Building & Conservation Area) Act 1990 (as amended) does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 or sections 20 and 21 of the Planning (Listed Building & Conservation Area) Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet.

Alternatively, appeals can be made on a form which is obtainable from Planning Inspectorate, Customer Support Unit, Room 3/15, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 or by telephone 0117 372 6372.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.