

Planning

Growth & Development

Delegated officer report for planning application

Application no. 134727/FO/2022

Date registered valid: 26 September 2022

Proposal: Installation of the canopy above the ground floor entrance door.

Address: Astley House, 23 Quay Street, Manchester, M3 4AE

Ward(s): Deansgate Ward

Applicant: Mr Lewis Mills OBI Property Limited

Agent (if any):

Case officer: Eve Woolstencroft
Tel: 0161 234 4533
Email: eve.woolstencroft@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 27 January 2023

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit:

Standard consultations:

Printed: 6 December 2022 Expired: 27 December 2022

Neighbour notifications

Printed: 18 November 2022 Expired: 9 December 2022

Site notice

Posted: Expired:

Press advert

Published: 29 November 2022 Expired: 20 December 2022

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: St John Street Conservation Area 1970

Tree Preservation Order:

Description of Site and Area

The application site relates to a ground floor unit of Astley house which is a part 11, part 2 storey mixed use building. The building is located within the St Johns Street Conservation Area and is adjacent to the listed Courthouse building. The unit that this permission relates to unit 4 which at the time the previous permission was granted had permitted use classes of A1/A3/D1/D2. These use have now been superseded by the use class order and would fall under classes E and F.

Relevant Planning History

-119610/FO/2018 – Approved in July 2018 for “*refurbishment of Astley and Bryrom House including: external reconfiguration and improvement of the building facades; a new entrance and canopy onto Quay Street; single storey roof top extensions; introduction of a pavilion structure and external amenity at rooftop level of the Cooper Building; ground floor changes of use (Use Class A1, A3 and D2); and associated works*”

- 126861/JO/2020 Approved August 2020 for ‘*Minor Material Amendment to planning permission ref:119610/FO/2018, including the replacement of rectilinear rooftop pavilion with geodesic glass dome, together with associated revised landscape layout*’

Description of Development

The submitted application seeks installation of the canopy above a ground floor entrance door.

Consultations & Notification Responses

Local residents were notified and a site notice was posted for 21 days. A total of 7 objections were received. Comments made can be summarised as follows:

Local residents:

The canopy will result in customers queuing and increased foot fall (through providing shelter) immediately outside of the venue, creating additional noise pollution and litter for local residents.

No impact assessment appears to have been carried out on the loss of pavement space that would result from customers queueing outside the door of the venue, under the shelter of the canopy.

There is no canopy on any of the buildings on either side of Lower Byrom Street. This is a conservation area and a canopy would not be in keeping with the local environment.

The canopy would act as shelter and invite litter, noise and disturbance for nearby residents.

The new entrance would create more traffic and exacerbate existing difficulties for pedestrians along Lower Byrom Street.

The proposed use with late closing would give rise to traffic, noise and poor behaviour resulting in a harmful impact on neighbours.

Deansgate Ward members:

- The door to which this canopy would be over was, under the original design and subsequent agreed redevelopment into the ABC building, is still designated as a fire exit and NOT as a managed entry and exit point for a sub-tenant in the building.

-The canopy supports the applicants desire to change the fundamental management of the building and therefore impacting local residents (specifically Rosetti Place) and there right to enjoy their local amenities without any negative impact.

Further issues include:

- Impact within a conservation area.
- Visual impact on the building design as the west elevation is meant to be visually clear of obstruction compared to the larger canopy designed into the front and main entrance elevation on Quay St.
- Creating a new signed entrance will result in more noise and pavement congestion and associated issues.
- Management of the building today has already resulted in complaints this has included waste collection out of hours, illegal parking on yellow lines and blocking of pavement for deliveries.

Highways

The proposed canopy extends to a maximum projection of 1.0m over the adopted highway. As such, a Projection over License will be required.

The proposed canopy is set back more than 450mm from the edge of the carriageway and is therefore compliant with MCC recommendations.

Highways require further information to determine whether sufficient headroom clearance above the footway is provided as a minimum of 2.3m headroom clearance is required.

Policies

Local Policy

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant **Core Strategy** policies for this application are as follows:

SP1 – Spatial Principles

DM1 – Development Management

EN3 – Heritage

CC9 – Design and Heritage

The relevant **UDP** policies for this application are:

DC26 – Development and Noise

National Planning Policy Framework. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF was revised in July 2021 and is a material consideration in the determination of all planning applications.

