

TRAFFORD COUNCIL

Report to: Planning and Development Management Committee
Date: 11 February 2021
Report for: Decision
Report of: Head of Planning and Development

Report Title

188A Shrewsbury Street, Old Trafford: Making of immediate Article 4 direction to remove permitted development rights for the demolition of the building.

Summary

This report sets out the reasons behind the proposal to make an immediate Article 4 Direction removing permitted development rights for the demolition of 188A Shrewsbury Street.

This report seeks approval from the Committee to make the immediate Article 4 Direction including undertaking statutory consultation requirements.

Recommendation

That the Planning and Development Management Committee:

- (i) Resolve that the making of an immediate Direction pursuant to Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 to withdraw the permitted development rights to demolish 188A Shrewsbury Street, Old Trafford is appropriate, and justified, as demolition of 188A Shrewsbury Street would be prejudicial to the proper planning of the area and constitutes a threat to the amenities of the area.
- (ii) Approve the making of the Article 4(1) Direction for 188A Shrewsbury Street, Old Trafford, Manchester, the extent of which is shown in Appendix 2.
- (iii) Delegate authority to the Corporate Director of Governance and Community Strategy to make the Article 4(1) Direction for the land at 188A Shrewsbury Street, Old Trafford, Manchester as shown on the plan attached at Appendix 1 and delegate to the Corporate Director of Place authority to carry out all necessary consultation following the making of the Direction, to notify the Secretary of State in accordance with statutory requirements and to take all other action considered necessary or expedient to give effect to the matters set out in this report.
- (iv) Confirm that the Article 4(1) Direction will be effective with immediate effect once made.
- (v) Delegate authority to the Corporate Director of Governance and Community Strategy to confirm the Direction in due course if there are no objections.
- (vi) Request that subsequent planning applications involving the demolition of 188A Shrewsbury Street and where the Article 4 Direction remains in force to

be referred to the Planning and Development Management Committee for determination.

Contact person for access to background papers and further information:

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1.0 INTRODUCTION AND BACKGROUND

- 1.1 An application for Prior Notification under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) was received for the demolition of the building identified as 188A Shrewsbury Street, Old Trafford, Manchester. This application was refused on 23rd December 2020.
- 1.2 The reason for refusal (102644/DEM/20) states that 'It is considered that the building, as outlined in RED on the submitted Local Plan has been rendered unsafe or otherwise uninhabitable by the inaction of a person having an interest in the land. Further to this, no evidence has been submitted to the Local Planning Authority to demonstrate that the building was neither last use as a venue for live music performance or as a drinking establishment which is considered probable given its last use as a working men's club. The proposal therefore fails to comply with Class B of Part 11 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- 1.3 Previous an application ref. H/53282 for the 'Part demolition and conversion of existing building and erection of new three storey block to form 24 apartments and 24 car parking spaces' was approved on 13th March 2002. This has not been implemented and the permission has now lapsed.
- 1.4 Demolition is development permitted under Article 3, Schedule 2, Part 11 of the GPDO. This requires the developer to apply to the Local Planning Authority (LPA) for a determination as to whether the prior approval of the authority is required as to the method of demolition and any proposed restoration of the site. The LPA is not able to object to the demolition of a building in principle through this process.
- 1.5 Article 4 of the GPDO allows for an LPA to make a Direction that certain classes of development set out in this Order should not be carried out unless permission is granted for it on application to the LPA. An immediate Article 4 Direction can be made if the Council considers that the development would be prejudicial to the proper planning of the area or would constitute a threat to the amenities of the area.
- 1.6 Schedule 3 of the GPDO sets out the procedure for the making of an Article 4 Direction, including the requirement to publicise such a direction.

