



## Appeal Decisions

Inquiry Held on 24-27 October 2023

Accompanied site visit made on 24 October 2023

**by David Nicholson RIBA IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 November 2023**

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### Land At Shudehill, Manchester, M4 2AD

- The appeals are made by Interland Holdings Ltd. against the decisions of Manchester City Council.
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#### Appeal A: APP/B4215/W/23/3322178

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (T&CPA) against a refusal to grant planning permission.
  - The application Ref 121195/FO/2018, made in December 2018 and updated in June 2022, was refused by notice dated 14 April 2023.
  - The development proposed is: Demolition of all non-listed buildings, partial demolition and alterations to 29 Shudehill, and erection of a new building comprising ground floor plus part 1, part 6, part 7, and part 18 storeys to include residential units (Use Class C3) together with flexible ground floor commercial floorspace (Use Class E), new public realm, cycle parking, and other associated work.
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#### Appeal B: APP/B4215/Y/23/3322180

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) against a refusal to grant listed building consent.
  - The application Ref 121196/LO/2018, made in December 2018 and updated in June 2022, was refused by notice dated 14 April 2023.
  - The works proposed are: Partial demolition and alterations to 29 Shudehill associated with its refurbishment as part of the proposed comprehensive redevelopment of the adjacent site for a new building comprising ground floor plus part 1, part 6, part 7, and part 18 storeys to include residential units (Use Class C3) together with flexible ground floor commercial floorspace (Use Class E) and associated works.
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### Procedural matters

1. The Inquiry sat for 4 days.
2. The Council objected to the appeals being lodged as it had identified inconsistencies between the drawings. It withdrew this objection following the sight of revised drawings. I have accepted these drawings and reached my Decisions on this basis.
3. The Council amended its descriptions to include partial retention of the Rosenfield Building and to include the lift overruns in the number of storeys.

### Decisions

4. Both appeals are dismissed.

## **Main Issues**

5. The main issues in Appeal A are:
  - a. the effect of the proposals on the character and appearance of the area with particular regard to the design of its: siting, scale, size, height, massing, architectural detailing, street scene and skyline;
  - b. the effect of the proposals on the significance of heritage assets including that derived from their settings, with particular regard to the partial loss of the Grade II listed No.29 Shudehill, the Shudehill Conservation Area, the loss of most of the non-designated Rosenfield Buildings, and the settings of other listed buildings and conservation areas;
  - c. whether the heritage and public benefits would outweigh any harm that might be identified in reaching any heritage balances and, if so, whether the same benefits could be achieved with less harm;
  - d. the extent to which the proposals would be consistent with Government policies and with the development plan for the area in reaching the overall planning balance.
6. The main issues in Appeal B are similar but limited to the effects on the Grade II listed No.29 Shudehill. The development plan is a material consideration in Appeal B.

## **Reasons**

### *Character and appearance*

7. The definition of Manchester City Centre in the Core Strategy (CS)<sup>1</sup> includes the area inside the Inner Relief Route. Districts towards the north include Victoria, the Retail Core and Northern Quarter. Shudehill runs between these districts, sweeping round the back of the Arndale Centre. The road crosses the tramlines just before the Shudehill Interchange (a Metrolink stop and a bus station). At the far end of the Interchange, Dantzig Street runs from opposite the back of the Arndale Centre into Northern Manchester (NOMA). The appeal site lies adjacent to the Metrolink stop, on the other side from the bus station/multi-storey car park. The site measures 0.25ha and stretches from Shudehill to Dantzig Street. The opposite side to the Metrolink stop faces Thorniley Brow, across which are the Victoria Buildings. The recently completed Glassworks tower stands on the other side of Shudehill.
8. The site is currently occupied by two buildings: No.29 Shudehill and the Rosenfield Buildings fronting onto Dantzig Street and Thorniley Brow. There is an area of car parking in between. Both sets of buildings are predominantly of nineteenth century brickwork under slate roofs but with later extensions. Both are partly occupied and partly vacant.
9. The proposals would be of two different brick colours with what would be a tower of 19-storeys overall at the Dantzig Street end of the site. There would be some extra modelling to the windows facing Dantzig Street and Shudehill, to the corner balconies and to the top floors of the tower.

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<sup>1</sup> Manchester's Local Development Framework Core Strategy Development Plan Document adopted 11th July 2012