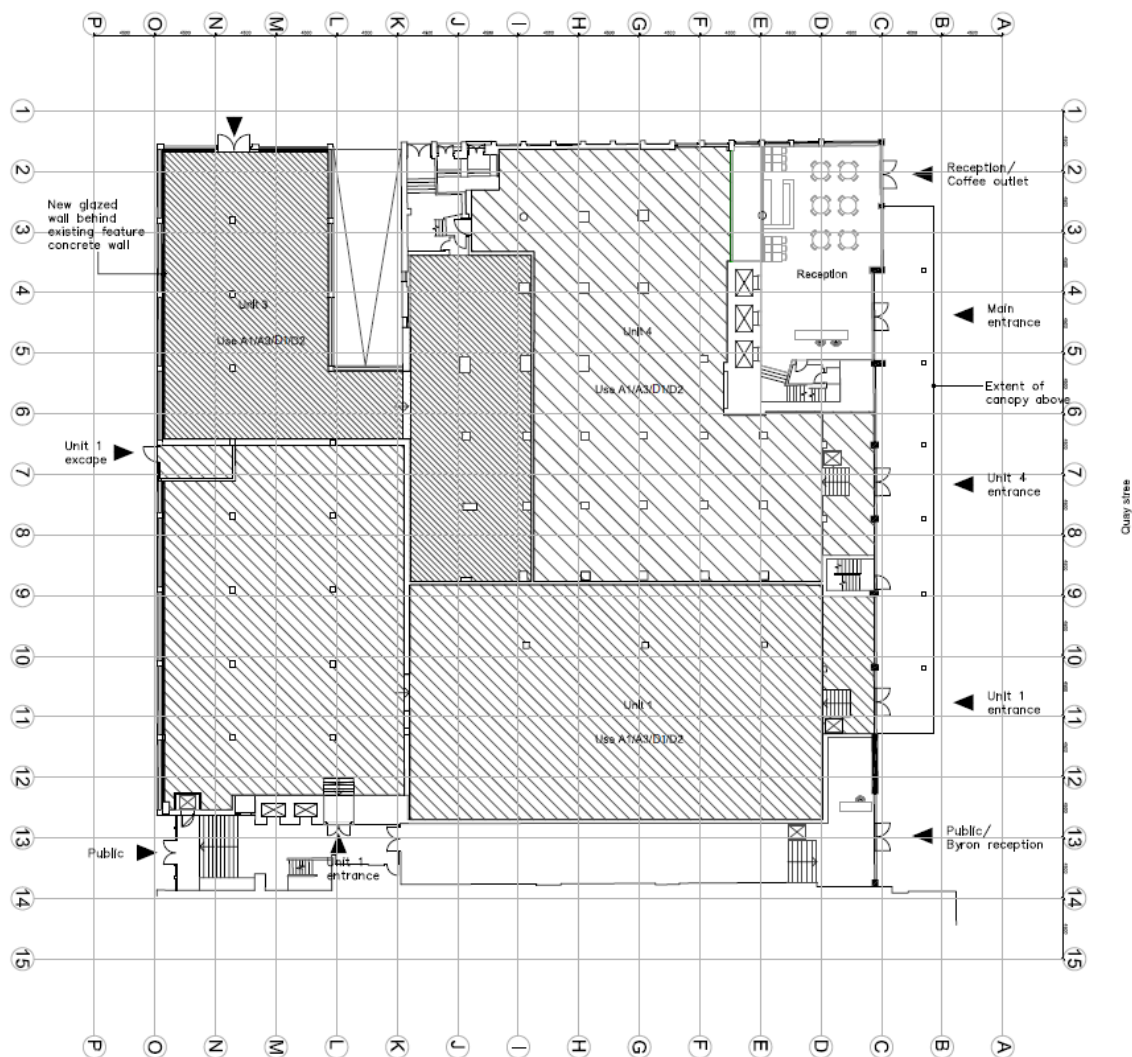
Legislative requirements. Section 72 of the Listed Building Act 1990 provides that in considering whether to grant planning permission for development that affects the setting or character of a Conservation Area the local planning authority shall have special regard to the desirability of preserving or enhancing the character or appearance of that area.

Issues

Principle of Development

The application seeks planning permission for the erection of a canopy above a doorway on the Lower Byrom Street elevation of Astley House. The agent has advised that this entrance relates unit 4 approved under application referenced 126861/JO/2020 which will be used as a restaurant, bar and coworking space which would fall under class E the permitted use class for this unit. The entrance to the unit as approved on application 126861 is on Quay Street along with the entrance to Unit 1 which is used as a Cinema.