- 1.7 It is the view of officers that the demolition of 188A Shrewsbury Street would be prejudicial to the proper planning of the area and constitutes a threat to the amenities of the area.
- 1.8 It is therefore proposed to make a Direction with immediate effect under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.9 The proposed Direction under Article 4 and Paragraph 2 of Schedule 3 of the GPDO will have the effect of withdrawing the permitted development rights conferred by the GPDO Class B of Part 11 of Schedule 2, relating to the demolition of the building. The Direction will cease to have effect after six months unless confirmed by the Council during that period.
- 1.10 The effect of the immediate Article 4 Direction is that the building cannot be demolished unless a planning application is made and permission granted.
- 1.11 There are no current planning applications pending consideration on this site.

2.0 JUSTIFICATION FOR IMMEDIATE ARTICLE 4 DIRECTION

- 2.1 188A Shrewsbury Street is a substantial church building, constructed in the 1901 within Old Trafford. It is understood that it was constructed as the Moss Side Unitarian Free Church and most recently has been used as a Polish Ex-Servicemens' Club.
- 2.2 188A Shrewsbury Street is not a listed building and is not located within a conservation area. Nevertheless, following recent investigation of the site and its history it is the view of officers that the property is a non-designated heritage asset in that it has a degree of heritage significance meriting consideration in planning decisions but does not meet the criteria for designated heritage assets (as confirmed by Historic England). The significance of 188A Shrewsbury Street derives from the following:

The Polish Ex-Servicemen's Club was formerly the Moss Side Unitarian Free Church, founded in 1887 and built by 1901.

During the first half of the 19th century, Unitarianism grew in popularity favoured by those wealthy manufactures and merchants in Manchester with a social conscience and resources to bring about change. At the Cross Street Chapel, an informal group was formed to tackle social and political reform. They controlled a number of newspapers including the "Guardian". Members included the notable Rev William Gaskell, who exercised wide influence within and outside the Unitarian movement and was supported by his wife Elizabeth Gaskell, novelist. The establishment of Moss Side Unitarian Free Church appeared to buck the trend for Unitarianism in Manchester when wealthy manufacturers and merchants were moving to the suburbs and beyond following increasing urbanisation. During the late 19th century, Old Trafford was rapidly expanding which accelerated following the building of the Manchester Ship Canal in the

1890s and the subsequent development of the nearby Trafford Park Industrial Estate.

Moss Side Unitarian Church was established in 1887 with services held in Moss Side Liberal Club. By February 1892 a school chapel had been opened on a site large enough to accommodate the building of the church. The cost of the building and land was £3,900. [Manchester Guardian 8 February 1892 page 8]. The church was largely funded by an 1899 bequest from William Roberts, a member of the congregation, who also funded the statue of William Gladstone which stands in Manchester's Albert Square. The Church was finally opened in October 1901 at a cost of £6,000. Following the Second World War, the Church & Schools were closed in 1947 and fell into disrepair by the mid-20th century. During this period Polish and east European migrants arrived and settled in Old Trafford. By the 1950s, the School building was occupied by the Polish Ex –Servicemen's Club and remained in this use until the early 2000s.

The former Moss Side Unitarian Free Church and attached Schools are designed in the Gothic revival style. The Schools were designed by the partnership of Messrs J W and R F Beaumont and built by Mr W Thorpe of Cornbrook . Constructed over two storeys with a rectangular plan form; the principal elevation is faced with Ruabon brick laid in a Flemish bond with pressed terracotta dressings. A large centrally sited gable with Gothic window and terracotta tracery served a large school room at first floor. At ground floor were a series of classrooms. The building is accessed via a pitched roof entrance porch. The roof is steeply pitched roof clad with Burlington slate and runs the full depth of the site. The window is flanked by two storey buttresses and two storey, half hipped wings. The Schools were linked to the Church by a two storey cart entrance on the northern boundary. The rear elevation is constructed from a common brick with a two storey link to the Church on the southern boundary. The interior has not been inspected and it is unclear if any fixtures or fittings remain.

