

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135505/P3GPA/2022

Date registered valid: 9 December 2022

Proposal: Prior Approval for change of use of ground floor accommodation to form to flat (Class C3a)

Address: 3 Croft Street, Manchester, M11 4RQ

Ward(s): Clayton & Openshaw Ward

Applicant: Mr Christopher Prest, OCP Manchester Ltd

Agent (if any):

Case officer: Carl Glennon
Tel: 0161 234 4530
Email: carl.glennon@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 13 January 2023

Application details

Type of application: Prior Approval - Class E to mix inc C3

Development type: Notifications

Date of site visit: 6 January 2023

Standard consultations:

Printed: 20 December 2022

Expired: 10 January 2023

Neighbour notifications

Printed: 20 December 2022

Expired: 10 January 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: No

Tree Preservation Order: No

Description of area

The application property is located at the south-west junction of Ashton New Road and Croft Street. The application property is located at the eastern end of shopping parade. The surrounding area is predominantly retail and commercial. The application property project from the side wall of 574 Ashton Old Road giving the two properties a combined 'L-shaped' configuration. The principal elevation of the [application] property is sited at the back of pavement with its side elevation presented to a fence enclosed alleyway. Open space, a Metrolink line and industrial units are located to the south of the application property.

The elevations of the application and adjoining properties comprise of red brick and grey slate to the roof. The ground floor of the property appears to be vacant and is secured with roller shutters. Residential use has been formed at first floor level with separate ground floor access. 574 Ashton Old Road is used as a café at ground floor. The application property does not have a yard area and bins are stored on the adjacent forecourt.



Fig. 1 – 3 Croft Street

Description of development

The proposal seeks prior approval for the formation of a one-bedroom flat with kitchen bathroom and living room. Access would be shared with the entrance to the first floor flat.

Consultations & Notification Responses

Local residents – No comments received.

Highway Services – No objection. The following comments have been received:

- i. No car parking issues should arise as a consequence of the development.
- ii. In the absence of any specific waste management information, it is assumed that bins will be stored on private forecourt and presented for collection to Croft Street on waste collection days. This arrangement would be acceptable to Highways.
- iii. Pedestrian access arrangements are acceptable.

Environmental Health – Expressed concerns regarding noise and vibration from the nearby Metrolink line, potential noise from the industrial estate to the south-east as well as from high traffic levels on Ashton New Road. There is particular concern that internal noise and vibration levels may be unacceptable or not mitigated sufficiently for a residential use. A noise impact assessment has not been submitted with the application. The impact of these potential noise sources on future occupants of the development should be assessed in accordance with Council guidance before determining the proposal.

Flood Risk Management Team – No comments received.

Issues

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in July 2021. It sets out the Government's planning policies for England and how these are expected to be applied. It provides a mechanism through 'which locally-prepared plans for housing and other development can be produced.' It states that 'at the heart of the Framework is a presumption in favour of sustainable development.' However, the Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, the statutory status of the development plan remains as the starting point for decision making. In 'decision-taking', this means that development proposals that accord with the development plan should be approved without

delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Framework has been related to the proposed development, with particular emphasis given to the following:

- i. Chapter 5 Delivering a sufficient supply of homes
- ii. Chapter 8: Promoting healthy and safe communities
- iii. Chapter 11: Making effective use of land
- iv. Chapter 12: Achieving well-designed places
- v. Chapter 14: Meeting the challenge of climate change, flooding and coastal change

It is not considered that the proposal would meet the requirements of chapters 5, 8 and 12 for the reasons set out below.

Manchester's Local Development Framework: Core Strategy - The Core Strategy Development Plan Document 2012 -2027 ('the Core Strategy') was adopted by the Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development. A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.'

The following policies are relevant to the proposed development:

Policy SP 1 (Spatial Principles)

Policy SP1 specifies the Core Development Principles for parts of the City. In this case the relevant principles relate to the extent to which the development:

- a. Makes a positive contribution to neighbourhoods of choice including the creation of well designed places that enhance or create character; making a positive contribution to the health, safety and well-being of residents, considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income and to protect and enhance the built and natural environment;
- b. Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;

It is not considered that the development would not positively contribute to the supply of housing, positively contribute to the character of the area and the formation of a proposed development would contribute positively to housing supply and the formation of a sustainable community, which would be beneficial to the quality of the living environment experienced by existing and future residents. Policy SP1 would not, therefore, be positively responded to.

Policy EN 14 (Flood Risk) - Requires an assessment of potential additional flood risk related to proposed development. The site is located in Flood Zone 1 and the development would not be at significant risk from flooding. Policy EN14 would thereby be accorded with.

