

Application Number	Date of Appln	Committee Date	Ward
089880/VO/2009/C2	21st Apr 2009	25th Jun 2009	City Centre Ward

Proposal CITY COUNCIL DEVELOPMENT Erection of safety fence comprising stainless steel support with glass infill panel and stainless steel top rail adjacent to full length of wall to canal

Location Towpath Adjacent To Rochdale Canal, Canal Street Between Minshall Street and Princess Street, Manchester, M1 3HE

Applicant Mr Stephen Dixon, Manchester City Council, Highways Services, Hooper Street, Ardwick, M12 6LA

Agent

Introduction

Members will recall that this application was due to be brought before the Committee on 28th May November 2009 with a recommendation to approve but that it was brought to their attention that site notices relating to the application had not been put in place. The site notices were subsequently posted on 29th May 2009

Description

The application relates to the cobbled footpath adjacent to the northern bank of the section of the Rochdale Canal wall which runs from the top end of Canal Street at its junction with Minshull Street, down to its junction with Princess Street. The wall forms the parapet of a brick built canal-retaining wall. The height of the wall from ground level varies from between 1.07m at its highest and 0.41m at its lowest and is broken at its junction with Sackville Street and with Chorlton Street. The canal wall is Grade II listed and the street and the canal lie within the Whitworth Street Conservation Area. This length of Canal Street functions as the canal's tow path and is some 2 to 3 meters above the canal channel and its locks and lock-side landing stages. There are no formal access points to any of these landing stages from Canal Street. Access is available to a towpath on the southern bank from bridges across Minshull Street and Princess Street.

Consent is sought for the erection of a safety fence adjacent to the canal wall. The fence would comprise a series of stainless steel supports with angled glass infill panels and a stainless steel top rail above wall level. The supports would be set within the cobbled setts to the footway within steel support struts. The rail height will be set at a minimum height of 1.1 meters from the ground and a maximum of 1.3 meters to allow a level and consistent rail line throughout the length of the canal wall irrespective of the wall height and ground level variations. The average distance between the front edge of the post and wall will be 220mm. The fence design incorporates a secure access gate (located adjacent to Lock 86) for use by British Waterways staff and has been designed to allow access for occasional hand or horse drawn topline haulage of canal boats towing over the canal wall / safety fence rail and allow unhindered use of emergency throw lines for water rescue.

The scheme has its origins in a coordinated City Council, British Waterways and Cityco (the City Centre's management company) response to a fatal accident in March 2008. At the time, this incident was the latest in a number of serious injuries and fatalities resulting from falls over the wall along Canal Street.

The proposals for the barrier scheme originated from a request made by the City Coroner following the Inquest into the fatality in March 2008. The Coroner wrote to the City Council and British Waterways, as respectively the authority with responsibility for the maintenance of Canal Street, and the canal owner and operator, under Rule 43 of the Coroner's Rules 1984 saying: "I strongly urge for there to be a review of the waterways in the centre of Manchester with the intention of deciding what appropriate extra warning signage, lighting, life saving equipment, etc. may be appropriate in any given area. Consideration might need to be given to additional fencing or walling".

The broad principles used by the City Council, British Waterways and Cityco to select the response to the Coroner's recommendations were shaped by the following considerations:

- i. a joint risk assessment - the Canal Street Water Safety Risk Assessment - undertaken by British Waterways and the City Council in consultation with Greater Manchester Police and Greater Manchester Fire and Rescue Service. This identified that the hazard on Canal Street was the potential to fall from height over or off the wall either into the canal or onto one of the hard surface landing areas adjacent to the lock chambers. The period of greatest risk is at night-time during and after licensing hours, particularly when visitors are unsupervised. Alcohol is regarded as a contributing factor;
- ii. the potential impact of any solution on the ability of the Emergency Services and/or others to effect the rescue of a member of the public who had fallen into the canal;
- iii. the location of Canal Street and the canal in a conservation area;
- iv. the potential impact on the operation of the canal;
- v. the impact on the maintenance of Canal Street and the ease of maintenance of any new structure; and
- vi. the cost of implementing the scheme and the potential cost of any ongoing maintenance obligation.

The joint risk assessment recommended the installation of a fixed barrier fence to prevent accidental falls over the canal wall. The risk assessment also made other recommendations in terms of signage, lighting and other matters (which, where necessary, will be the subject of separate planning applications) and was agreed by a water safety working party chaired by Cityco and whose membership also included representatives from a wide range of City Council Services. This was also subject to additional consultation has been undertaken with the City Council's Building Control Section, the Council's Landscape Practice Group and the Greater Manchester Archaeological Unit.

Following the consultations the following design principles for the erection of a physical barrier were agreed to aid the selection of a preferred option:

- i. the height of the barrier should be at least 1.1 meters from ground level as this is the minimum recommended height for a barrier intended to prevent people falling from height;
- ii. the barrier needed to be designed in such a way that it would prevent people leaning over and sitting on the wall or the safety rail itself, to reduce the risk of falling or being pushed backwards into the canal or landing stages;
- iii. the barrier had to act as a deterrent to climbing onto or over the wall, i.e. it must be designed in such a way as to not have footholds;
- iv. the barrier had to be sufficiently robust to withstand the loadings expected for crowd barriers;
- v. the barrier had to be a light-weight and visually low impact structure to minimize its impact on the listed wall and on the wider setting;
- vi. the barrier had to have a minimal impact on the operation of the canal and on canal users;
- vii. the barrier had to be relatively easy to maintain and had to have a minimal impact on the cleansing and maintenance of canal street;
- viii. the barrier should have an absolute minimum impact on the ability of the Emergency Services and/or bar staff and or others to facilitate a rescue from the canal channel.

