

Planning

Growth & Development

Delegated officer report for planning application

Application no. 133824/LE/2022

Date registered valid: 20 May 2022

Proposal: Certificate of Lawful Existing Development to confirm the implementation of planning permission 118831/FO/2018 (as amended by 132287/NMC/2021)

Address: Former Boddingtons Brewery Site, Dutton Street, Manchester, M3 1LE

Ward(s): Cheetham Ward

Applicant: Deansgate Securities LLP 1 Ambassador Place, Stockport Road, Altrincham, WA15 8DB

Agent (if any): Mr Michael Percival Deloitte LLP Hanover Building, Floor 2, Corporation Street, Manchester, M4 3AN

Case officer: Jennifer Atkinson
Tel: 0161 234 4517
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Recommendation: Approve

Date of recommendation: 14 June 2022

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit:

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

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

Planning Permission 118831/FO/2018 (as amended by 132287/NMC/2021) was granted on 28 February 2019 for the erection of two buildings accommodating 556 no. 1, 2, 3 and 4-bed apartments and townhouses of varying height ranging from twelve to twenty-six storeys with flexible commercial space located at ground and mezzanine level on key frontages around the scheme.

The proposed buildings are set within a new high quality area of public realm which will be delivered and managed by the applicant and will encourage the development of the wider site by improving connections and delivering a significant component of the place-making strategy and transformation of the site.

The description of development as stated on the Decision Notice for Planning Permission 118831/FO/2018 is:

“Erection of two buildings (a part 17, part 12 storey building and a part 26, part 23 storey building) to form 556 residential units (Use Class C3a) together with the creation of 3490 sqm of commercial floor space (Use Classes A1, A2, A3, B1 and D1) with associated landscaping, access and other associated works.”

The non-material amendment permission (Reference: 132287/NMC/2021) detailing the changes to condition wording, making works specific to the phasing of the project.

The development is proposed to be delivered in two phases, as shown on plan reference 273-LYR-XX-ZZ-DWG-L-1003, approved via the discharge of planning condition 2 attached to 118831/FO/2018, comprising:

- ☐ Phase 1: delivery of the Top Platform Phase, which is an essential permanent part of the public realm of the development that is also needed in order to facilitate the operation of The Manchester College facility; and,
- ☐ Phase 2: development of two residential buildings providing 556 new homes, public realm, car parking and associated highways works.

The public realm works for Phase 1 'Top Platform' is identified on approved drawing references 273-LYR-XX-ZZ-DWG-L-1002 (Boddingtons Green Strip Phase 2); 273-LYR-01-02-DWG-L-1002 (Phase 1 Platform Works Zoom in GA); 273-LYR-01-02-DWG-L-1001 (Phase 1 Platform Works Landscape GA) defined by Condition 3 (amended by 132287/NMC/2021).

An application to discharge all pre-commencement of development conditions attached to Planning Permission 118831/FO/2018 (as amended by 132287/NMC/2021) in respect of Phase 1 was submitted to the local planning authority on 07 December 2021 and validated with reference CDN/21/0931. The application was approved on 17 February 2022.

Listed building: Not applicable

Conservation area:

Tree Preservation Order:

Description of area

Certificate of Lawful Existing Development to confirm the implementation of planning permission 118831/FO/2018 (as amended by 132287/NMC/2021)

Description of development

Consultations & Notification Responses

N/A

Issues

The application seeks a Certificate of Lawfulness of Proposed Use or Development (CLOPUD) to establish the lawful implementation of Planning Permission 118831/FO/2018 (as amended by 132287/NMC/2021).

The above consent was subject to a condition requiring the approved development to be begun no later than 28 February 2022.

Following the discharge of conditions, the applicant states that the consent was lawfully implemented on 21 February 2022 through commencement of the following works falling within the approved Phase 1:

- ☐ Removal of existing hard surfacing and made ground;
- ☐ Installation of a ground gas membrane to protect against contamination;
- ☐ Installation of surface water drainage infrastructure; and

☐ Importing of new topsoil onto the site and demarcating the areas that are to be occupied by planters.

The City Council is satisfied that the evidence submitted demonstrates that the works commenced on the 21 February 2022. Site photographs demonstrates this together with the continuation of the development beyond the expiration period of 28 February 2022.

A Statutory Declaration by The Manchester College contractors, Willmott Dixon, has been also submitted to support this application.

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:

Article 35 Declaration

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

1) From the evidence available and with reference to the relevant planning legislation, Manchester City Council is satisfied that in relation to the property referred to in the Second Schedule hereto, the use described in the First Schedule, is lawful by reason of the said development commenced within the specified 3 year time frame and all relevant re-commencement have been discharged relating to phase 1.

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3

Article 4 Direction - City Centre PD Restriction - Class B1(c) 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

Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Flood Zones Type 2 (low to medium risk) -

Area Team Boundary - Name: NORTH1