

**Application Number** 21/00858/FUL

<b>Proposal</b>	To vary condition 6 (specifying approved plans) of planning permission ref. 14/00098/FUL to allow for introduction of substations and generator and reduction in car parking spaces.
<b>Site</b>	Fell View (Formerly Oakglade House), 2 Booth Street, Ashton-under-Lyne
<b>Applicant</b>	One Manchester
<b>Recommendation</b>	Approve, subject to conditions.
<b>Reason for Report</b>	A Speakers Panel decision is required in accordance with the Council's Constitution because this is a major application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**1.0 APPLICATION DESCRIPTION**

- 1.1 Where there is an extant planning permission, Section 73 (S73) of the Town and Country Planning Act 1990 allows for application to be made to vary or remove conditions associated with that planning permission. One of the uses of a S73 application is to seek what is often called a minor material amendment to an extant planning permission.
- 1.2 Initially, planning permission (ref. 14/00098/FUL), granted with conditions in March 2014, allowed for the change of use of what was then known as Oakglade House from offices to residential (51 apartments, including extension on roof). A condition (no. 6) of that permission specifies the approved drawings in accordance with which the development shall be carried out.
- 1.3 Where an application under S73 is granted, the effect is the issue of a new planning permission. In accordance with Planning Practice Guidance, the subsequent grant of planning permission under S73 should repeat the relevant conditions from the original planning permission, where these have not already been discharged.
- 1.4 The current application seeks to vary condition 6 of the extant permission, so that it specifies alternative drawings in accordance with which the development shall be carried out, and so allow for a minor material amendment to the extant planning permission.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The premises that are subject to the application is the ten-storey building, known now as Fell View, in Booth Street and its car park at the rear, which is accessed off Fleet Street. The location is within the town centre conservation area. Built in 1967, the building was known previously as Crown House and was occupied until the summer of 2009 by HMRC. The building is situated on the eastern side at the end of Booth Street which is a no-through road terminating at the Park Parade by-pass. There are terraced houses facing, on the north side of the junction of Booth Street and Crown Street, and a Council-owned, public car park on the south side. There is an enclave of terraced houses, with frontages on to Crown Street and rear yards opening on to Fleet Street, immediately to the west in the block formed by Booth Street, Fleet Street and Crown Street. Immediately behind there is the Post Office Delivery

Office, and to the north, beyond Fleet Street, there are buildings in typical town centre uses fronting on to Stamford Street. The Park Parade by-pass bounds the site to the south.

### **3.0 PROPOSAL**

- 3.1 The proposed amendment is the installation of a new substation and an emergency electricity generator in the car park associated with the building. This would then require a reconfiguration of the car park and a resultant loss of five parking spaces, but would include the provision of 20 new, secure cycle storage spaces.
- 3.2 The substation, which is already in place, and the emergency generator would be located side-by-side in the car park on the left hand, or eastern, side of the entrance, adjacent to the car park associated with the neighbouring Post Office Delivery Office.
- 3.3 The substation stands approximately 2.4m tall, is approximately 3.1m wide, and is 3.7m deep. It is finished in dark green glass reinforced plastic (GRP), or fiberglass.
- 3.4 The proposed emergency generator stands approximately 2m high, is approximately 2.7m wide, and is approximately 1m deep. It comprises a steel cabinet.
- 3.5 Following the reconfiguration of the car park, the number of car parking spaces would be reduced from 31 to 26. As approved originally, the car park would include three disabled parking spaces.

### **4.0 RELEVANT PLANNING POLICIES**

- 4.1 **Tameside Unitary Development Plan (UDP) Allocation**  
Unallocated within town centre conservation area
- 4.2 **Part 1 Policies**
  - 1.3 Creating a Cleaner Greener Environment
  - 1.4: Providing More Choice and Quality Homes.
  - 1.5: Following the Principles of Sustainable Development.
  - 1.6: Securing Urban Regeneration.
  - 1.7: Supporting the Role of Town Centre
  - 1.11: Conserving Built Heritage and Retaining Local Identity.
  - 1.12: Ensuring an Accessible, Safe and Healthy Environment.
  - 1.13: Meeting Obligations on Minerals, Waste and Energy.
- 4.3 **Part 2 Policies**
  - E3: Established Employment Areas.
  - H2: Unallocated Sites.
  - H4: Type, Size and Affordability of Dwellings.
  - H6: Education and Community Facilities.
  - H10: Detailed Design of Housing Developments.
  - T10: Parking.
  - C1: Townscape and Urban Form.
  - C2: Conservation Areas.
  - C4: Control of Development in or Adjoining Conservation Area
- 4.4 **Other Policies**

Residential Design Supplementary Planning Document.