In response to these principles, two broad options were considered:

- i. a fixed barrier either attached to the wall or fixed into the ground immediately adjacent to the wall or
- ii. temporary removable barriers which would be under the control of premises managers along Canal Street that would be put in place along the side of the wall during premises opening hours.

Of the two, the fixed barrier was the preferred option as this was not dependent on the day-to-day management of premises managers and would not be exposed to the risk of removal. A barrier fixed to the wall was also eliminated at an early stage as:

- i. without a full structural survey to assess the integrity of the wall, it was not clear whether or not the upper wall would be able to withstand the leverage loads created by crowds leaning against a barrier;
- ii. it was not clear whether the wall would withstand core drilling to insert and anchor post and rail fencing.

The initial design proposal produced prior to the joint risk assessment being carried out, was a steel post and rail fence standing a short distance from the wall to delineate a safe area. To prevent people being able to sit on the wall the proposals were amended to include tensioned wire infill in the gap between the top rail and wall with the top rail and infill canting away from Canal Street over the canal wall. The design was further amended to stainless steel stanchion posts (clear or colour coated) to avoid or reduce the risk of rust precipitation. The proposal was developed by recommending either reinforced glass infill or ornate / metal bar infill, giving three infill options in total: tensioned wires, reinforced glass panels, or metal bars.

In relation to the design principles outlined above, it was determined that:

- i. a heavy set metal bar or ornamental metalwork fence would detract from the prominence of the wall and the wider aspect of the canal as environmental features;
- ii. tensioned wire and metalwork could potentially attract the attachment of tokens, memorabilia and memorials given the social aspect of the area, existing memorials to those who have died on Canal Street, and the close proximity of the AIDS memorial on the opposite bank of the canal, requiring public relations and cleansing maintenance costs;
- iii. glass infill panels could potentially attract fly posting, stickers, ink or paint graffiti, etching, or be subject to significant weathering, generating cleansing maintenance costs and potentially operational maintenance costs;
- iv. tensioned wire will require periodic re-tensioning and replacement, generating operational maintenance costs;
- v. all options use 316G stainless steel frame with the exception of the root/ground fixing and the posts are generally on 2 meter centres, the systems designed to comply with the requirements of BS 7818 Parapet Class 3;
- vi. all glass panels would be a minimum 16mm twin wall toughened laminate.

Based on the above the fence being proposed in this application is the preferred option.

The option appraisal that resulted in the choice of this option identified that:

- i. given the maximum and minimum height levels of the wall, and the need to prevent members of the public sitting on the wall and using the safety rail to steady themselves while doing so (i.e. by trying to sit on the wall with their legs tucked under the top rail), it is clear that any barrier at a minimum height of 1.1 meters will need some form of infill between the height of the top of the wall and the top of the barrier fence;
- ii. the type of infill is important as the choice will determine the safety rail's impact on the wall and the wider setting. So, for example, horizontal rails will cause greater visual impact / obstruction than toughened glass panels;
- iii. if the height of the barrier was too high it could impact adversely on the ability of the Emergency Services (or others) to rescue a member of the public from the canal and also on boaters towing their boats by hand or by horse;
- iv. the selection of material and design for the top of the barrier is important as emergency rescue lines and boat tow ropes should not 'snag' on the top of the barrier or encounter substantial frictional resistance. The inclusion of an uninterrupted top rail minimises the potential for snagging, abrasion and resistance;
- v. a top rail will help to protect the infill used beneath it;
- vi. if the barrier is too high, regardless of what it was constructed from, it will create an intrusive barrier between Canal Street and the canal and cause disconnection between the street and canal. It could also impact on the popularity of the area by upsetting the very essence of what it is that makes Canal Street a popular destination.

Consultations

Publicity - The application was advertised as affecting a conservation area, affecting the setting of a listed building and as a public interest development and occupiers of adjacent and nearby properties were notified about the scheme. 76 letters of objection have been received.

The basis of the objections can be broadly divided into five categories: the impact on canal users and user safety; impact on visual amenity, the setting of a listed structure and the character of the conservation area; Management / Maintenance issues; the Cost / appropriateness of this solution and the carrying out of appropriate consultations by the City Council. The objections are thus summarised below:

The impact on canal users and user safety

- Canal Street is one of the very few sites where historically the road functions as the towpath of the canal. This makes the site a special interest area from a historic point of view, but also means that access to the canal from the road must be preserved to a level that allows boating to occur, including boat manhandling and the operation of towed craft.
- That the development will make towing of boats with a horse difficult or impossible.
- That the line between the horse and any boat would be abraded as a result of the fence.
- That the fence will prevent access to set the locks by climbing over the wall and down stone blocks to the lockside. The railings will make it impossible to set the lock ahead so will waste both water and time as boaters' only access will be by boat. This will be likely cause a bottleneck which will waste further water and time as the locks will be out of sequence.
- Impact on statutory right of navigation.
- That the fence would restrict access to the safe working of the lock below the wall.
- That the supporting information submitted with the application is incorrect as access is required for Lock 86 which is currently accessed by stone steps. This is the only way for boaters to rejoin the towpath unless being picked up by boat.
- That access points at each lock balance beam and at Minshall Street bridge will be blocked by the fence.
- That the ability to operate the locks and gain access to boats is already insufficient and sometimes hazardous and that these proposals will be a significant additional hindrance to navigation and will increase risk to boaters attempting to pass along this stretch of canal.
- That the resulting increase in danger will be greater than the mitigation of the hazard that the fence is intended to achieve.
- That the fence will inhibit access for the emergency services in the event of an accident on the waterway and there are concerns that the ease of access for emergency services will be reduced in terms of getting to people who have got into trouble on the boats as a result of the fence.

- It will be more difficult for people to access the canal to attempt a rescue as currently people can in theory lower themselves down the wall and enter the water slowly and carefully rather than having to mount the fence and jump in.
- That the proposed works will effectively close the canal as the existing informal access point is the only means of access to the canal to navigation which would be an illegal act.
- That the carrying out of works which will create hazards for others when trying to resolve other safety issues is in contravention of the Health and Safety at Work Act and that in such circumstances the City Council would be acting illegally and would be liable for prosecution, possibly for Corporate Manslaughter if a boater was to drown as a consequence.
- That the Risk Assessment referred to in the Planning Statement has been badly researched and is incomplete.
- That as the hours during which people might be most likely to need rescuing are outside of the hours of operation of the adjacent bars (some of whom have been trained to throw ropes into the canal to attempt a rescue) then there will be times when this would be more difficult as a result of the fence.
- That when the depth of water in a canal pound has been lowered (often caused by various factors) it becomes necessary to operate the lock paddles ahead of the current lock to increase the depth of water. This will not be possible from a boat because the reduced depth of water will prevent the boat from reaching that lock.
- That in an emergency it may be necessary to operate lock paddles quickly (either to stop or to start water flow), for example if a boat had become endangered or if someone had fallen in the water near the lock. The quickest access to a lockside in an emergency is usually via the towpath and not from the boat itself. This is because a person on the towpath can move much quicker than a boat.
- That British Waterways assertions that this proposal will not interfere with the working of boats is wrong and they do not have the necessary level of technical expertise to comment on this.
- That the poor maintenance standards applied by BW to these locks make it far from an ideal world.
- That closing off this access from the lock to Canal Street will increase the danger to boaters who, when such antisocial behaviour has resulted in lowering of water levels above the lock could result in grounding and damage to the lock structure and their own boats. In the past, with low water level, it has been a case of leaving the lock, proceeding along Canal Street to let down more water. This will not be possible.
- That for boats of a particular size which do not have access through the boat to the front deck, and due to their size would not allow the option of getting off the back on to the lock landing, which would be too short a lockwheeler needs to go ahead to set the lock, and needs access to the historic steps.
- That in order to make access to the lock safe British Waterways should provide a key to boaters to allow them access to the gate that will be used by maintenance staff.

- That in approving the fence the City Council will expose itself to public liability if in the future a boater has to cross the fence to access the lock and that the City Council needs to risk assess the design and the liabilities that will be incurred by people crossing the fence to reach the access point to the lock.
- That British Waterways does not have the necessary level of knowledge or technical expertise to understand how canals are properly and safely operated.

Impact on the setting of a listed structure and the character of the conservation area

- The fence would ruin the existing wall and will have an adverse impact on the setting of the Canal;
- Would ruin the look and feel of the street scene;
- Would compromise the integrity of the conservation area;
- That the fence would ruin another piece of our heritage due to the demands of Health and Safety regulations.

Management / Maintenance issues

- That the glass panels are almost certain to be vandalised, this could include graffiti, the application of stickers and / or posters and the breaking of glass. The latter could put canal users at risk of injury to themselves and damage to their boats;
- The design of the fence would still allow people to easily throw litter through the fence.

Cost / appropriateness of this solution

- That the proposal is an over-reaction;
- That people should take responsibility for their own safety and that the dangers could be alleviated by appropriate lighting and availability of safety equipment;
- The proposal will create a barrier which will discourage interaction between canal users and people using Canal Street;
- That there are many more dangerous places in the City where the money might be more appropriately spent and that the money being spent is disproportionate to the risk;

Carrying out of appropriate consultations by the City Council - Prior to the application being presented to Committee at its meeting on 28th May 2009 a letter was received from a local resident who claimed that no site notices relating to the application had been posted. On investigation this was found to be correct and the application was withdrawn from the Committee. The site notices were posted on 29th May 2009 and 21 day period during which representations can be made will expire 5 days prior to this Committee meeting.

Manchester Conservation Areas and Historic Buildings Panel - The Panel were not supportive of the principle of the fence as it could have a detrimental impact on the setting of the listed wall and conservation area. However if some way of preventing people accidentally falling into the Canal has to be implemented other options should be considered, including:

- A simple railing attached to the wall;
- A serrated edge to the existing wall;
- A fence which is stepped to reflect the changes in the wall level;
- The use of a safety net or tension wires on the canal side of the wall.