The Church is sited to the south east and comprises of a similar rectangular footprint with a prominent turreted tower sited on the eastern corner. The tower is decorated with terracotta mouldings, Gothic windows and lucarnes. It is a distinctive landmark in views along Shrewsbury Street and Upper Chorlton Road and a typical feature of many Unitarian chapels in the second half of the 19th century. The principal elevation to Shrewsbury is also constructed from Ruabon brick and terracotta identical to the Schools laid in a similar Flemish bond. It is conceivable that the Church is also designed by J W and R F Beaumont, however to date this has not been confirmed. It is likely the partnership undertook designs for the Schools and Church together with the latter being completed later in 1901. It is not clear why the Church was abandoned in the 1940s. After falling into disrepair, the hall roof was replaced with a lower pitch and this has resulted in a

truncated Gothic window on the principal elevation. The window survives on the rear elevation.

John William Beaumont commenced independent practice in Manchester from 1870-71 and with Richard F Beaumont between c1887 and 1894. A Fellow of the Royal Institute of British Architects, he was also a Fellow of the Manchester Society of Architects and its President from 1903-1905. The partnership with Richard F Beaumont was responsible for a number of distinguished buildings including Whitworth Art Gallery and the Rutherford Building at Manchester University. Other principal works included the Town Hall, Public Baths and Cemetery at Hyde, Memorial Building at Stockport, Liberal Club at Stockport, Free Public Libraries at Openshaw and Gorton and the Hydraulic Power Pumping Station at Ancoats.

Historic England recently assessed the building and confirmed “Although too altered to recommend for listing, this building is clearly of strong local interest for its muscular composition, richly detailed brick frontages and prominent, decorative tower. The school and church are well-detailed throughout externally, and are an excellent example of the achievement of elaborate decorative effect using mass-production techniques. Together they formerly comprised a symmetrical composition plus tower, with a central decorative entrance block to a courtyard between the school and church. The connections with William Roberts, the Unitarian denomination and the Beaumont partnership are of considerable local interest.”

- 2.3 The demolition of the building would lead to the total loss of its significance. It is therefore the view of officers that the demolition of 188A Shrewsbury Street would be prejudicial to the proper planning of the area and constitutes a threat to the amenities of the area and as such a planning application should be required to assess any proposal for demolition in full.

3.0 USE OF AN IMMEDIATE ARTICLE 4 DIRECTION

- 3.1 An Article 4 Direction can be used to remove specific permitted development rights from all or part of a local authority's area. It does not restrict development altogether but means that planning permission is required. The proposed Article 4 Direction does not seek to prevent any demolition, rather it seeks to ensure that any demolition is thoroughly assessed against the Development Plan and the future redevelopment of this site is managed to take account of and with a full understanding of the significance of the existing property. Should an application come forward to redevelop the site it would allow for a proper survey of the property and assessment of the most significant elements to assist in understanding to what extent the existing buildings could or should be retained and converted. There clearly needs to be a future viable use for this building and site and the Article 4 Direction will not prevent the Local Planning Authority from

taking a pragmatic and balanced view but with all the necessary information available to it.

- 3.2 Paragraph 53 of the NPPF states that “The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.”
- 3.3 Planning Practice Guidance (PPG) states that “The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to:” ... cases where prior approval powers are available to control permitted development”.
- 3.4 In relation to immediate Article 4 Directions, the PPG states “The circumstances in which an immediate direction can restrict development are limited. Immediate directions can be made in relation to development permitted by Parts 1 to 4 and 11 of Schedule 2 to the General Permitted Development Order, where the development presents an immediate threat to local amenity or prejudices the proper planning of an area.”
- 3.5 PPG also states that “If a local planning authority makes an article 4 direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:
 - refuses planning permission for development which would otherwise have been permitted development; or
 - grants planning permission subject to more limiting conditions than the General Permitted Development Order.

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.”

