

Application Number/s: 131941/FO/2021 & 131942/LO/2021

Applicant: Franco Manca 2 UK Limited

Agent: Firstplan

Location: Ground Floor, 39-43 King Street, Manchester

Proposal: Internal and external alterations for incoming restaurant use including alterations to front elevation and installation of plant

Ward: Deansgate

Description of Site and Surrounding Area

The application relates to the ground floor vacant unit within 39-43 King Street, Manchester. The unit was formerly occupied by a 'Boots' store. It is unclear as to whether the building is listed, as it may be the case that it constitutes an extension to listed 35-37 King Street as it incorporates some of the built form of this neighbouring building (most notably a historic/original doorway). King Street is a pedestrianised city centre street with ground floor uses predominantly retail/café/restaurant and upper floors offices/residential. The rear elevation of the building backs on to St. Ann's Alley.

Planning History

125675/FO/2019 & 125736/LO 2019 –

“external modifications to existing 5 storey mixed use building to include new shopfront and entrances to ground floor shop unit, modification of office entrance to King Street, extension and remodelling or existing 3rd and 4th floor office floors following demolition of existing 'turret' feature, provision of 3 no. external terraces at 4th floor level to front and rear of building (to be used in conjunction with adjacent office space), replacement windows to ground to 2nd floors, new rear entrance into building for cycle access, painting of brickwork at ground level to front elevation and provision of roof top plant area”

Outcome: Planning Permission and Listed Building Consent given 10 July 2020.

Description of Proposal

The application seeks permission for internal and external alterations to allow for the conversion of the unit to a restaurant. The works include:

External

- Internal alterations to external fabric to facilitate change from retail to restaurant (not classed as change of Use Class)
- Alterations to front elevation including introduction of 2.no new openable shop front windows with frames and new entrance doors.

Publicity

Site Notice/s Posted and Dates: 11/11/2021, Expired 02/12/2021

Press Adverts Published and Dates: 09/11/2021, Expired 30/11/2021

Neighbour Notification: 26 November 2021

Representations Received: None

Consultations

Highway Services

- Asked for clarification that bi-folding doors do not open outward over the highway. It is identified on the 'Proposed GA Plan' that the doors will fold inward and thus not project over the highway.
- Asked for clarification that awnings would not project over the highway or would be in excess of 2.3m above street level. Applicant/agent have confirmed that no awnings are proposed.
- Sought clarification regarding an outdoor seating area showing on submitted plans. The planning officer and applicant addressed this concern and the agent confirmed that the seating area should not be showing on plans and has been removed by way of amendment.
- No conditions suggested.

Environmental Health

- Suggested condition: Fume/Odours Discharge.
- Suggested condition: Acoustic Insulation
- Suggested condition: External Plant Condition
- Suggested condition: Refuse

Greater Manchester Police

- Made a number of recommendations that could improve security and reduce the risk of crime relating to external doors, windows, internal security, alarms, external seating areas, lighting, CCTV, access control and other.

Conservation

- Concerns regarding the alteration from a simple glazed frame with large panes of glass (that works well with the existing building) and change to new design with more frames.
- Location of plant and vents may cause some concern.

Save Unitary Development Plan Policies:

- Conservation Areas (18)
- Listed Buildings (19)
- Footpath protection (22)
- Development and noise (26)

Core Strategy Policies:

- Spatial Principles (SP 1)
- Leisure and the Evening Economy (C 10)
- Heritage (EN 3)
- Development Management (DM 1)

National Planning Policy Framework Policies:

- Achieving Sustainable Development (2)
- Decision-making (4)
- Achieving well-designed places (12)
- Conserving and enhancing the historic environment (16)

Principle of Development

The application seeks to change the use of the ground floor retail unit to a restaurant. Retail and restaurant use now fall under the same use class (Class E) as per the Use Class Order 1987 (As Amended). As such, no assessment of the changes in use is undertaken as part of the application process, with the restaurant use proposed being accepted.

The application property is covered under a Grade II listing and is located within the St. Ann's Square Conservation Area. Any proposals to alter a listed building/that would affect the character of a Conservation Area require thorough assessment.

The application proposes changes to the front elevation of the building, which may result in sound generated by the proposed use causing greater impact than if the front elevation was not being changed.

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.