Greater Manchester Police (Design for Security) - Have no objections subject to the glazed panels having a suitable resistant coating against graffiti and there being a maintenance strategy in place to ensure that any markings are removed promptly.

City Centre Regeneration Team - Have no objections.

British Waterways - Have formally stated that they have no objections to the proposals. In other correspondence they describe how they have worked closely with the City Council, emergency services and others to find a solution that is acceptable to all. They have also provided responses to some of the objections raised that specifically relate to the impact of the proposals on canal users and user safety and these are discussed within the issues section of this report below.

Rochdale Canal Society - No comments received.

Village Business Association - No comments received.

Greater Manchester Fire Authority - Have stated that some of the recommendations made in the Coroner's report were linked to a report they completed owing to their concerns for public safety in and around waterways on Canal Street. They confirm that Greater Manchester Fire and Rescue Service support this scheme given the public safety concerns that they have previously raised. They state that they have experienced an increase in the number of 'Water Incidents' around Canal Street over the last 2-3 years & also experienced 2 fatal. They believe that any additional safety provisions that potentially reduce the number of water incidents has to be of benefit to public safety. The proposed barrier will not significantly impede any further attendance by fire crews should another incident occur on this stretch of water, and sufficient specialist equipment is carried by fire crews to deal with this type of incident.

Inland Waterways Association - Have submitted 3 letters of objections. The basis of the objection is as follows:

- i. That British Waterways' assertion that there is no public access to Lock 86 is incorrect as there is a specifically constructed vertical stone slab with steps cut into it, which can be used for boaters to access the towpath.
- ii. That the proposals would transfer a danger to the public to an even greater danger to boaters as the landing bays for using the ramp have no safety handrails and there is a danger of operators falling into the water if the locks are accessed from this point.
- iii. That as the boats using the canal vary in size the length of the landing bay for boats travelling from Castlefield at 8 feet long is such that some

operators may find it very difficult to lower themselves down over the boat. Canal Street constitutes the towpath in this location. Therefore there should be a facility for the boats to be towed manually (e.g. if a boat has broken down) and this will not be practical if this fence is erected as proposed. This is in contravention of BW's own safety standards as there are no proper landing stages (again stipulated in BW's own standards).

- iv. That the boaters opinions about safety are being ignored in favour to the non expert opinion of British Waterways.

The City Council has a land ownership interest in the land along the part of the canal that is the subject of this application and Members are reminded that in considering this matter, they are discharging their responsibility as Local Planning Authority and must disregard the City Council's ownership interest in the site.

Issues

The Unitary Development Plan for Manchester - The following UDP Policies are of relevance to this application:

- E3.6 Environmental Improvement and Protection - To Enhance the City's Environment - which states that the Council will promote environmental improvements in the City Centre that will significantly improve conditions for pedestrians.
- DC18.1 Conservation Areas - which states that the Council will seek to preserve and enhance the character and setting of its designated conservation areas.
- DC19.1 Listed Buildings - which states that the Council will seek to preserve or enhance the setting of listed buildings by appropriate control over the design of new development in their vicinity.

National Policy - Planning Policy Guidance Note 15 - provides guidance on the protection of historic buildings and advises on the treatment of historic buildings and the wider historic environment within the planning process

Impact on the setting of the listed wall and character of the conservation area - The design process for the proposed fence has as detailed above, sought from the outset to minimise the impact of the fence on the setting of the adjacent listed wall and the setting of the conservation area. It is considered that the use of a post, rail and a glass solution would avoid any physical impact on the listed wall itself whilst maintaining the visibility of the wall within the street scene. The lightweight nature of the glass panels would be such that they would have minimal visual impact on the character or appearance of the wall whilst maintaining views through to the canal.

In view of the above it is felt that the proposed fence would not have an undue adverse impact on the character or fabric of the listed wall or its appearance within the street scene and would not have an adverse impact on the character of the Whitworth Street Conservation Area.

Impact on canal users and user safety - It has been confirmed that the access to the lock at Princess Street will not be affected by the proposals and the proposals will have no impact on the statutory right of navigation. There is no need for canal boat users (including horse boaters) to climb up from the canal over the canal wall onto Canal Street or vice versa as the lock 86 can be operated from a boat within the canal itself. Horse boating along a higher level towpath such as Canal Street requires one person to be in charge / control of the horse, one person to be in charge / control of the boat and ideally a third person to go ahead to set the next lock (or otherwise the person in charge of the boat).

The fence rail will be smooth and continuous and will cause much less, if any, abrasion when compared with the abrasion likely to be caused by a rope dragging over the rough surface/top of the wall.

The emergency services have confirmed that the fence will not impede their ability to rescue members of the public who have fallen into or have been pushed into the canal.

It should also be noted that some of the bars along Canal Street have been issued with throw lines for trained staff to use in the event of emergencies

Pedestrian Access - The proposed post and rail fence will not affect pedestrian access to the footway on the southern side of Canal Street. The erection of the fence should greatly improve pedestrian safety by removing the potential hazard of tripping and falling over the wall into the canal or onto one of the landing stages.

Pedestrian access to the canal towpath itself will remain as at present, i.e. via the footbridge opposite the New Union Hotel public house (at the junction of Canal Street and Princess Street) and via the ramp off the south-eastern corner of Minshull Street bridge. There is no pedestrian access to the various landing stages along the Canal Street side of the canal. A secure access gate will allow access to the canal wall for canal maintenance operatives.