- 3.6 Article 4 Directions can be either immediate or non-immediate. A non-immediate Direction requires the local planning authority to serve notice by way of a local advertisement, site notice and by writing to the owner and occupier of the land. The site notices must be in place for a period of not less than 6 weeks.
- 3.7 An immediate Article 4 Direction can be issued by the Planning and Development Management Committee and will take effect straight away. This will immediately

remove the permitted development rights relating to demolition at 188A Shrewsbury Street and will last for a 6 month period before which the Direction will either expire or be confirmed.

3.8 Following an immediate Article 4 Direction, the Council is required to give notice of the decision by way of local advertisement, site notice and by serving notice to owners and occupiers of the land. The Direction must also be referred to the Secretary of State. After a period of 28 days, and not longer than 6 months, the Council decides whether to go ahead and confirm the Direction, taking into account any representations which have been received and depending on the outcome the Council can confirm the Direction to permanently withdraw the permitted development right.

3.9 The issue of compensation is considered further in sections 6.0 and 7.0 below.

3.10 There is no formal right of appeal against the making of an immediate Article 4 Direction. However, the owner or proposed developer of a building the subject of an Article 4 Direction may apply for planning permission for its demolition. If, following the making of an immediate Article 4 Direction, such an application was made it would have to be considered by the Council in the proper manner.

4.0 OTHER OPTIONS

4.1 Option 1- Do nothing

188A Shrewsbury Street could be lost from the Shrewsbury Street and Upper Chorlton Road street-scene without full consideration to the impact this would have on the character and appearance of the area.

4.2 Option 2- Make a non-immediate Article 4 Direction

A non-immediate Direction could be made which, if it comes into force 12 months after the Direction being issued, would remove the possibility of paying compensation. However, a further demolition notification may be submitted, which could address the reasons for refusal. In this circumstance, it would be likely that 188A Shrewsbury Street would be demolished within the intervening 12 months with the visual and heritage harm that that would entail.

5.0 CONSULTATION

5.1 Consultation has been carried out with the LPA's Heritage Development Officer for the purpose of providing evidence for this report.

5.2 Consultation is required to be carried out with the owners and occupiers of 188A Shrewsbury Street in line with the regulations set out in the GPDO.

6.0 LEGAL IMPLICATIONS

6.1 There is no statutory appeal against the making of an Article 4 Direction. However, such a decision would be open to challenge by way of judicial review. In order to make an Article 4 Direction, the LPA must be satisfied that it is

expedient that the permitted change of use should not be carried out unless permission is granted for it (see Article 4(1)). In making any such decision, it is important that the LPA takes into account all relevant guidance. Overall, provided that a LPA takes into account all relevant considerations, and applies the correct test, it is unlikely there would be a successful judicial review of an Article 4 direction.

- 6.2 Section 108 of the Town and Country Planning Act 1990 includes a provision that compensation can be sought where (i) the LPA makes an Article 4 Direction, (ii) an application is made for planning permission to carry out development that would formerly have been permitted by the GPDO and (iii) the LPA refuses that application or grants permission subject to conditions differing from those in the GPDO.
- 6.3 However, where 12 months' notice is given in advance of a Direction taking effect there will be no liability to pay compensation (provided that the development authorised by the new changes had not started before the notice was published). Where Directions are made with immediate effect or less than 12 months' notice, compensation will only be payable in relation to planning applications which are submitted within 12 months of the effective date of the Direction and which are subsequently refused or where permission is granted subject to conditions.
- 6.4 Compensation may only be claimed for abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

7.0 FINANCIAL IMPLICATIONS

- 7.1 The preparation of the Article 4 Direction can be undertaken using existing officer resource.
- 7.2 A claim for compensation can only arise if a subsequent planning application for demolition is refused. The level of compensation would be a material consideration in the determination of a subsequent planning application and so is an issue that would be considered at that point. There is no direct risk of compensation from the issuing of an immediate Article 4 Direction alone. It is therefore recommended that future applications for the demolition of 188A Shrewsbury Street be referred back to the Committee to allow appropriate oversight of this issue.
- 7.3 Any future report to the Committee in association with a relevant planning application would set out the level of compensation likely to be payable, underpinned by specialist advice from the Council's Estates Service. Members will be able to take this information into account in the determination of that application.