It is not considered there are any local finance considerations that are material to the application.

#### **4.5 National Planning Policy Framework (NPPF)**

Section 2. Achieving sustainable development

Section 5. Delivering a sufficient supply of homes

Section 8. Promoting healthy and safe communities

Section 9. Promoting sustainable transport

Section 11. Making effective use of land

Section 12. Achieving well-designed places

Section 16. Conserving and enhancing the historic environment

#### **4.6 Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

### **5.0 PUBLICITY CARRIED OUT**

- 5.1 The application has been advertised by means of a notice being posted at the site on 25 August 2021, and being published in a local newspaper on 2 September 2021; and, neighbour notification letters dispatched on 9 September 2021 to 53 addresses in Stamford Street, Booth Street, and Fleet Street.

### **6.0 RESPONSES FROM CONSULTEES**

- 6.1 The Head of Environmental Services (Highways) has raised no objections to the proposal and suggested that a condition regarding the provision of cycle storage, and an informative note regarding working near to a public highway, be attached to any permission.
- 6.2 The Head of Environmental Services (Public Protection) has raised no objections to the proposal and suggested that a condition restricting the hours of construction work be attached to any permission.

### **7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED**

- 7.1 A neighbour has objected on the grounds that the loss of car parking spaces will increase competition for on-street parking spaces, which is already an inconvenience to existing residents.

### **8.0 ANALYSIS**

- 8.1 The principle of the development having been established by the grant of planning permission, and the general arrangement remaining the same, the issues to be assessed in the determination of this planning application are:

- Whether the proposed amendments can be considered to be minor in context; and, if so;
- The appropriateness of the design and appearance of the substation and generator;
- The impacts on residential amenities; and,
- The impact of the loss of car parking spaces.

## **9.0 WHETHER THE PROPOSED AMENDMENTS CAN BE CONSIDERED TO BE MINOR**

9.1 The proposed amendment would not alter the general arrangement of the approved development. The proposal remains for the change of use from offices to residential apartments, including an extension on the roof. Access and egress arrangements would be unaltered. It is therefore considered that, whilst the proposed amendments would materially alter the development as approved, those amendments can be accepted as being minor in the context of the wider proposals for the development of 51 apartments.

## **10.0 DESIGN AND APPEARANCE**

10.1 The presence of the substation and generator will impact on the character and appearance of both the residential environment surrounding the apartments and on the conservation area. Although situated in the town centre, the location is not on a main thoroughfare but on a back street where it is relatively secluded, and there are instances of pre-fabricated buildings in similar locations in the conservation area, such as at the churchyard, which is used as a public car park, at St Michael's Church, which is a grade I listed building.

10.2 Given the relatively secluded location and the scale of the structures, it is considered that the harm that is caused to the significance of the conservation area is less than significant. According to paragraph 202 of the NPPF, this less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. For the purposes of assessment against the NPPF, the less than substantial harm to the significance of the heritage assets would be out-weighed by the public benefits that would accrue in securing a beneficial use for this prominent building in the town centre, which otherwise might fall in to disuse and decay. The proposals are therefore considered acceptable and compliant with policies 1.3, 1.11 and C1, C2 and C45 of the UDP, and Sections 2 and 16 of the NPPF.

## **11.0 RESIDENTIAL AMENITIES**

11.1 In addition to the visual impact on amenities, the emergency generator, in particular, has the potential to impact in terms of noise. The purpose of the new generator is for use in an emergency situation, such as a fire, as a back-up power source for the lifts. In such a situation the noise from the generator would serve beneficially to alert residents to the emergency. Given that the noise from the generator would not be constant, and both the generator and substation would be located on the far side of the car park from the building, it is considered that there would be no undue harm caused to residential amenities so that the proposal is compliant with policy 1.12 of the UDP and Sections 2 and 12 of the NPPF.

