

Application Number/s: 131749/FO/2021 & 131750/LO/2021

Applicant: 37 KS LP

Agent: Sixteen Real Estate

Location: Lower Ground Floor, 39-43 King Street, M2 7AT

Proposal: Change of Use from Retail (E) to Bar (Sui Generis) including external and internal alterations to facilitate change of use

Ward: Deansgate

Description of Site and Surrounding Area

The application relates to the lower ground floor area of 39-43 King Street, Manchester. 39-43 King Street is a relatively 6 storey building (1 lower ground floor, 5 above ground). The building is directly adjoined to 35-37 King Street, which is Grade II listed. The building itself incorporates a listed entrance and, as such, it has been determined by the planning service that 39-43 King Street may be listed by way of extension to no. 35-37 King Street. Due to the lack of clarity in this regard, the full application has been submitted with an LBC application.

The surrounding area is characterised as dense city centre, with nearby uses consisting mainly of other Class E uses (retail, offices, restaurants etc.) and sui generis (bars etc.). King Street is pedestrianised directly adjacent to the building, with the nearest street for road transport being Cross Street.

Description of Proposal

The application seeks permission to change the use of the vacant lower ground floor area (formerly occupied by retail) to a bar (sui generis). The change of use necessitates some modest external alterations to the building and alterations to the lower ground floor layout. The changes can be summarised as follows:

External Alterations

- Replacement double doors to rear elevation (RAL 7021) within existing opening with porthole vision panels in toughened/laminated glass.
- External black caged bulkhead downlight

Internal Alterations

- Modest internal alterations, consisting of the introduction of walls to allow for a bar area, toilets etc. However, this would not involve the strip out of original features. In addition, it is of note that the part of the building affected is modern.

Publicity LBC

Site Notice/s Posted and Dates: Posted 13/10/21, Expires 03/11/21

Press Adverts Published and Dates: Published 12/12/21, Expires 02/11/21

Neighbour Notification: Expires 29/10/21

Representations Received: None

Consultations

- *Highway Services*
- *Environmental Health*
- *Greater Manchester Police*

Save Unitary Development Plan Policies:

- 10 Food and Drink Uses
- 18 Conservation Areas
- 19 Listed Buildings
- 26 Development and Noise

Core Strategy Policies:

- SP1 Spatial Principles
- C 10 Leisure and Evening Economy
- EN 3 Heritage

National Planning Policy Framework Policies:

- 4 Decision Making
- 16 Conserving and Enhancing the Historic Environment

Principle of Change of Use

The application seeks to change the use of the lower ground floor area of the building from retail (Class E(a)) to a bar (Sui Generis). The application site lies within Manchester's city centre. Though Policy C 10 of the Core Strategy refers to outdated use classes, the policy is still relatively robust and considers the following:

- Cumulative Impact. The proposed development is within Manchester City Centre. King Street is a predominantly retail street, with a number of independent retailers and national boutiques. There is limited residential provision. However, there are buildings proximate to the application building that have permission to be converted into residential flats. Despite this, it is not expected that the change of use to a bar would be substantially detrimental to the character of and vitality of the area. Appropriate conditions can be applied to ensure that limited noise breakout occurs and that suitable acoustic treatments can be implemented.
- Residential Amenity. It is not considered that the bar would cause substantial impact to residential amenity. The planning unit subject to the change of use is in Manchester City Centre. In addition, suitable conditions can be utilised to limit the noise breakout caused by the development proposed.
- Balance. Policy C10 of the Core Strategy states that new uses should support both the day and night-time economies whilst not undermining the primary

shopping centre. Though the change of use would lead to a reduction in retail space, it is not considered that the reduction would lead to such a detrimental impact to retail provision so as to undermine the primary shopping centre.

It is considered that the proposed development is acceptable and duly accords with CS Policy C10. In addition, the proposal would accord with saved DC10 of the Unitary Development Plan.

Design & Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting “special regard” will be given to the “desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. The effect of this section is that decision-makers considering harm to heritage assets cannot simply treat the desirability of preserving the setting of a listed building as a mere material consideration to which they can simply attach the weight they see fit in their judgement.

The statutory duty provided by section 66(1) of the Act goes beyond that and treats the preservation of the setting of a listed building as presumptively desirable. The effect of the statutory requirement is to impose a duty on decision-makers to give “considerable importance and weight” or “high priority” to the desirability of preserving listed buildings and their settings.

