

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

Refusal of details reserved by condition

Applicant

Mr Karl Illingworth
Manchester Developments N W Limited
97 Northgate Road
Stockport
SK3 9PQ

Agent (if used)

Mr Laurence Jay
Laurence Jay Limited
Beeston Park Lodge Ridge End Fold
Stockport
SK6 7EX

Part 1 – Particulars of the application/development

Proposal: Application to discharge conditions 5 & 6 (contaminated land), 7 & 15 (drainage) and 23 (highway works) attached to planning permission 125114/FO/2019

Location: 18 Kingsley Road, Manchester, M22 4NL

Date of application: 31 May 2022

Application number: CDN/22/0356

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 5

The site investigation has found elevated hydrocarbons and chlorinated solvents (including Trichloroethene (TCE) and Tetrachloroethene (PCE)) in both the soil and the groundwater. Contaminants that are associated with the previous uses of a garage and dry cleaners/laundry. From the feedback I have received I understand that some additional delineation sampling relating to the hotspots in the soil, but that no further groundwater sampling has been undertaken which raises concerns as to how widespread the pollution is and whether this extends off site too.

The Environment Agency have been contacted for comments related to the controlled waters element of the contamination and I am still awaiting to receive these comments.

The ground gas risk assessment has been based on a technical paper called Risk and Reliability in Gas Protection Design (Card et al. 2019). Environmental Health are concerned with the way this technical paper has been applied, as it has been designed around continuous gas monitoring and not spot monitoring. Secondly, the Greater Manchester Contaminated Land Officers Group (GMCLOG) has not yet accepted the

authority of the technical paper and as such the members do not consider that it should take precedent over current guidance including British Standards.

The remediation strategy only seems to have addressed breaking the human health pathways, through cover systems in the gardens and upgraded membranes in the properties. There is no mention of any remediation related to controlled waters or even to delineating a potential of plume of chlorinated solvent impact within the groundwater. If there is a plume it has the potential to have off site as well as on site impacts.

At this stage it does not appear that the site has been fully assessed and we cannot accept the conclusions of the site investigation report and the recommendations in the remediation strategy. Any works on site should cease and no building works are to commence until further site investigation is undertaken which should also include further investigation of the impacts to controlled waters. This should include on site and off site impacts (once the groundwater flow direction has been established as there could be a plume of chlorinated solvent extending off site).

For these reasons condition 5 cannot be discharged

Condition 6

This part of the condition cannot be discharged at this stage as it requires the site to be remediated and validated and the development has not reached this stage.

Condition 6 is not discharged.

Information for Developers guidance documents can be downloaded using the following link:

http://www.manchester.gov.uk/info/500207/planning_and_regeneration/1962/additional_planning_guidance/3

Condition 7

In order to discharge the drainage planning condition 7, further information is needed to confirm that the proposed drainage design is adequate to manage flood risk.

The outstanding evidence required:

- o Evidence that the drainage system has been designed (unless an area is designated to hold and/or convey water as part of the design) so that flooding does not occur during a 1 in 100 year rainfall event with allowance for 40% climate change in any part of a building. The hydraulic model needs to correspond with the proposed drainage layout (and including manholes) to ensure there is no flooding on site during the critical 1 in 100 year event plus 40% CC.

- o Assessment of overland flow routes for extreme events that is diverted away from buildings (including basements). Overland flow routes need to be designed to convey the flood water in a safe manner in the event of a blockage or exceedance of the proposed drainage system capacity including inlet structures. The flood water should be routed away from the buildings and towards the less vulnerable areas i.e. open spaces, car parks and roads. A layout with overland flow routes to be presented with appreciation of these overland flow routes with regards to the properties on site and adjacent properties off site. The overland routes drawing should be a comparison between proposed internal finished floor level and external elevations.

o Where surface water is connected to the public sewer, agreement in principle from United Utilities is required that there is adequate spare capacity in the existing system taking future development requirements into account. An email of acceptance of proposed flows and/or new connection will suffice.

o Confirmation of the invert level for the connecting UU manhole to confirm a gravity connection is feasible.

Condition 7 is not discharged.

Condition 15

In order to discharge the drainage planning condition 15, further information is needed to confirm that the proposed drainage design is adequate to manage flood risk.

The outstanding evidence required:

o Verification report providing photographic evidence of construction as per design drawings.

o As built construction drawings if different from design construction drawings.

Condition 15 is not discharge.

Condition 23

In order to discharge condition 23 confirmation of an application for highways works has been submitted and received by Highways.

This should be undertaken through the Manchester City Council Highways Statutory Approvals team so that a process can be determined and taken forward. The following link provides access:

https://www.manchester.gov.uk/directory_record/287709/permission_to_work_on_the_highways_-_section_278_agreements/category/355/highways_and_pavements

Condition 23 is not discharged.

Date: 26 July 2022

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.