Policy EN 18 (Contaminated Land and Ground Stability) -Requires that consideration be given to contamination risks associated with development. No issues have been identified in this case.

Policy EN19 (Waste) - Requires consideration of the submitted details relating to determine if the applicant has satisfactorily demonstrated how sustainable waste management needs of the end user will be met. The development has not been supported with appropriate arrangements for the storage and collection of generated waste and recycling. Policy EN19 would not be accorded with.

Policy H1 (Overall Housing Provision) - The development would not secure an appropriate layout and the resulting quality of accommodation would be harmful to residential amenity. It is not considered that development would positively contribute to local housing supply or secure appropriate and sustained occupation.

Policy T1 (Sustainable transport) - Relates to the delivery of sustainable, high quality, integrated transport system, which encourages a modal shift away from car travel to public transport, cycling and walking and prepare for carbon free modes of transport. The site is in a sustainable location in terms of access to public transport and local services. The site does not have the capacity of cycle storage.

Policy DM1 (Development Management) - States that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document. Relevant considerations in this case are:

- a. Appropriate siting, layout, scale, form, massing, materials and detail;
- b. Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development to ensure that development has regard to the character of the surrounding area;
- c. Effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation;
- d. Accessibility: buildings and neighbourhoods should be fully accessible to disabled people with new development providing access to all via sustainable transport modes;
- e. Community safety and crime prevention;
- f. Design for health;
- g. Adequacy of internal accommodation and external amenity space;
- h. Refuse storage and collection.

The above criteria have been related to the quality of the accommodation that would be formed and the potential impact on the amenity of future residents. It is not considered, for the reasons set out below, the development would accord with policy DM1.

Unitary Development Plan (Saved UDP) Policies -The following saved Unitary Development Plan policy is also considered to be relevant:

Policy DC26 (Development and noise)

The following elements of policy DC26 are relevant:

Policy DC26.1 has been related to the proposals contribution to the local noise environment and how existing noise sources, including noise from traffic may impact on the proposed housing.

Policy DC26.4 requires that where an existing noise source might result in an adverse impact upon a proposed new development, or where a new proposal might generate potentially unacceptable levels of noise, consideration is given to measures to deal with it satisfactorily.

Policy DC26.5 has been related to the assessment of the development, in terms of measures to minimise the impact of noise on future residents, including the incorporation of noise insulation.

The application has not demonstrated that the impact of noise from the operation of Metrolink and traffic travelling along Ashton New Road would be attenuated to safeguard the amenities of fire residents. The development would not, therefore, accord with policy DC26.

Legislation – The proposed change of use should be assessed with regard to the following legislation:

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 Part 3 of Schedule 2, Class MA – commercial, business and service uses to dwellinghouses

Permitted development

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Development not permitted

MA.1.—(1) Development is not permitted by Class MA—

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

(d) if land covered by, or within the curtilage of, the building—

(i) is or forms part of a site of special scientific interest;

(ii) is or forms part of a listed building or land within its curtilage;

(iii) is or forms part of a scheduled monument or land within its curtilage;

(iv) is or forms part of a safety hazard area; or

(v) is or forms part of a military explosives storage area;

(e) if the building is within—

(i) an area of outstanding natural beauty;

(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(1);

(iii) the Broads;

(iv) a National Park; or

(v) a World Heritage Site;

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

(g) before 1 August 2022, if—

(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and

(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

- (i) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- (b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

MA.2.—(1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport impacts of the development, particularly to ensure safe site access;
 - (b) contamination risks in relation to the building;
 - (c) flooding risks in relation to the building;
 - (d) impacts of noise from commercial premises on the intended occupiers of the development;
 - (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
 - (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
 - (h) where the development involves the loss of services provided by—
 - (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006(2), the impact on the local provision of the type of services lost.
- (3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

(Procedure for application for prior approval under prior approval under Part 3, Paragraph W (9), which states ‘the local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

- (a) assessments of impacts or risks;
- (b) statements setting out how impacts or risks are to be mitigated; or
- (c) details of proposed building or other operations.’

In this case, risk should be related to noise and disturbance from the operation of the adjacent Metrolink line and its potential harm to residential amenity.)

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.”

The applicant has not related the proposals to the above criteria. Instead, the application has been submitted for assessment under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class G as the development would not involve a change of use from commercial, business and service (Use Class E), or betting office or pay day loan shop to mixed use including up to two flats (Use Class C3). The applicant was advised that an incorrect application has been submitted but has not accepted an invitation to withdraw the application. It has therefore been necessary to determine the submitted application.