As per paragraph 194 of the NPPF, the applicant has duly and appropriately described the significance of the heritage asset affected by these proposals. The proposed development includes alterations and interventions to a designated heritage asset (though relatively modern, the building is likely to be considered an extension to a designated heritage asset). The interventions are minimal in nature and would not lead to any notable change to the character or appearance of the building. As such, it is considered that the proposal would lead to less than substantial harm to the significance of the designated heritage asset (Paragraph 202 of the NPPF). When weighed against the public benefits of retaining an active use in Manchester City Centre, it is considered that the proposal is acceptable in terms of heritage impact.

During the course of the application, the applicant and planning officer have worked proactively to address some modest concerns about some of the external alterations. The alterations, though potentially acceptable, did not include enough information from the outset. Further details were requested, provided and ultimately deemed acceptable, according with Core Strategy Policy EN3, Saved Policies DC 18 and DC 19 of the Unitary Development Plan and Section 16 of the National Planning Policy Framework.

Amenity

The application for the change of use from Class E (Retail being the most recent use) to Sui Generis (Drinking Establishment) has the potential to cause a greater impact in terms of amenity. In particular, there is a potential for noise impact through noise breakout.

Upon consideration of the submitted Acoustic Report and liaising with Environmental Health, it is considered that appropriate measures can be taken to limit noise breakout to levels that are acceptable, when considering the building's setting in Manchester City Centre but taking account of nearby sensitive receptors (such as residential units). The addition of suitable planning conditions also limits the impact, requiring the applicant to both implement schemes that would reduce noise breakout and then verify that such interventions would lead to the reduction in noise.

Other factors such as waste generation have been considered and, ultimately, the proposal is considered acceptable and would not have undue impact on the amenity of surrounding occupiers or users of surrounding buildings. As such, the development accords with Policies DM1 and SP1 of the Core Strategy, Saved Policy DC26 of the Unitary Development Plan and Part 4 of the National Planning Policy Framework.

Highways, Accessibility and Parking

The Local Highway Authority were consulted on this application. The LHA provided no objection to the proposals, commenting that the planning unit is in a highly accessible location and proposed servicing of the bar is acceptable, according with Policy DM1 of the Core Strategy.

Crime

Greater Manchester Police were consulted on the proposals. GMP provided no objection to the proposed change of use, subject to the implementation of a condition to ensure Section 4 of the provided Crime Impact Statement, as well as an informative that the layout issues addressed within 3.3 of the Statement are addressed as recommended. As such, the proposal accords with Policy DM1 of the Core Strategy.

Conclusion

The proposed development accords with up to date local and national plans and policies. As such, the proposal is considered sustainable development (economic, social and environmental) and would cause less than substantial harm to a designated heritage asset, with public benefits outweighing any limited harm. As per Paragraph 10 of the NPPF, there is a presumption in favour of sustainable development at the heart of the Framework. Sustainable development that accords with relevant plans and policy should be approved without delay (Paragraph 11 of the NPPF).

RECOMMENDATION:

That planning permission be granted subject to the following planning conditions:

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to issues arising from the consideration of this application

Full Application

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:

- Location Plan (Drawing 1ST02-MHA-FS-XX-DR-A-01001-S2 Revision P1 dated July 2021) – Received 27 September 2021
- Existing Basement Plan (Drawing 001 dated June 2021) – Received 27 September 2021
- Existing Ground Floor Unit Plan (Drawing 1ST02-MHA-XX-00-DR-A-02000-S2 Revision P1 dated August 2021) – Received 27 September 2021
- Existing Basement Elevations (Drawing 1ST02-MHA-XX-ZZ-DR-A-03000-S2 Revision P1 dated August 2021) – Received 27 September 2021
- Existing Basement Building Section (Drawing 1ST02-MHA-XX-ZZ-DR-A-04000-S2 Revision P1 dated August 2021) – Received 27 September 2021
- Proposed Ground Floor Basement Plan (1ST02-MHA-XX-00-DR-A-02000-S2 Revision P02 dated September 2021) – Received 17 December 2021
- Proposed Basement Floor Plan (Drawing 010 Revision B dated June 2021) – Received 27 September 2021
- Proposed Basement Elevations (Drawing 1ST02-MHA-XX-Z
- Z-DR-A-03000-S3 Revision P02 dated August 2021) – Received 17 December 2021
- Proposed Basement Building Section (Drawing 1ST02-MHA-XX-ZZ-DR-A-04000-S2 Revision P02 dated August 2021) – Received 17 December 2021
- Noise Impact Assessment prepared by Clement Acoustics (Reference 16394-NIA-01 Revision C dated 05 January 2022) – Received 06 January 2022
- Crime Impact Statement prepared by Greater Manchester Police (2017/1115/CIS/01 Version A dated 04 August 2021) – Received 27 September 2021
- Operating Schedule ('Sonata Manchester Ltd. Operating Schedule, undated) – Received 27 September 2021
- Refuse Strategy Plan ('Sonata, King Street Refuse Strategy Plan' dated August 2021) – Received 27 September 2021

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies CC9, EN1, EN3, SP1 and DM1 of the Core Strategy and saved policy DC18.1.