10. I find that the width of the tower, particularly when seen from across the Interchange, would appear overly stocky, with inelegant proportions, and that the changes in colour and added detailing would do little to relieve the otherwise repetitive nature of the façade. From a distance, in NOMA and along Dantzig Street (between Viewpoints 4 and 5), I find that the massing of the elevation would appear unattractive and overbearing.
11. Looking across Shudehill from the back of the Arndale Centre (View 6), and at the start of Dantzig Street (View 7) there would be oblique views of the tower, but the combined sense of mass from both elevations would be similar. Moreover, a full height area of blank brickwork covering the stair wells, and a small additional storey for the lift overrun, would fail to add interest but would be both unsophisticated and prominent at quite a considerable height. I consider these elements would appear unresolved and also amount to poor design. From across Dantzig Street, the height and width of the tower would overwhelm the surviving façades to the Rosenfield Buildings. The scheme would turn its back on Thorniley Brow where the elevations between the retained façades would include a series of entrances to servicing and a largely blank elevation facing the Victoria Buildings and in views along Well Street.
12. I accept that the architect may believe that the different elements and extra modelling of the scheme would add richness and variety, and so provide interest and meaning, and that the double-depth window reveals, changes in brick colour and corner balconies would provide architectural expression to the tower. Nevertheless, in my judgement and for the above reasons, the extent to which this would be achieved would be minimal, particularly from a distance.
13. The short Shudehill elevation (View 1) would comprise the restored façade to No.29, a similar width infill building in darker brick and an 8 storey block (plus lift overrun) mostly in lighter brick. The small infill building alongside 29 would be architecturally quiet and well-mannered and so appropriate both in scale and external treatment. The larger block would have mostly darker brick and glazing to the lower floors, achieving a sense of setback to the retail frontage and so some articulation between the listed building, the infill and the new block. However, while the infill would be tastefully detailed and proportioned to echo its historic neighbour, the upper floors of the larger block would be almost square. Even with the extra window detailing, this would appear oversized and bulbous compared with the other low rise buildings on this side of Shudehill. This would be emphasised by the overhang which would project, somewhat oppressively, over the footway alongside the Metrolink and rather than add interest to the street, would look unbalanced as well as prominent.
14. For all these reasons, I find that the scheme would cause considerable harm to the appearance of the area.
15. At ground level, the scheme would comprise retail units with entrances and servicing to the blocks of flats. The platform to the Metrolink is necessarily flat, with steps at both ends, while a parallel footway ramps up to a connection in the middle, where the two are level. They are otherwise separated by fencing. The proposals would retain the footway, with a slight increase in width at both ends, leaving around 2m in width between the front of the retail units and the fencing to the platform. I was told that the exact configuration of the retail units would depend on take up and be left to the market to decide. Access to these units would be along the existing footway and through the short gap to

the platform. There have been consultations with Transport for Greater Manchester (tfgm) over a number of years.

16. Given the lack of public open space, or even room to spread out in front of the proposed shops, which might include cafés, I find that the proposed public realm in front of the retail units would be particularly poor. The success of, and financial return from, the shops would depend on the opportunities for dwell time as well as footfall along the footway, and the latter cannot be guaranteed when there are entrances to the platform at both ends. From what I saw of the City Centre, a 2m width is not generous for dwell time in front of shops, and very meagre for well frequented shops and cafés.
17. To my mind, a successful approach to retail provision and associated public realm have the potential to lift the appearance of both the site and the Interchange at ground level and provide a vibrant retail area to support it. The reply that *the market will decide* in answer to criticisms is unimaginative and a missed opportunity to produce lively public realm which would also be attractive to retailers in such a highly accessible location. Instead, there would be a risk of overcrowding on a narrow footway around a popular outlet, such as a coffee shop, or a lack of take up due to narrowness of the access and low footfall, or both.
18. I consider that the site has the potential for a much more attractive retail offer but that this does not seem to have been properly explored. While I appreciate the problems of connection caused by the changes in levels, I have little information on the extent of retail advice, discussions with tfgm, or efforts to resolve these in order to provide public realm within the site or to take advantage of the overall width of the footway and platform. I note that tfgm supported retail units in general, but this does not mean that it obstructed better public spaces or that the provision would not be defective.
19. The scheme would turn its back on Thorniley Brow where the new elevations between the retained façades would largely comprise a series of entrances to servicing. While both need to be incorporated somewhere, this long sequence would be neither attractive to pedestrians nor kind to the settings of the heritage assets.
20. Overall, I find that public realm, including provision of a high quality retail experience, has been barely considered let alone resolved and, taken with a failure to capitalise on the potential reuse of the existing buildings, this would cause considerable harm to the character of the area.

### *Heritage assets*

21. No.29 Shudehill was designated at Grade II in 1987. At that time, perhaps on account of a conveyance of 1810 (now lost), that was recorded as the probable date for the building. This would have made it a rare survivor and so justified it being listed. Later evidence suggests that, above ground level at least, the building dates from the second half of the 19<sup>th</sup> Century, probably mostly from the 1870s. This would have made it far less unusual for Manchester, at least in 1987. Insufficient investigation has been carried out to determine whether or not the basement includes remains from the first half of the 19<sup>th</sup> Century<sup>2</sup>, but it would appear that for most of the above ground fabric, that the listing is

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<sup>2</sup> Mr Levrant acknowledged in XX that forensic examination might be very useful