Disabled Access - There are currently a number of obstacles on the tow path in the form of trees and cast iron posts. The proposed post and rail fence will be located between these and the wall and would not impact on the existing clear pavement width on the tow path.

Crime and Disorder - One of the concerns raised relates to the proposed fence potentially being a target for acts of vandalism such as graffiti, attempted breakage of the glass and the display of posters, stickers and other similar materials. Following responses to consultations the scheme has been amended such that the glass panels will be slightly angled as it is felt that this would be less attractive to people wishing to put fly posters or graffiti on the panels as they would not be viewed face on.

A cleaning programme will address issues of graffiti, stickers etc. In addition the glass panels would be angled to deter people from applying posters, stickers etc as they would not be viewed face on. The glass panels would be toughened glass which would resist minor impact damage and surface scratching and, if the glass were to be broken as a result of extreme force it would not shatter into shards of glass which may cause injury to people using the canal or be used for

further acts of vandalism or violence by people frequenting Canal Street but it would craze and the fragments of glass would be held together.

A condition will be attached to any consent granted requiring the agreement of a cleaning and maintenance regime prior to any development commencing.

Panels Comments - The option of a simple rail attached to the wall or the use of a serrated edge would not meet the health and safety requirements. In particular it is noted that a simple rail would not prevent people sitting on the wall particularly on the far side of the rail as this would allow for legs to be tucked under. In terms of the fence reflecting the changes in the wall level, it is felt that as the wall height does not slope gradually along the line of the wall but has sudden rises and falls due to some sharp changes in level, the corresponding sharply staggered appearance that this would have would not present an appropriate design solution in visual amenity terms. With respect to the use of a net or tension wires, the use of a net would involve significant intervention on the listed wall which could fracture or weaken it internally and would present a cleaning problem from litter and bird excrement whilst the use of tension wires, would not only create the same type of issues as regards the walls structural integrity but may themselves, by nature of their construction injure people falling into the canal.

Objector's Concerns - Most of the material issues raised by objectors have been considered above.

In terms of the comments about access for maintenance, access to the canal and the canal side of the wall and the canal retaining wall it stands on will continue to be from the canal. On rare occasions British Waterways' staff may require access to a small discrete section of upper canal wall via the Canal Street access gate.

With respect to the comments about the cost and appropriateness of spending money on such a solution it should be noted that there have been several incidents along Canal Street in recent years resulting in fatalities or serious injury following a fall from height into the canal or onto one of the lock-side areas. The fence is intended to minimise the risk of such incidents reoccurring in the future. Falling from height from the wall is an obvious hazard. The wall is so low at points it is possible to trip and fall over the wall. Many people sit on the wall which appears low at Canal Street but has a significant drop on the other side. Many incidents have involved falling backwards off the wall onto a hard landing stage or into the canal.

With regard to the objections about access there is no formal pedestrian access to lock 86. There is a vertical stone slab with a rather worn step and a foothold cut into it which could be used as a 'climbing stone' to help a person climb up to or shin down the canal wall from the towpath on Canal Street. However, it is not necessary to use this stone to access canal level from Canal Street or vice versa in order to operate lock 86, as lock 86 can be operated by boat crew working from boat to landing stage at canal level. There is no need for canal boat users to climb up from the canal over the canal wall onto Canal Street or vice versa. As the lock mechanisms are entirely located at the lock gates at canal level it is difficult to see what benefit there would be to have access to the

towpath on Canal Street at lock 86. Therefore the canal would not be effectively closed as a result of the installation of the fence.

Notwithstanding the above, British Waterways have acknowledged that better arrangements are needed to allow for access to the lock from boats, and are now proposing the following measures

- 1) the staging downstream of the lock will be re-surfaced;
- 2) bespoke steps will be added to the steep slope going down under the bridge; and
- 3) the current offside landing 'area' upstream of the Lock (which is wholly inadequate) will be extended by a new landing stage (current proposal is floating but may change subject to discussions with the Local Planning Authority).

These improvements are planned to be in place by this year's Mardi Gras in late August.

In addition they are planning to update their guide for people operating boats in the area to assist them in navigating the canal without the need to use the informal access to the towpath. However this is an operational issue to be resolved between BW and customers. As the formal access to the locks is unaffected by this application for the fence this issue does not need to be considered as part of this planning application.

In terms of the comments about water levels these are operational matters that need to be addressed by British Waterways (the City Council has brought these concerns to their attention) not planning considerations and again as the formal access to the locks is unaffected by this application for the fence this issue does not need to be considered as part of this planning application.

With respect to the comments about the lack of technical expertise at British Waterways they have responded to this comment by stating that their Maintenance Manager and Health and Safety Advisor is fully qualified to carry out necessary risk assessments.

With regards to the comments about the risk assessment relating to the proposed safety improvements for people using the canalside, this was carried out by Chartered Health and Safety Officer and was agreed and signed off by appropriate senior officers within the City Council. With respect to the impact on boat users this has been carefully considered from an operational perspective and appropriate improvements to boat users access to Lock 86 are proposed.