The proposed canopy however would be over a secondary entrance to the unit on Lower Byrom Street that was not approved under the aforementioned application. The principle of the canopy therefore is not acceptable this does not benefit from planning permission and the impact of comings and goings to the secondary entrance has not been assessed.



Ground floor plan as approved under application ref. 126861/JO/2020 showing entrance to unit 4 on Quay Street

Visual Amenity and Impact on the Conservation Area

The application building is a modern building that has been re developed since The Quay Street entrance was redeveloped to include a include a canopy which occupies the entire width of the Quay Street Elevation. The design rationale for the canopy siting and design was to follow the architectural principles of original cantilevered slab canopy which adorned the façade on Quay Street prior to being replaced.

This addition also makes reference to illuminated canopies synonymous with the cinemas and theatres of the 1950s, which aesthetically is of the same period of as the building and hence is sympathetic to its lines and form.

The heritage statement as submitted with the current application states that the design is in keeping with the canopy on Quay Street and therefore is acceptable in design terms. There are concerns with a canopy on Lower Byrom Street no design precedent for a canopy on this elevation. Furthermore, this elevation has a narrower footway, different façade design and is a secondary entrance to the unit.

Residential Amenity

The nearest residential premises are those lying to the west across Lower Byrom Street. The proposal for a canopy is above a secondary entrance to the commercial unit with access Lower Byrom Street. An acoustic report was submitted for application referenced 119610/FO/2018

(superseded by 126861/JO/2020) which considered the impact of noise breakout from these commercial units on these residential properties. The noise assessment however does not include the assessment of the impact of having an entrance to unit 4 on Lower Byrom Street.

Furthermore, Condition 7 of permission 126861/JO/2020 relates to opening hours and states the following:

The Leisure use (cinema) with ancillary café / bar offer (Use Class D2) shall operate between 9.30 am to 2am Monday to Saturday, and 10.00am to 1am on Sundays.

Unit 3, a gymnasium use, shall operate between 5.45am to 10.30pm Monday to Friday, with classes not commencing before 6.00am, and 7.15am to 8pm Saturday and Sunday, with classes not commencing before 7.30am.

All external rooftop terraced areas shall only be used between 8.00am and 9.00pm seven days a week, and there shall be no use of amplified sound.

The use of any other units within the development shall not commence unless and until details of proposed hours of operation have been submitted to, and approved in writing by, the City Council, as local planning authority. This includes each of the following uses:

Retail use (Use Class A1), Food and drink use (Use Class A3), Event / gallery space with ancillary retail and café use (Use Class D1).

Reason - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Core Strategy

It noted that the final part of the condition requires the operating hours to be submitted for the A3 use, it however appears that this was not discharged prior to the submission of the current application. As the hours for the unit are not know, it is considered that there is a lack of information available to assess the impact of the new entrance with regards to noise and disturbance.

The creation of an additional entrance would increase additional activity in around the site as a result of the intensified use of the premises thereby producing excessive noise, disturbance and activity within the street as a result of pedestrian movement, which would thereby undermine the residential amenities of nearby residents and be contrary to policies DM1 and SP1 of the Core Strategy and Saved UDP policy DC26.

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

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant before and during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The installation of a canopy would result in the creation of an main additional entrance on Lower Byrom Street which would increase additional activity in around the site as a result of the intensified use of the premises, thereby producing excessive noise, disturbance and activity within the street as a result of pedestrian movement, which would have an unduly harmful impact on nearby residential amenity and is contrary to policies DM1 and SP1 of the Core Strategy and Saved UDP policy DC26.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Environmental Health

Basment Car Park Adjacent 3, Lower Byrom Street, Manchester, M3 4AS

Fourth Floor, Byrom House, 21 Quay Street, Manchester, M3 3JD

ESure, 25 Quay Street, Manchester, M3 4AL

Apartment 504, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 310, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 303, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 802, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 707, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 608, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 601, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 311, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 309, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 306, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 302, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 213, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 609, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 607, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 605, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 511, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 406, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 202, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 806, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 706, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 705, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 604, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 508, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 503, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 409, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 307, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 208, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 103, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

Apartment 404, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN

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Apartment 209, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 111, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 401, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 512, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 507, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
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Apartment 407, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 204, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 807, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
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Apartment 312, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 308, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
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Apartment 413, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 408, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 109, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 709, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 606, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 210, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Apartment 207, Rossetti Place, 2 Lower Byrom Street, Manchester, M3 4AN
Rossetti Place, 6 Lower Byrom Street, Manchester, M3 4PG

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - St John Street Conservation Area 1970

Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: CENTRAL