- inaccurate. A later rear extension is of no historic significance but also sits quite comfortably behind the central wing. The early part of the building is Z-shaped in plan with one end facing onto Shudehill, adjacent to vacant area. The front wing, and upper façade in particular, contains evidence of its commercial history, including barley twist columns to its first floor glazed screen. This was a way of attracting customers from those looking into the building from the upper decks of passing omnibuses.
22. The scheme would retain the front and a small part of the central wing of the building, but the rear wing and later extension would be demolished. It was common ground between the main parties that this would amount to less than substantial harm, although SAVE put it higher than that. I find that, in the context of the surviving Z-shaped building, much of its historic interest would be lost. Nevertheless, enough important fabric would survive such that its significance would not be vitiated altogether, and the level of harm would fall short of substantial.
23. In the context of the fabric of the listed building, I give considerable weight to the harm that would be caused. Taking account of the probable date of most of that fabric, I give moderate weight to the harm in my overall balance (below). The Appellant characterised the setting to No.29 as largely negative. Even if I accept that, given my conclusions of harm on the first issue, I find that there would still be additional harm to the setting of No.29, tempered by the quality of its existing setting.
24. The Rosenfield Buildings are agreed to be a non-designated heritage asset as characterised by the National Planning Policy Framework (NPPF). Most of their significance lies in their façades. As a whole, the buildings have been significantly altered, but some of the detailing to the façades have features in common with the adjacent Grade II listed Victoria Buildings. The proposals would result in the demolition of all of the structure of the Rosenfield Buildings other than the façade along Dantzig Street and the first section of its return into Thorniley Brow. The proposed tower would be around four times the height of the remaining façades.
25. The later elevations along Thorniley Brow would be removed. This demolition would destroy any significance of its historical development subsequent to the earlier façades, and the pleasant juxtaposition of parapet lines on both sides of Thorniley Brow. In my judgement, the combination of proximity and size of the tower would overwhelm and dominate the surviving fabric and harm the setting of the façades. While I do not subscribe to the SAVE notion that what would be left would amount to no more than wallpaper, and even taking account of the quality of the existing setting, the harm to the surviving elevations of the historic buildings would be considerable. Such assets do not enjoy statutory protection and so, on balance in the context of the scheme, I find that the harm would be slightly less than moderate.
26. The site lies within the Shudehill Conservation Area, also designated in 1987. It has changed significantly since then, not least due to the 1990s Metrolink and Printworks redevelopment, and was politely described as eclectic. I note that the City's conservation area boundaries are under review but nothing more of this was before the Inquiry. Nonetheless, its character is one that is derived from quite a number of interesting historic buildings and street patterns, of differing ages, and it would be going too far to describe it as lacking any

- coherence. While some of the 20<sup>th</sup> Century buildings provide a robust character, others, such as the historic buildings on the site and the fine grain of non-designated heritage assets along Shudehill and Dantzig Street, also contribute to character but are more sensitive to change.
27. The proposed loss of fabric to No.29 and the Rosenfield buildings would reduce the positive contribution these assets make to the significance of the Conservation Area. I accept that a good deal of this contribution is derived from their principal façades which would be largely retained. Nevertheless, some harm would be caused. The effect on their settings, set out above, would add further harm. The proposed tower would be large, dominant and prominent in many views throughout the area which are currently characterised by a pleasant, albeit varied, mix of buildings from various dates. These structures generally sit quite comfortably together despite the Metrolink stop and the rear of the Printworks, which make a slight negative contribution, and the multi-storey car park which I find is neutral. The proposed tower would be poorly positioned in relation to its immediate neighbours and at the wrong end of the site to act as a counterpoint to the Glassworks. I acknowledge that its brick finish would echo that of the adjoining Victorian buildings and that its height would be comparable to some of the tall buildings in NOMA. However, it would fail to relate to either, but fall between two stools, being neither sympathetic to the scale of the former nor complement the bold intrusions of the latter.
28. In connection with the Glassworks tower, in the adjoining Smithfield Conservation Area, Historic England (HE) described *the portion of the site that is located at the junction between Shudehill, Back Turner St and St Nicholas Croft as dominated by the Arndale Centre, its associated car park and the major transport interchange at Shudehill and an area of low historic and architectural significance and is modern in character*. However, in referring to the Glassworks site and the modern character of the context, I find it unlikely that HE was referring to the appeal site, or the buildings between Shudehill and Dantzig Street, and so this observation is of limited relevance. Nonetheless, overall, I accept that its significance is of a lower order than that of the Cathedral or Smithfield conservation areas.
29. For all these reasons, I conclude that there would be less than substantial harm to the significance of the Conservation Area. Collectively, the harm would fall short of substantial. Given the significance I attribute to it, I find that the harm to the Conservation Area would also be moderate.
30. The Victoria Buildings probably date from the 1860s. They are of red brick, with sandstone dressings under slate roofs, and were renovated in the 1990s. I find that their significance lies in their surviving fabric and their place in the history of the area. Their setting includes the appeals site and the small scale non-designated buildings between them and Shudehill and these form a group of older buildings within the Conservation Area. For the reasons given above, I find that their setting would also be slightly harmed.
31. The Council has pointed to several other listed buildings and the Smithfield and Cathedral conservation areas, whose settings might be affected. Some of this harm was agreed. I have studied these and found varying levels of harm to some and none to others. Nevertheless, cumulatively, I find that the degree of harm would be sufficiently low that it would not affect my overall balance and so I do not list them all here.

32. I have noted the aims of the NOMA Strategic Regeneration Framework, and the suggestion that the poor quality of the proposals would stifle regeneration, such as I saw at Sadler's Yard and elsewhere. However, in the absence of more detailed evidence this adds little to the weight that I give to the more specific harm to the character and appearance of the area and to the heritage assets and their settings.

*Public benefits*

33. The Appellant argued that there would be important heritage benefits including the restoration of the front wing of 29 Shudehill, the removal of extensions and alterations which detract from its significance, enhancing the setting of the listed building, securing a long lifetime of use for it, and improving the site to enhance the Conservation Area. It argued that restoration of part of the façade to the Rosenfield Buildings would be a further heritage benefit.

34. I accept that repairs to the front wing of No.29 and a new lease of life would amount to benefits. However, while there was no suggestion of deliberate neglect, and there have been some roof repairs, there has been ongoing damage from damp ingress, as evidence by a large outbreak of dry rot, and the lack of investment which would be required for full occupation and reduces the weight I give to the restoration and long term use. For the reasons given above, I find no heritage benefit in the removal of any fabric, historic or otherwise, from No.29 or the Rosenfield Buildings, or that there would be any enhancement to the setting of any asset. Taken together, I give limited weight to heritage benefits.