The Health and Safety at Work Act 1974 (H&SAWA) is primarily aimed at protecting workers and other people who may be directly affected by the employers' work activities. The only relevant section is Part 1 Section 3: General duties of employers and self-employed to persons other than their employees. The erection of the safety rail is actually the work activity of Rourkes (who have been commissioned to design and install the fence) who have a duty of care to others when carrying out their work activities - erecting the fence.

H&SAWA P1.S3. states: "(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety."

MCC have part commissioned the work (along with British Waterways) and have produced a Water Safety Risk Assessment for Canal Street. The impact of the Water Safety Risk Assessment risk control measures, on all those who may be affected, was taken into account in accordance with Manchester City Council's their common law duty of care to others in relation to their acts and omissions. As such the City Council is not acting illegally.

With regards to the issue of the liability of the City Council in approving a fence which may impact on peoples ability to navigate and access / egress the canal the information provided to support the application relates to the need for a fence to aid the safety of users of the area but also, through discussions with British Waterways, that associated with the use of the Canal itself.

In terms of the comments about the hours of operation of the bars and the impact of the fence on the ability to mount a rescue from the canal side, the ability for emergency services to carry out a rescue from the canal will not be impeded by the fence. A rope could be thrown over the top of the fence (as it can now be done over the wall) by the operators of adjacent bars the situation regarding hours would be unaltered by the approval of this application.

In terms of the issue raised about the ability of people to throw litter into the canal being unaltered by the fence, this was not a parameter to be considered as part of the design process.

Conclusion

Whilst the primary objective of the proposal is to seek to minimise the number of incidents along Canal Street resulting in fatalities or serious injury following a fall from height into the canal or onto one of the lock-side areas, in assessing the merits of this application, careful consideration has been given to the visual impact of the fence in the context of its location as well as the impact that the fence will have on both canal users and pedestrians and those using the canal street area.

As outlined above the fence will not hinder or interfere with the ability of canal users to navigate the canal. In addition there will be no impact on formal pedestrian access to the canal towpath and indeed it can be argued as detailed above that the erection of the fence would improve pedestrian safety. In terms of the visual impact of the fence it is considered that the fence would not have an adverse impact on the character or fabric of the listed wall or its appearance within the street scene and would not have an adverse impact on the character of the Whitworth Street Conservation Area.

In view of the above it is considered that on balance the proposed fence is acceptable.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation APPROVE

on the basis that the proposals subject to compliance with the conditions below, generally accord with the policies contained within the Development Plan, specifically the Unitary Development Plan Policies Policy E3.6, DC18.1 DC19.1, and with PPG15 in that the proposals would will improve pedestrian safety along this stretch of the Rochdale Canal, would not have an adverse impact on the character or fabric of the listed wall or its appearance within the street scene, would not have an adverse impact on the character of the Whitworth Street Conservation Area.

Conditions and/or Reasons

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

Site plan stamped as received on 23-04-09, dwg 0066/BPO -08-2, 015-01 Rev B, 015-02 and 000000-001-01 Rev B

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy H2.2; of the Manchester Unitary Development Plan.

3) No development that is hereby approved shall commence until details of the colour of the steel supports and top rail have been submitted to and approved in

writing by the City Council as local planning authority. The development shall be constructed only using the approved colour unless otherwise agreed in writing by the City Council as local planning authority.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policy H2.2; of the Unitary Development Plan for the City of Manchester.

4) No development that is hereby approved shall commence until details of a cleaning and maintenance scheme for the fence has been submitted to and approved in writing by the City Council as local planning authority. The cleaning and the maintenance of the fence shall be carried out in accordance with the approved scheme at all times that the fence is in situ.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policy H2.2; of the Unitary Development Plan for the City of Manchester.

Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 089880/VO/2009/C2 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

The following residents, businesses and other third parties in the area were consulted/notified on the application:

Environment & Operations (Highway Authority)