Principle - The submitted prior approval application relates to the formation of a mix of Class E and Class C3 uses permitted by Part 3, Class G of the GDPO. However, the proposal would relate to the direct change of use of one Class E unit to a use falling within Class C3. As a mix of Class E and Classes C3 use would not be formed within the application property, the submitted prior approval application should have been related to Part 3, Class MA of the GDPO. As an incorrect form of application has been submitted it cannot be positively determined.

Residential amenity - Notwithstanding the above, the proposal has been assessed with regard to the relevant assessment criteria for a permitted change under Class MA. This includes a requirement that all habitable room windows are provided with adequate natural light. The proposed layout does not include windows to the bedroom and kitchen. Given the configuration to ground floor and its relationship to neighbouring land it is not apparent that appropriate windows could be provided. The requirements of the above condition would not be met.

The assessment criteria, also allow the local planning authority to request additional information that it considers to be relevant to the operation of the development. In this case, the referenced location for bin storage has not been included with the site edged red. The application has not demonstrated the requirement for segregated waste and recycling for a domestic use could be met, including the usual requirements for a secure bin enclosure. Given the proximity of the application site to the operational Metrolink line, Ashton New Road and nearby industrial units. an assessment of potential noise impacts and measures to mitigate harm to residential amenity would be appropriate but are absent from the submission.

Conclusion - In the light of the above, it is not considered that the development can be positively determined as the proposal has not been related to the appropriate assessment criteria as specified in The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 Part 3 of Schedule 2, Class MA – commercial, business and service uses to dwellinghouses. Furthermore, the applicant has not demonstrated the proposed change of use could be implemented without undue harm to the amenities of future residents.

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: Refuse

Article 35 Declaration

N/A

Reasons for recommendation to refuse

1) The submitted application seeks prior approval for a change of use that is not permitted under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class G as the development would not involve a change of use from commercial, business and service (Use Class E), or betting office or pay day loan shop to mixed use including up to two flats (Use Class C3). Prior approval is therefore refused as the proposed change of use has not been related to the appropriate assessment criteria as set out in The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 Part 3 of Schedule 2, Class MA – commercial, business and service uses to dwellinghouses and Procedure for application for prior approval under prior approval under Part 3, Paragraph W (9).

2) The prior approval application would fail to accord with the assessment criteria that seeks to safeguard residential amenity as specified within The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 Part 3 of Schedule 2, Class MA – commercial, business and service uses to dwellinghouses and Procedure for applications for prior approval under Part 3, Paragraph W (9), particularly with regard to: the configuration of internal spaces, provision of adequate natural light, arrangements for waste and recycling storage and attenuation of noise impacts from traffic on Ashton New Road and the operation of the adjacent Metrolink line and nearby industrial units. The proposed residential change of use would thereby be harmful to the amenity of future residents contrary to policies SP1, EN19 and DM1 of the Core Strategy for the City of Manchester and saved policy DC26 of the Unitary Development Plan.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
MCC Flood Risk Management

575C Ashton New Road, Manchester, M11 4EA
Flat 2, 1 Croft Street, Manchester, M11 4RQ
Flat 1, 1 Croft Street, Manchester, M11 4RQ
First Floor, Derby Arms, 575 Ashton New Road, Manchester, M11 4EA
572 Ashton New Road, Manchester, M11 4RP
570 Ashton New Road, Manchester, M11 4RP
564 Ashton New Road, Manchester, M11 4RP
566 Ashton New Road, Manchester, M11 4RP
575B Ashton New Road, Manchester, M11 4EA
575A Ashton New Road, Manchester, M11 4EA
Flat Above, 582 Ashton New Road, Manchester, M11 4SG
Flat At, Derby Arms, 575 Ashton New Road, Manchester, M11 4EA
581B Ashton New Road, Manchester, M11 4EA
581C Ashton New Road, Manchester, M11 4EA
581A Ashton New Road, Manchester, M11 4EA
Derby Arms, 575 Ashton New Road, Manchester, M11 4EA
564 - 566 Ashton New Road, Manchester, M11 4RP
584 Ashton New Road, Manchester, M11 4SG
581 Ashton New Road, Manchester, M11 4EA
Flat Above, 572 Ashton New Road, Manchester, M11 4RP
Flat 2, 579 Ashton New Road, Manchester, M11 4EA
Flat 1, 579 Ashton New Road, Manchester, M11 4EA
Flat Above, 570 Ashton New Road, Manchester, M11 4RP
568 Ashton New Road, Manchester, M11 4RP
582 Ashton New Road, Manchester, M11 4SG
550 Ashton New Road, Manchester, M11 4AX
579 Ashton New Road, Manchester, M11 4EA

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 - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: CENTRAL