35. The appeal site lies in the City Centre where the development plan promotes substantial additional housing (see below). The proposed 175 flats would offer a significant boost to its housing stock and this weighs in favour of the scheme. However, there is currently no identified need for market housing and the proposals would not include any affordable housing<sup>3</sup> so I give moderate weight to the housing benefits. Moreover, relevant policies apply to the whole of the City Centre, whether or not a scheme would involve the extent of harm to multiple heritage assets. Indeed, the Council has permitted some 109 tall buildings since 1996, of which 44 permissions have been within the last three years, and rejected very few. While the Appellant's stance on this seemed to be to ask why the Council was singling it out for rejection, an alternative view might have been to look carefully at why the proposals have not gained the support that usually seems to be readily offered.

36. Amongst these other sites is the Glassworks. However, I saw on repeated visits that this is a scheme of high quality, which was not contested, and that it successfully exploits the architectural and historic interest of the surviving building on that site, together with the contribution that it makes to that conservation area, and incorporates it into the scheme in a beneficial rather than harmful way. I also note that the proposals followed HE's advice, which was then supportive, unlike the high level of harm it identified would be caused to the Shudehill Conservation Area.

37. The proposals would be car free and on brownfield land. Investment in construction would bring jobs, and new residents would bring expenditure to this area. Although the site lies in one of the most accessible locations in the

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<sup>3</sup> Subject the s106 Agreement provision to review viability and contributions

- City, the public benefits here would be little more than would arise for most of the City Centre, the whole area being generally well served by public transport and near shops, and usually being brownfield land.
38. There would be new active frontages to additional commercial floorspace as a result of the retail units alongside the Metrolink, and revitalised space at both ends of the development. However, I have found serious flaws in the design approach to the retail areas, and to the lack of public realm in particular, and so give them limited weight as benefits. There were few signs on my visit of serious attempts to invest in the existing buildings to attract more retail or other uses and so I give less weight to the potential gains from the proposed retail units.
39. The Appellant's architect, who knows the area particularly well, emphasised the degree to which he saw the site as a blight to the townscape. I think that this is a pity. Even if he was originally misdirected over the importance of the heritage assets<sup>4</sup>, he might have looked to embrace the surviving heritage rather than simply consider it a depressing constraint to redevelopment. From the information at the Inquiry, it would appear to me that successive proposals have been focussed on how to maximise development on what has been seen as a poor quality, fragmented and unattractive site.
40. I have studied the Development Options Analysis but find that this emphasises the weak points about the site's deteriorating appearance and downplays the merits of the heritage assets. Indeed, at that time it considered the site to have a negative impact on the Conservation Area, being partly derelict and partly vacant. Moreover, while I find it unlikely that this site is much less viable than so many others which have been permitted or developed recently, such as the nearby Glassworks which also incorporates a heritage asset. Furthermore, the Report also dismisses the most minimal intervention option simply on the ground that it would not provide a satisfactory land value. In any event, the Analysis focusses on the quantum of development rather than the quality of its design.
41. A scheme in 2002 was granted permission but never built. It included façade retention for the whole of the Rosenfield buildings. I accept that the physical and policy contexts have both changed, and so this design might not be suitable now, even if it was then, but also that this demonstrates that an alternative approach to considering the merits of the heritage assets, and so causing less harm to them, could be acceptable. I note that the Appellant's consultants have been involved for many years, and that dismissals would risk prolonged inaction. On the other hand, it appears that the 2002 scheme was permitted promptly and I am not aware that excessive delay has been common on many other sites.
42. I was told that a previous Council officer gave indications that the broad principles were satisfactory. However, I have no details or records or such conversations and so cannot tell if the principles were simply those of supporting high density residential development in the City Centre, in accordance with the development plan, or anything much more detailed. In any event, the Appellant will have been well aware that such comments are made without prejudice and that they were followed by written criticisms from the Council, HE and other consultees. Indeed, many might have concluded that the

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<sup>4</sup> As acknowledged by Mr Levrant in XX, when he tore up his own earlier conclusions.



appeals had no chance of success while the Appellant's consultants alone repeatedly offered only minor changes focussed primarily on the elevational treatment.

*Government policy and the Development plan*

43. NPPF paragraph 60 aims to significantly boost the supply of homes. NPPF§120(c) requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes; §120(d) promotes and supports the development of under-utilised land and buildings, especially to meet identified needs for housing where land supply is constrained; and §110(a) provides that development must take up appropriate opportunities to promote sustainable transport modes given the type of development and its location. All this guidance supports the scheme in principle.
44. NPPF§199 advises that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It follows that I should give less weight to any harm to the significance of No.29 if it dates from 1870 as I would if it was built in 1810. No application for de-listing has been made. NPPF§202 requires harm to a listed building to be weighed against the public benefits. Under NPPF§203 the effect on the significance of a non-designated heritage asset should be taken into account, and a balanced judgement carried out having regard to the scale of any harm or loss, and the significance of the asset.
45. The development plan for Manchester City Centre includes the CS, and the saved policies of the 1995 Unitary Development Plan (UDP). Many of these policies are generally supportive of the type of development proposed in the City Centre. Specifically, CS Policy SP1 expects the Regional Centre to be the focus for economic and commercial development, where development must make the greatest use of public transport. Policy SP1 regards the whole of the City Centre as a regeneration area. Policy EC3 encourages commercial and high-density residential development in the Regional Centre.
46. CS Policy CC1 identifies the City Centre as suitable for high density buildings. Policy CC2 supports retail development at accessible locations on the edge of the Primary Shopping Area. Policy CC3 requires the most intensive development of housing in the City Centre, where a minimum of 16,500 new units is expected between 2010 and 2027, in line with Policy H1. Policy CC6 demands that City Centre development generally be high-density where land should be used to maximise its efficiency. Policy CC7 supports mixed-use development, with active ground floor uses, as the most viable opportunity in the City Centre. Policy CC8 sets out that the City Centre will welcome large-scale schemes. Policy CC10 supports development which will enable the City Centre to appeal to a wide range of residents and visitors. All these policies provide general support for the type of proposals before me.
47. On the other hand, in setting out the key spatial principles, CS Policy SP1 also requires development to create well designed places that enhance or create character, and to protect and enhance the built environment. Support in Policy EN2, for proposals for tall buildings<sup>5</sup>, is limited to those that are of excellent design quality, and identifies the whole of the defined City Centre as an