8.0 HUMAN RIGHTS AND EQUALITIES

- 8.1 Section 6 of the Human Rights Act 1998 requires public authorities to act in a way that is compatible with the European Convention on Human Rights. Various

Rights may be relevant to this direction including Article 1 (protection of property) and Article 8 (Right to respect for a private and family life). The European Court has recognised that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. Any interference must be necessary and proportionate.

8.2 The rights of the individual have been considered against the wider public interest and it is determined that the Articles will not be triggered.

8.3 The Local Planning Authority has had regard to the provisions of the Equality Act 2010 in making this recommendation. The issuing of an Article 4 Direction would not have an adverse impact on protected groups.

9.0 RECOMMENDATIONS

That the Planning and Development Management Committee:

- (i) Resolve that the making of an immediate Direction pursuant to Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 to withdraw the permitted development rights to demolish 188A Shrewsbury Street, Old Trafford, Manchester is appropriate, and justified, as demolition of 188A Shrewsbury Street would be prejudicial to the proper planning of the area and constitutes a threat to the amenities of the area.
- (ii) Approve the making of the Article 4(1) Direction for 188A Shrewsbury Street, Old Trafford, Manchester, the extent of which is shown in Appendix 2.
- (iii) Delegate authority to the Corporate Director of Governance and Community Strategy to make the Article 4(1) Direction for the land at 188A Shrewsbury Street, Old Trafford, Manchester shown on the plan attached at Appendix 1 and delegate to the Corporate Director of Place authority to carry out all necessary consultation following the making of the Direction, to notify the Secretary of State in accordance with statutory requirements and to take all other action considered necessary or expedient to give effect to the matters set out in this report.
- (iv) Confirm that the Article 4(1) Direction will be effective with immediate effect once made.
- (v) Delegate authority to the Corporate Director of Governance and Community Strategy to confirm the Direction in due course if there are no objections.
- (vi) Request that subsequent planning applications involving the demolition of 188A Shrewsbury Street and where the Article 4 Direction remains in force to be referred to the Planning and Development Management Committee for determination.

Background Papers

None.

APPENDIX 1

DRAFT ARTICLE 4 DIRECTION



TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015, AS AMENDED

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH PARAGRAPH 2 OF SCHEDULE 3 APPLIES

188A SHREWSBURY STREET, OLD TRAFFORD, MANCHESTER, M16 7BP

WHEREAS Trafford Borough Council being the appropriate Local Planning Authority within the meaning of Article 4(5) of the Town and Country Planning (General Permitted Development) Order 2015, as amended, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the land shown edged in red on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990, as amended.

NOW THEREFORE the said Council in pursuance of the power conferred on them by Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015, as amended, hereby direct that the permission granted by Article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below.

THIS DIRECTION is made under Article 4(1) of the said Order and, in accordance with Paragraph 2(6) of Schedule 3, shall remain in force until(*insert date*) (being six months from the date of this direction) and shall then expire unless it has been confirmed by the appropriate Local Planning Authority in accordance with Paragraph 7 of Schedule 3 before the end of the six month period.

SCHEDULE

Any building operation consisting of the demolition of a building being development comprised within Class B of Part 11 of Schedule 2 to the said Order and not being development comprised within any other Class.

**1. Made under the Common Seal of Trafford Borough Council
thisday of.....2021**

**The Common Seal of the Council was affixed to this Direction in the presence
of
Authorised Signatory**

**2. Confirmed under the Common Seal of Trafford Borough Council
thisday of.....2021**

**The Common Seal of the Council was affixed to this Direction in the presence
of
Authorised Signatory**

APPENDIX 2

ARTICLE 4 DIRECTION PLAN BOUNDARY