City Centre Regeneration

British Waterways Board

Greater Manchester Police

Rochdale Canal Society Ltd

Village Business Association

Aspect In The City, Cambos House, 3 Canal Street, Manchester, M1 3HE

Red Vision, Cambos House, 3 Canal Street, Manchester, M1 3HE

Velvet, 2 Canal Street, Manchester, M1 3HE

Unit Communications Group Ltd, 1 Canal Street, Manchester, M1 3HE

Greater Manchester Probation Service, 12 Minshull Street, Manchester, M1 3FR

Flat 5, 10 Canal Street, Manchester, M1 3EZ

Flat 2, 10 Canal Street, Manchester, M1 3EZ

Flat 6, 10 Canal Street, Manchester, M1 3EZ

Flat 8, 10 Canal Street, Manchester, M1 3EZ

Flat 3, 10 Canal Street, Manchester, M1 3EZ

Flat 7, 10 Canal Street, Manchester, M1 3EZ

Flat 1, 10 Canal Street, Manchester, M1 3EZ

Autobahn, 10 Canal Street, Manchester, M1 3EZ

Flat 4, 10 Canal Street, Manchester, M1 3EZ

Pragues, 40 Chorlton Street, Manchester, M1 3HW

41 Chorlton Street, Manchester, M1 3FY
Cheshire Sporting Club Ltd, 11 Bloom Street, Manchester, M1 3HH
The Churchill, 37 Chorlton Street, Manchester, M1 3HN
Slug & Lettuce, 4 Canal Street, Manchester, M1 3HE
Media Mission Ltd, 5 Richmond Street, Manchester, M1 3HF
Gillett & Bevan Ltd, 5 Richmond Street, Manchester, M1 3HF
Flat 24, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 44, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 25, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 35, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 45, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 53, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 41, Canal Court, 18 Canal Street, Manchester, M1 3EZ
Flat 26, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 36, Canal Court, 18 Canal Street, Manchester, M1 3EZ
Flat 63, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 65, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 34, Canal Court, 28 Canal Street, Manchester, M1 3EZ
49 Richmond Street, Manchester, M1 3WB
47 Richmond Street, Manchester, M1 3WB
45 Richmond Street, Manchester, M1 3WB
Shacter Cohen & Bor, 29-31, Sackville Street, Manchester, M1 3LZ
Tyler Frazer, 25 Richmond Street, Manchester, M1 3NB
The Rembrandt Hotel, 33 Sackville Street, Manchester, M1 3LZ
Manto, 46 Canal Street, Manchester, M1 3WD
Janus, Amazon House, 3 Brazil Street, Manchester, M1 3EG
Eden Bar & Grill, Amazon House, 3 Brazil Street, Manchester, M1 3PW
E Mesrie & Sons Ltd, Amazon House, 3 Brazil Street, Manchester, M1 3PJ
Business In The Community, Amazon House, 3 Brazil Street, Manchester, M1 3PW
Makin Architecture, Amazon House, 3 Brazil Street, Manchester, M1 3PW
Flat 42, 42-44, Sackville Street, Manchester, M1 3NF
Flat 2, 42-44, Sackville Street, Manchester, M1 3NF
Flat 6, 42-44, Sackville Street, Manchester, M1 3NF
Flat 1, 42-44, Sackville Street, Manchester, M1 3NF
Flat 44, 42-44, Sackville Street, Manchester, M1 3NF
Flat 5, 42-44, Sackville Street, Manchester, M1 3NF
Flat 3, 42-44, Sackville Street, Manchester, M1 3NF
Flat 33, 42-44, Sackville Street, Manchester, M1 3NF
Flat 26, 42-44, Sackville Street, Manchester, M1 3NF
Flat 16, 42-44, Sackville Street, Manchester, M1 3NF
Spirit, 63 Richmond Street, Manchester, M1 3WB
New Union Hotel, 111 Princess Street, Manchester, M1 6JB
Flat 22, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 61, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 64, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 32, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 54, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 42, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 23, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Via Fossa Cafe Bar, 28-30, Canal Street, Manchester, M1 3EZ
Flat 46, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 55, Canal Court, 28 Canal Street, Manchester, M1 3EZ

Flat 33, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 51, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 62, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 56, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 52, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 31, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 21, Canal Court, 28 Canal Street, Manchester, M1 3EZ
Flat 43, Canal Court, 28 Canal Street, Manchester, M1 3EZ
43 Richmond Street, Manchester, M1 3WB
Vanilla Cafe Bar, 39-41, Richmond Street, Manchester, M1 3WB
40 Canal Street, Manchester, M1 3WD
34 Canal Street, Manchester, M1 3WD
K D P, 36 Canal Street, Manchester, M1 3WD
Universal Language Centre, 36 Canal Street, Manchester, M1 3WD
Rembrandt Annex, 38 Canal Street, Manchester, M1 3WD
42 Canal Street, Manchester, M1 3WD
Mctucky Fried Chicken, 40 Sackville Street, Manchester, M1 3WA
Flat 43, 42-44, Sackville Street, Manchester, M1 3NF
Flat 12, 42-44, Sackville Street, Manchester, M1 3NF
Flat 7, 42-44, Sackville Street, Manchester, M1 3NF
Flat 17, 42-44, Sackville Street, Manchester, M1 3NF
Flat 36, 42-44, Sackville Street, Manchester, M1 3NF
Flat 25, 42-44, Sackville Street, Manchester, M1 3NF
Flat 23, 42-44, Sackville Street, Manchester, M1 3NF
Flat 21, 42-44, Sackville Street, Manchester, M1 3NF
Flat 4, 42-44, Sackville Street, Manchester, M1 3NF
Flat 35, 42-44, Sackville Street, Manchester, M1 3NF
Flat 24, 42-44, Sackville Street, Manchester, M1 3NF
Flat 22, 42-44, Sackville Street, Manchester, M1 3NF
Flat 11, 42-44, Sackville Street, Manchester, M1 3NF
Flat 15, 42-44, Sackville Street, Manchester, M1 3NF
Flat 31, 42-44, Sackville Street, Manchester, M1 3NF
Flat 41, 42-44, Sackville Street, Manchester, M1 3NF
Flat 34, 42-44, Sackville Street, Manchester, M1 3NF
Flat 32, 42-44, Sackville Street, Manchester, M1 3NF
Flat 14, 42-44, Sackville Street, Manchester, M1 3NF

Representations were received from the following third parties:

Greater Manchester Police

Tower Farmhouse, Shillinglee, Chiddingfold, GODALMING, Surrey, GU8 4SY

2 Rock Bank, Stamford Road, Mossley, Greater Manchester, OL5 0BD

11 Brackenpeth Mews, Great Park, NE3 5RS

Goldings Barn, Bowcombe Rd, Carisbrooke, PO30 3HT

Flat 1, China House, 14 Harter Street, Manchester, M1 6HP

3 Moorbank Drive, Sheffield, S10 5TH

1 Reades Piece, Honeybourne, Evesham, Worcs, WR11 7GA

Swan yr Afon, LLANWRDA, Carmarthenshire, SA19 8AA

16 Hale Road Heckington Sleaford, NG34 9JW

9 Hounsdow Close, Totton, Southampton, SO40 9EW

18 Conduit Hill Rise, Thame, Oxon, OX9 2EL

84 Broken Cross, Macclesfield, Cheshire, SK11 8TZ

48, Spitalcroft Rd, Devizes, SN10 3FL
46 Gloucester Road, Chesterfield, S41 7EG
3 Moorbank Drive, Sheffield, S10 5TH

Chairman Sale Cruising Club

Old Post Office, The Street South Stoke, RG8 0JS
26 Somersby Ave, Doncaster, DN5 8HB
351 Mount Road, Manchester, M19 3HW
Lamorna, Hospital Road, Shirrell Heath, Southampton, SO32 2JR
Gardeners Cottage, Davenport Gardens, Worfield, Nr Bridgnorth, Shropshire,
WV15 5LE
3 Main Street, Sproxtton, Melton Mowbray, LE14 4QS

Charlotte Rose, Doncaster, South Yorkshire

43 Venice Court, Samuel Ogden Street, Manchester, M1 7AX
26 Chapel Road, Earith, Cambs, PE28 3PU
62 Hornbeam Road, Bicester, Oxfordshire, OX26 3XZ
Tresco, Old Stafford Road, Slade Heath, Wolverhampton, WV10 7PJ
1 Reades Piece, Honeybourne, Evesham, Worcs, WR11 7GA
21 Wellington Close, Dibden Purlieu, Southampton, Hants, SO45 4RL
40 Valeside, Hertford, sg14 2as
Cronkshaw Fold Farm, Alden Rd, Rossendale, BB4 4AQ
45 Minster Court, Liverpool, L7 3QD
12 Kenyon Cl, Hyde, SK14 4JH
10 Bromley Avenue, Flixton, m41 6hz
12 Kenyon Close, HYDE, SK14 4JH
91, Sandown Crescent, Cuddington, Cheshire, CW8 2QN
8 Dr Johnson House, 1a Babington Road, London, SW16 6AQ
6 Musgrave House, Bamford Mill, Bamford, Hope Valley, S33 0AU
Germaines UK, Hansa Road, Kings Lynn, PE30 4LG
37 Chaucer Road, Hillside, Rugby, Warwickshire, CV22 5 RP
40 Fifth Avenue, CM1 4HD
22 Belfry Drive, Macclesfield, Cheshire, SK10 2TD
64 Oughtrington Lane, Lymm, Cheshire, WA130QT
1a Fitzherbert Street, Warrington, WA2 7QG
23 Nathan Drive, Salford, M3 6BA
5 New Close, Eyam, Hope Valley, S32 5QX
Horizon, Longhaven, Peterhead, AB42 0NY
Hole House Farm Cottage, Marple Road, Chisworth, Glossop, Sk135dh
5 Calder Road, Bellsquarry, Livingston, West Lothian, EH54 9AA
Sea Scouts, Dunkirk Road , Nottingham, NG7 2PH
68 Ingham Street, Padiham, Lancashire, BB12 8DR
46 South Street, Torrington, Devon, EX38 8AB
Tresco, Old Stafford Road, Slade Heath, Wolverhampton, WV10 7PJ
Goldings Barn, Bowcombe Rd, Carisbrooke, PO30 3HT
30 Tenby Drive, Cheadle Hulme, Cheadle, SK8 7BR
84 Broken Cross, Macclesfield, Cheshire, SK11 8TZ
Flat 306, The Grand, 1 Aytoun Street, Manchester, M1 3DA
24 Sydney Road, Benfleet, Essex, SS7 5RD
Apt 111 Asia House, 82 Princess Street, Manchester, M1 6BD
81 Uplands, Welwyn Garden City, Hertfordshire
Flat 21, 42 - 44 Sackville Street, Manchester, M1 3NF
Laburnum Cottage, Peckforton Hall Lan, Tarporley, Cheshire, CW6 9TG

9 North Street, Marton, CV23 9RJ
17 Holland Road, East Ham, London, E6 2EW
Narrowboat Jy Praat Twak, n/a
River View, Leighs Brow, Barnton, Northwich, CW8 4HT, CW8 4HT
89 Lundiff Road, Chorlton, Manchester, M21 8ES
Flat 43, 42 - 44 Sackville Street, Manchester, M1 3NF
6 The Tennis, Cassington, Witney, Oxon, OX29 4EL
61 Drake Road, Littleborough, OL15 9PS
70 Babington Road, Barrow upon Soar, Leicestershire, LE128NJ
2 Sandhutton St, Blackley, Manchester, M9 4BJ
2 Park Crescent, Furness Vale, High Peak, SK23 7PU

Relevant Contact Officer : Angela Leckie
Telephone number : 0161 234 4651
Email : a.leckie@manchester.gov.uk