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<sup>5</sup> There was no dispute that the height and position of the proposed tower would meet the policy definition

appropriate location for tall buildings with particular encouragement to non-conservation areas and sites which are well served by public transport nodes. While the location next to the Metrolink would make the scheme more sustainable, as it did for the Glassworks, for the above reasons, I find that the design would fall well short of excellent quality. Policy CC6 is supportive of development subject to also seeing compliance with Policy EN2, and so there would be conflict for the same reasons.

48. While CS Policy CC8 generally supports developments that offer employment and retail growth, this is subject to impact on key aspects of the City's heritage and character. Given my heritage objections, this part of the policy would be breached as would UDP Policies CC9, EN1, EN3, which all require that proposals preserve designated heritage assets. Conflict with the multiple requirements of Policy DM1 would include those relating to bullet point 1: siting, layout, scale, form, massing, materials and detail; 2: Impact on the surrounding areas in terms of the design, scale and appearance, and regard to its character; and 10: Effects relating to built heritage.
49. I note that the Courts have found that *the statutorily desirable object of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say, preserved*. That is not the case here and so, taking account of Sections 16, 66 and 72, the PLBCAA sets further presumptions against the scheme. Saved UDP policies DC18 and DC19 both echo the statutory duties for conservation areas and listed buildings so and reinforce the breaches there. In addition, the Courts have found that considerable weight must be given to the presumption that preservation is desirable.
50. The draft Joint Development Plan Document (DPD) Places For Everyone (PfE) from August 2021 is a Joint DPD for several authorities. The scheme would conflict with the elements of PfE JP-P1: 1C. which expects development to respect and acknowledge the character and identity of the locality in terms of design, siting, size, scale and materials used, and 2. to be visually stimulating, creating interesting and imaginative environments which raise the human spirit through the use of green space, public art and quality design. It would also be contrary to PfE JP-P2: which expects Local Plans to set out a clear vision that recognises and embeds the role of heritage in place-making, and only permits harm to elements of a designated heritage asset or a conservation area which contribute to its significance where it would be clearly justified and outweighed by the public benefits of the proposal.
51. I have considered the argument that where one criterion in a policy pulls in a different direction to another, that the individual policy should be considered in the round. However, as conflict or otherwise with the development plan must be assessed as a whole, I find it of no assistance to undertake internal assessments within each policy when each relevant criterion can be assessed in the overall balance.

### **Other matters**

52. An Agreement under Section 106 (s106) of the T&CPA would require the landowner to provide a Viability Appraisal and, if required, make a Viability Payment towards affordable housing, as explained in the Council's Community Infrastructure Levy Regulation 122 Compliance Statement, with reference to

Policy H8. Given the Appellant's current position on viability, I find that this would be likely to provide any positive benefits and so I have not considered it further.

53. Conditions were suggested and discussed in writing, including one covering land not currently subject to the s106. For the same reasons, I do not need to consider these further.

### **Planning balance**

54. For the reasons set out above, I find that the proposals would cause considerable harm both to the character and to the appearance of the area, as a result of their effects on the siting, scale, size, height, massing, architectural detailing, street scene and skyline when experienced from the nearby streets, the Interchange and other areas of public realm in the vicinity.
55. I give moderate weight to the significant but less than substantial harm that the scheme would cause to the Grade II listed No.29 Shudehill and to the Shudehill Conservation Area, and additional harm to the settings of the Victoria Buildings. There would be further slight harm to some of the settings of other listed buildings and conservation areas, but in the context of this case, that harm would be limited. I give slightly less than moderate weight to the harm to the non-designated heritage asset comprising the Rosenfield buildings.
56. Taken together, I find that the limited weight to the heritage benefits and the moderate or lower weight to each of the other public benefits of the scheme would not outweigh the harm to either the listed building or the Shudehill Conservation Area. Harm to the Victoria and Rosenfield buildings would add to this. Cumulatively, the heritage and public benefits would not come close to outweighing the combination of harms to heritage assets.
57. For all these reasons, both the planning and listed building proposals would be inconsistent with Government policies. For similar reasons, they would conflict with multiple criteria in development plan policies as set out above. While the scheme would comply with a raft of other policies, this would apply to comparable schemes on many sites in the City Centre which would not have the same constraints. In any event, I find that, for this scheme on this site, the harm to the character and appearance of the area, and to heritage assets, would overwhelmingly outweigh the benefits and that Appeal A would be contrary to the NPPF and the development plan as a whole.
58. With regard to Appeal B, I find that the public benefits would not outweigh the harm to No.29 Shudehill, and that the proposed works would be contrary to the NPPF, and to the development plan as a material consideration.
59. For all these reasons, I find that neither appeal should succeed.