3. Notwithstanding the details approve within condition 2 before any works in relation to each of the following items commence the following shall be submitted to and approved in writing by the City Council as Local Planning Authority:

- (a) CCTV cameras including fixings and wiring both internally and externally
- (b) Method of attachment and fixings/wiring both internally and externally of approved external lighting (lanterns)

The specific areas of work, as individually identified above, shall only thereafter be implemented in full accordance with the subsequently approved details, as relevant

Reason - In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building and to ensure consistency in accordance with policies CC9 and EN3 of the Core Strategy and saved policy DC19.1 of the Unitary Development Plan for the City of Manchester.

4. Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, deliveries/waste collections on Sundays/Bank Holidays confined to 10:00 to 18:00

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Core Strategy policy DM1

5. The premises shall not be open outside the following hours:

12:00pm to 02:00am Monday to Friday,
12:00pm to 02:00am Saturday, and,
12:00pm to 02:00am on Sundays and Bank Holidays

Reason - To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Core Strategy policies DM1 and SP1.

6) a) The development hereby approved shall be carried out in accordance with the approved Clement Acoustics Noise Impact Assessment Report as referred to in Condition 2 and received by the City Council as Local Planning Authority on 05 January 2022

b) Prior to the first use of the development a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

7. Before any cooking or food preparation that would require an external flue or extract in compliance with the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust systems commences, a scheme for the extraction of any fumes, vapours and odours from the premises hereby approved shall be submitted to, and approved in writing by, the City Council as local planning authority. The approved scheme shall be implemented

prior to any of the cooking not permitted by the above commencing and shall remain operational thereafter.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply and policies SP1 and DM1 of the Core Strategy.

8. The approved scheme for the storage and disposal of refuse shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of the amenities of the occupiers nearby properties, public health and in order to comply and policies SP1 and DM1 of the Core Strategy.

Listed Building Consent Application

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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development hereby approved shall be carried out in accordance with the following drawings and documents:

- Location Plan (Drawing 1ST02-MHA-FS-XX-DR-A-01001-S2-P1 dated July 2021) - Received 27 September 2021
- Existing Basement Plan (Drawing 001 dated June 2021) - Received 27 September 2021
- Existing Ground Floor to Basement Plan (Drawing 1ST02-MHA-XX-00-DR-A-02000-S2-P1 dated August 2021) - Received 27 September 2021
- Existing Elevations (Drawing 1ST02-MHA-XX-ZZ-DR-A-03000-S2-P1 dated August 2021) - Received 27 September 2021
- Existing Basement Building Section (Drawing 1st02-MHA-XX-ZZ-DR-A-04000-S2 Revision 1 dated August 2021) - Received 27 September 2021
- Proposed Basement Plan (Drawing 010 Revision B dated June 2021) - Received 27 September 2021.
- Proposed Ground Floor to Basement Plan (Drawing 1ST02-MHA-XX-00-DR-A-02000-S2 Revision P2 dated September 2021) - Received 17 December 2021
- Proposed Elevations (Drawing 1ST02-MHA-XX-ZZ-DR-A-03000-S2-P2 dated August 2021) - Received 17 December 2021
- Proposed Basement Building Section (drawing 1ST02-MHA-XX-ZZ-DR-A-04000-S2-P2 dated August 2021) - Received 17 December 2021

- Proposed lighting detail ('Belgrave Lantern' received by email on 17 January 2022)

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy, Sections 12 and 16 of the National Planning Policy Framework.

3. Notwithstanding the details approve within condition 2 before any works in relation to each of the following items commence the following shall be submitted to and approved in writing by the City Council as Local Planning Authority:

(a) CCTV cameras including fixings and wiring both internally and externally

(b) Method of attachment and fixings/wiring both internally and externally of approved external lighting (lanterns)

The specific areas of work, as individually identified above, shall only thereafter be implemented in full accordance with the subsequently approved details, as relevant

Reason - In the interests of visual amenity and because the proposed works affect a building which is included in the Statutory List of Buildings of Special Architectural or Historic Interest and careful attention to building work is required to protect the character and appearance of this building and to ensure consistency in accordance with policies CC9 and EN3 of the Core Strategy and saved policy DC19.1 of the Unitary Development Plan for the City of Manchester.