## **12.0 LOSS OF CAR PARKING SPACES**

12.1 The development is situated in a highly accessible town centre location with ready access to facilities and services, as well as transportation infrastructure. Moreover, the proposal includes

provision for secure storage of 20 cycles. In these circumstances, as is evidenced by the absence of any objection by the Head of Environmental Services (Highways), it is considered that the amendments would not cause an unacceptable impact on highway safety, and the impact on the road network be not be severe, so that the proposal remains compliant with policies T1 and T10 of the UDP, and Section 9 of the NPPF.

### **13.0 OTHER ISSUES**

13.1 Following the grant of the original permission the then prospective developer entered in to a binding agreement to provide a financial contribution to compensate for the impact of the development. Under that agreement, the developer was to provide £30,000 towards green space and education provision. The contribution has been paid in full.

### **14.0 CONCLUSION**

14.1 The proposed amendments being considered acceptable and, in context, as being of a minor nature, according to Planning Practice Guidance the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Where an application under section 73 is granted, the effect is the issue of a new planning permission and that may be subject to conditions differing from those to which the original permission was subject.

14.2 Following the grant of the original conditional planning permission, application (ref. 15/00069/PLCOND) was made for approval of details reserved by the conditions precedent. It is therefore recommended that this application be approved subject not only to condition 6, at variance to which the original permission was subject, but also, in certain instances, to conditions differing from those to which the original permission was subject where the details required by those conditions were submitted and approved previously.

### **RECOMMENDATION**

That Members resolve TO GRANT planning permission for the development subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

12017-PR-98; 12017-PR-99.2 - 12017-PR-99.9, inclusive; 12017-PR- 100 - 12017-PR-112, inclusive; 12017-PR- 200; 12017-PR- 200.1; and, 12017-PR- 201 - 12017-PR-203, inclusive

each approved under cover of planning permission ref. each approved under cover of planning permission ref. 14/00098/FUL

Cambridge Cycle Shelter specification, received on 12.07.2021

Substation specification ref. ES352-A2-016/02J, received on 16.08.2021

Site Plan ref. 1202 02-01 rev. 05, received on 22.09.2021

Himoinsa emergency generator specification, received on 27.09.2021

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

- 2) Prior to bringing the development into use the car parking, servicing and turning facilities indicated on the approved plan, ref. 1202 02-01 rev. 05, shall be provided and thereafter kept unobstructed and available for their intended purposes. Vehicles must be able to enter and leave the site in forward gear at all times.

Reason: To ensure adequate car parking arrangements.

- 3) During construction no work shall take place on Sundays and Bank Holidays and outside the hours of 07.30 and 21.00 Monday to Friday and 08.00 and 13.00 on Saturdays.

Reason: To preserve the residential character and amenity of the area.

- 4) The external storage areas for use for the storage and collection of refuse and recyclable materials, as indicated on the approved plan, ref. 1202 02-01 rev. 05, shall be provided prior to the first occupation of any part of the development hereby approved and thereafter maintained for the intended purpose at all times.

Reason: To safeguard the general amenity of the area.

- 5) The cycle storage provision indicated on the approved plans, ref. 1202 02-01 rev. 05 and Cambridge Cycle Shelter specification, shall be provided prior to the first occupation of any part of the development hereby approved and thereafter maintained for the intended purpose at all times.

Reason: To encourage the use of sustainable modes of transportation.

- 6) A clear view shall be provided on each side of access where it meets the footway in Fleet Street. Its area shall measure 2.0 metres along the edge of the site access and 2.0 metres along the footway. It must be kept clear of anything higher than 600mm above the access, except for vertical iron railings to a design that includes rails of not greater than 15mm diameter, spaced at not less than 100mm intervals.

Reason: In the interests of highway safety.

- 7) No part of the development hereby approved shall be occupied until full details of a maintenance management plan for the apartments has been submitted to, and approved in writing by, the local planning authority. Following occupation, the management plan shall be implemented in accordance with the approved details.

Reason: In the interests of securing a satisfactory development.