### **Conclusions**

60. For the reasons given above I conclude that Appeal A should be dismissed, and that Appeal B should also fail.

*David Nicholson*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Killian Garvey of Counsel

Instructed by Andrew Piatt and Richard Bailey of Gateley Legal

He called

Angela Leckie BSC(HONS)

MPLAN MRTPI

Paul Mason BA Arch Dip Arch

Senior Planner, Manchester City Council (MCC)

Group Manager - Urban Design and Conservation, MCC

### FOR THE APPELLANT:

Sasha White KC, assisted by

Anjoli Foster of Counsel

Instructed by Andrew Piatt and Richard Bailey of Gateley Legal

They called

Andrew Avery BA(Hons)

DipArch, DipUD, RIBA

Stephen Levrant RIBA, AA Dipl,

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Neil Lucas MRTPI

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Stephen Levrant Heritage Architecture

Planning consultant – Ashton Hale

### INTERESTED PERSON:

Ben Dewfield-Oakley

Conservation Officer, SAVE Britain's Heritage

### INQUIRY DOCUMENTS

1	Appellant's opening
2	Council's opening
3	Statement by SAVE Britain's heritage
4	NOMA Strategic Regeneration Framework
5	Presentation by Mr Avery
6	Sadler's Yard
7	R. (on the application of McLaren) v Woking BC, 2021 WL 00430718 (2021)
8	Presentation by Mr Mason
9	Section 106 Agreement – final text
10	R. (on the application of McLaren) v Woking BC, 2021 WL 00430718 (2021)
11	City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 320
12	South Lakeland DC v SoS for the Environment, [1992] 2 A.C. 141 (1992)
13	Newcastle upon Tyne City Council v Secretary of State [2022] EWHC 2752 (Admin), 2022 WL 16699467
14	London Historic Parks and Gardens Trust v Secretary of State [2022] EWHC 829 (Admin), 2022 WL 01061952
15	The Queen on the application of Paula Fraser and Shropshire Council and the Wrekin Housing Trust [2021] EWHC 31 (Admin)
16	Aidan Jones v Jane Margaret Mordue, SoS CLG, S. Northamptonshire Council. [2015] EWCA Civ 1243, 2015 WL 7693008
17	Safe Rottingdean Ltd v Brighton and Hove City Council, 2019 WL 05050478 (2019)
18	Email regarding pre-commencement condition
19	Draft planning conditions
20	Draft listed building conditions
21	PL13 of the Ground Floor GA Plan & Basement (-01) Floor GA Plan drawing
22	CIL Justification
23	Council's closing
24	Appellant's closing

CORE DOCUMENTS

<b>National Planning Policy and Guidance</b>	
1.1	National Planning Policy Framework 2021
1.2	National Planning Practice Guidance: - Design - Design: Process and tools - Historic Environment - Use of Planning Conditions
1.3	National Design Guide 2021
<b>National Planning Policy Documents and Relevant Sources</b>	
2.1	Department for Digital, Culture, Media and Sport (DCMS). Principles of selection for listed buildings. Published 2010, updated 2018
2.2	Historic England. Commerce and Exchange Building: Listing Selection Guide, 2017
2.3	Historic England. Conservation Area Designation and Management: Advice Note 1 (Second Edition) 2019
2.4	Historic England. Conservation principles policies and guidance for the sustainable management of the historic environment, 2008
2.5	Historic England. Historic Environment Good Practice Advice in Planning Note Advice Note 12: Statements of Heritage Significance', 2019 ('HEAN 12')
2.6	Historic England. Historic Environment Good Practice Advice in Planning Note 3: 'The Setting of Heritage Assets', 2017 ('HEAN 3')
2.7	Historic England. Historic Environment Good Practice Advice in Planning Note 7: 'Local Heritage Listing', 2021 ('HEAN 7')
2.8	Historic England. Industrial Buildings: Listing Selection Guide, 2017
2.9	Historic England. Managing Significance in Decision-Taking in the Historic Environment Historic Environment Good Practice Advice in Planning: 2, 2015
2.10	Historic England. Tall Buildings, 2022 ('HEAN 4') Second Edition
2.11	ICOMOS. Guidance on Heritage Impact Assessments for Cultural World Heritage Properties. January 2011
<b>Legislation</b>	
3.1	Planning (Listed Buildings and Conservation Areas) Act 1990, sections 16, 66 and 72
<b>Development Plan</b>	
4.1	The Core Strategy Development Plan Document 2012
4.2	Unitary Development Plan 1995 - Extant Policies: - Part 1 - Transport - Part 1 - Shopping - Part 1 - Environmental Improvement and Protection - Part 2 - Area 1 - Blackley, Charlestown and Moston - Part 2 - Area 2 - Cheetham and Crumpsall - Part 2 - Area 3 - Harpurhey, Lightbowne and Collyhurst - Part 2 - Area 4 - East Manchester - Part 2 - Area 5 - City Centre Small Area Policies - Part 2 - Area 5 - Map of City Centre Small Area Policies - Part 2 - Area 6 - Hulme - Part 2 - Area 8 - Ardwick, Brunswick and West Gorton - Part 2 - Area 9 - North and South Gorton - Part 2 - Area 11 - Rusholme and Fallowfield - Part 2 - Area 12 - Longsight and Levenshulme - Part 2 - Area 13 - Chorlton and Barlow Moor - Part 2 - Area 14 - Withington and Burnage - Part 2 - Area 15 - Didsbury - Part 2 - Area 16 - West Wythenshawe - Part 2 - Area 17 - East Wythenshawe - Citywide Development Control Policies - General Statement
<b>Other Planning Documents</b>	
5.1	Draft Places for Everyone Joint Development Plan Document August 2021
5.2	Residential Quality Guidance SPD 2017
5.3	Guide to Development in Manchester SPD 2007
5.4	Our Manchester Strategy 2016-2025
5.5	Manchester's Great Outdoors - a Green and Blue Infrastructure Strategy for Manchester 2015-2025
5.6	Manchester's Great Outdoors - a Green and Blue Infrastructure Strategy for Manchester - Stakeholder Implementation Plan: Working together to improve Manchester's GI 2015-2018
5.7	Manchester City Centre Strategic Plan 2015-2018
5.8	Stronger Together: Greater Manchester Strategy 2013 (GM Strategy)
5.9	Manchester Housing Strategy 2022-2032
5.10	Manchester: A Certain Future (MACF) 2013 Update
5.11	Manchester Climate Change Framework 2020-2025
5.12	The Zero Carbon Framework 2020-2038
5.13	Appendix 3 to The Zero Carbon Framework 2020-2038 - Draft Manchester Business Case for Climate Change Action

5.14	Appendix 4 to The Zero Carbon Framework 2020-2038 – Sector and Organisation Actions
5.15	Climate Change and Low Emission Strategies’ – Whole Place Implementation Plan for Greater Manchester (2016-2020)
<b>Planning Application and Listed Building Consent Documents</b>	
<b>Environmental Statement</b>	
6.1	Volume 1 – Non-Technical Summary November 2018
6.2	Volume 2 – Main Text Introduction Approach Site Description Alternatives The Proposed Development Planning Policy Context Townscape and Visual Built Heritage Noise and Vibration Wind and Microclimate Daylight, Sunlight and Overshadowing Socio-economics Cumulative Effects Summary and Conclusions
Volume 3 – Appendices	
6.3	Appendix 1.1 : EIA Competent Experts November 2018
6.4	Appendix 7.1 : TVIA Maps 22 June 2018
6.5	Appendix 7.2 : Representative Viewpoint Photographs 8 August 2018
6.6	Appendix 8.1 : Heritage Statement August 2018
6.7	Appendix 9.1 : Azymouth Acoustics Noise Assessment 21 January 2016
6.8	Appendix 9.2 : Full Results of Noise Survey from 11 – 14 June 2018
6.9	Appendix 10.1 : Wind Microclimate Report August 2018
6.10	Appendix 11.1 : Daylight and Sunlight Technical Report August 2018
6.11	Appendix 11.2 : Overshadowing Technical Report June 2018
<b>Environmental Statement Addendum</b>	
7.1	Volume 1 – Non-Technical Summary June 2022
7.2	Volume 2 – Main Text Introduction Approach Site Description Alternatives The Proposed Development Planning Policy Context Townscape and Visual Built Heritage Noise and Vibration Wind and Microclimate Daylight, Sunlight and Overshadowing Socio-economics Cumulative Effects Summary and Conclusions
Volume 3 – Appendices	
7.3	Appendix 5.1 – November 2018 Accommodation Schedule
7.4	Appendix 5.2 – April 2022 Accommodation Schedule
7.5	Appendix 5.3 – Updated Schedule of Plans May 2022
7.6	Appendix 7.1 – TVIA Maps 2 March 2022
7.7	Appendix 7.2 – TVIA Viewpoint Photos 26 April 2022
7.8	Appendix 7.3 – TVIA Visualisation Methodology March 2022
7.9	Updated 2023 TVIA view pack – September 2023
<b>Plans and Drawings</b>	
8.1	Demolition Existing Ground Floor
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8.14	Existing Internal Elevations Sheet 3
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8.17	Levels 01-03 GA Plans
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8.44	Axonometrics
8.45	Area Schedule NIA & GIA
8.46	Window Works
8.47	Existing Ceiling Ground Floor
8.48	Existing Ceiling First Floor
8.49	Proposed Ceiling Ground Floor
8.50	Proposed Ceiling First Floor
8.51	Restoration Specification
<b>Documents</b>	
9.1	Supporting Planning Statement November 2018
9.2	Supporting Planning Statement Addendum June 2022
9.3	Tall Building Statement June 2022
9.4	Statement of Community Involvement August 2018
9.5	Air Quality Assessment May 2022
9.6	Archaeological Assessment July 2018
9.7	Construction Methodology Report 4 May 2022
9.8	Crime Impact Statement 2018
9.9	Design and Access Statement June 2022
9.10	Addendum Statement on Climate Emergency Declaration 11 April 2022
9.11	Bat Emergence Survey May 2022
9.12	Climate Change Summary Statement May 2020
9.13	Development Options Analysis June 2022
9.14	Ecological Survey Report and Bat Daytime Survey March-April 2022
9.15	Energy and Environmental Statement 11 April 2022
9.16	Financial Viability Appraisal March 2022
9.17	Fire Statement Form 8 April 2022
9.18	Ground Conditions Report August 2018
9.19	Outline Scope of Repair June 2018
9.20	Structural Appraisal 4 May 2022
9.21	Television and Radio Reception Impact Assessment 10 May 2022
9.22	Transport Statement 9 May 2022
9.23	Travel Plan 13 April 2022
9.24	Ventilation Statement 11 April 2022
9.25	Waste Management Strategy November 2022
9.26	Buttress - Architectural restoration specification: fabric repairs, 2018
9.27	Stephen Levrant Heritage Architecture. Heritage Statement report, May 2022
<b>Other Documents</b>	
10.1	Planning Application Form
10.2	Listed Building Consent Form

10.3	Historic England's Advice Letter to Stephen Levrant Heritage Architecture Ltd dated 12 February 2016
10.4	Email from Appellant to Manchester City Council re. comments raised on the design 27 February 2019
10.5	Letter from Appellant's Agent setting out Revised Design Details, Climate Change Statement and Affordable Housing Offer 18 May 2020
10.6	Applicant's response to consultation 18 February 2019
10.7	Covering letter from Appellant's Agent addressing proposed changes 14 July 2022
10.8	TfGM comments 25 January 2019
10.9	GMAAS comments in letter to MCC 20 December 2018
10.10	Historic England Comments in letter to MCC 21 December 2018
10.11	Historic England Comments in letter to MCC 22 December 2019
10.12	Historic England Comments in letter to MCC 30 August 2022
10.13	SAVE Britain's Heritage comments in letter to MCC 11 April 2019
10.14	Victorian Society comments in letter to MCC 22 January 2022
10.15	Relocation Strategy June 2022
10.16	The Shudehill Conservation Area Declaration
10.17	The Shudehill and Northern Quarter Area of Manchester
<b>Call In Documents</b>	
11.1	S106 Agreement
11.2	Draft Planning Conditions
11.3	Statement of Common Ground with appendices – signed – dated 2023
11.4	Interland Holdings' Statement of Case dated 15 May 2023
11.5	Manchester City Council's Statement of Case dated 18 July 2023 (as updated 11 August 2023) and Addendum dated 11 August 2023
11.6	Officer's Report to Committee 13 April 2023
11.7	Decision Notice dated 14 April 2023 (Planning Permission)
11.8	Decision Notice dated 14 April 2023 (Listed Building Consent)
11.9	Secretary of State Letter dated 16 June 2023
<b>Secretary of State Decisions</b>	
12.1	APP/X5990/V/3301508 : Town and Country Planning Act 1990 – Section 77 Application made by Marks and Spencer PLC, 456-472 Oxford Street, London W1. Application Ref: 21/04502/FULL
<b>Proofs of Evidence and Appendices of the Appellant</b>	
13.1	Heritage – Stephen Levrant – Proof of Evidence
13.2	Heritage – Stephen Levrant – Appendices to Proof of Evidence
13.2.1	Heritage – Stephen Levrant – Summary Proof of Evidence
13.3	Architecture – Andy Avery – Proof of Evidence
13.4	Architecture – Andy Avery – Appendices to Proof of Evidence
13.4.1	Architecture – Andy Avery – Summary Proof of Evidence
13.5	Planning – Neil Lucas – Proof of Evidence
13.6	Planning – Neil Lucas – Appendices to Proof of Evidence
13.6.1	Planning – Neil Lucas – Summary Proof of Evidence
<b>Proofs of Evidence and Appendices of the Local Planning Authority</b>	
14.1	Paul Mason – Design/Heritage/Visual Impact – Proof of Evidence
14.2	Paul Mason – Design/Heritage/Visual Impact – Appendices to Proof of Evidence
14.2.1	Paul Mason – Design/Heritage/Visual Impact – Summary Proof of Evidence
14.2.2	Paul Mason – Design/Heritage/Visual Impact – Rebuttal to the Appellant's Proofs of Evidence
14.3	Angela Leckie – Planning – Proof of Evidence
14.4	Angela Leckie – Planning – Summary Proof of Evidence
14.4.1	Angela Leckie – Planning – Rebuttal to the Appellant's Planning Proof of Evidence
14.4.2	Angela Leckie – Planning – Appendices to Rebuttal to the Appellant's Planning Proof of Evidence
<b>Documents relevant to 2002 applications 066301/FO/CITY1/02, 066303/CC/CITY1/02 and 066300/LO/CITY1/02</b>	
15.1	Plans, Decision Notice and Officer's Report
<b>Case Law</b>	
16.1	Case No: CO/2285/2019 - The Honourable Mrs Justice Andrews DBE Between Spitfire Bespoke Homed Ltd (Claimant) and Secretary of State for Housing, Communities and Local Government Warwick District Council [2020]
16.2	Case Nos: CO/735/2013 and CO/16932/2013 – Between The Queen (on the application of (1) The Forge Field Society (2) Martin Barraud (3) Robert Rees) (Claimants) v Sevenoaks District Council v West Kent Housing Association, The Right Honourable Philip John Algernon Viscount De L'Isle [2014]
16.3	Case No: C1/2013/0843 – Barnwell Manor Wind Energy Limited v East Northants DC, English Heritage, National Trust, The Secretary of State for Communities and Local Government, The SoS for Communities and Local Government [2014].
16.4	Case No: CO/978/2016 - Forest of Dean Council v (1) Secretary of State for Communities and Local Government, (2) Gladman Developments Limited [2016].