Historic England has designated no. 31 and 37 as Grade II listed. The Historic England describes the building as follows:

“Range of shops and attached railings, formerly town house, later converted and extended to form bank premises. 1736, converted to bank c.1788, extended late C19, and remodelled late C20. C18 work in red brick laid to Flemish bond, with sandstone dressings and a hipped, slated roof with side wall chimneys. C19 work in ashlar sandstone, and late C20 additions in steel and glass. PLAN: double depth centre block of five bays, flanked by two-storeyed replacements for the former flanking wings. To the right of the right hand replacement wing, a single storeyed flat-roofed porch, now overbuilt by late C20 development. FRONT (south) ELEVATION: the centre block is symmetrical, with stone basement and moulded eaves cornice with blocking course;

segmental headed basement windows with triple keystones, and basement area protected by railings on a stone plinth. Central doorway, approached by flight of three steps with pedimented architrave, panelled door and plain over light. Glazing bar sash windows to all floors, those to the upper floor smaller than those below, all with moulded architraves and triple keystones. Ground floor windows have raised cills. Late C20 wings to either side are substantially glass fronted with slender metal posts and broad metal fascia which aligns with the cornice of the attached porch to the right. This projects beyond the earlier building line, with pilasters supporting a frieze and a rusticated semi-circular arch below a deep cornice supported on console brackets. The frieze bears the lettering 'BANK'.

INTERIOR: completely remodelled to form shop units, but with compartments respecting the spatial arrangement of the former plan. Original fixtures retained in entrance hall and to front window openings, including doors, plasterwork and window shutters.

HISTORY: the house was built for a Dr Peter Waring, and was used as banking premises from c.1788. Much internal remodelling took place in several major phases, the most recent in the 1990s. A substantial and finely detailed early C18 town house, which despite internal remodelling retains much early fabric, and which continues to make a major contribution to the richly-varied street scene of central Manchester.”

The part of the listed building that is to be altered under this application is part of a modern extension to a listed building. As such, although it would be covered by the listing, it is of less historic value than the original/historic building to which it is adjoined and forms an extension of.

When considering proposal affecting a designated heritage asset, Saved UDP Policy DC19.1 states that the LPA shall not permit external/internal alterations or additions where there would be an adverse impact on its architectural or historical character. In addition, changes should not be made where the future use of upper floors/basements would be prevented. Core Strategy policy EN3 goes on to state that development must be designed to preserve and enhance listed buildings, with proposals enabling their re-use encouraged if considered consistent with the significance of the heritage asset.

The National Planning Policy Framework (NPPF) provides more up to date and nationally consistent guidance with regards to the protection of designated heritage assets. Paragraph 194 requires applicants to provide the LPA with appropriately detailed descriptions of heritage assets that would be affected by proposals, which has been duly completed in this instance by way of an appropriately detailed Heritage Statement. Paragraph 199 then requires the LPA to duly consider the impact proposals would have on the significance of any designated heritage assets, with impacts assessed by way of a ‘sliding scale’ from total loss to less than substantial harm.

As addressed, the internal and external alterations proposed to the listed building are to a part of the heritage asset that is relatively modern, with low overall importance to the character and heritage of the wider listing. The most harmful changes are considered to be those to the front elevation. The changes to the front elevation are prominent. The design and appearance of the front elevation has changed from the original iteration of the plans, with a more lightweight solution proposed. Though the proposed front elevation (consisting of 2.no bi-folding doors and alterations to the main entrance) are still more weighty than the existing, the proposed front elevation is not so harmful to the heritage asset or Conservation Area to warrant refusal. An appropriate condition requesting that full and final details are submitted prior to alterations to the front elevation would be called for to ensure high quality intervention and protection of the heritage asset.

Other alterations, including the addition of some modest external M&E equipment, would not be very harmful to the listed building.

Paragraph 202 states that where a development proposal would lead to less than substantial harm to the significance of the heritage asset, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The proposed change from retail to a restaurant cannot be controlled, as the updated Use Class Order 1987 considers retail and restaurant to both fall within the same use class (Class E). The relatively modest interventions required to the front elevation to suit the incoming tenant's needs are considered to cause some harm to the heritage asset. However, the harm is less than substantial. In addition, the alterations would not have undue harm to the character of the St. Ann's Conservation Area.

Subject to appropriate conditions requiring full and final details, the proposed alterations to the building are acceptable in terms of their design and appearance, according with UDP Policies 18 and 19, CS Policy EN3 and Section 16 of the NPPF.

Amenity

The application does not constitute a change of use to part of the building, as a movement from retail to restaurant falls within the same use class (Class E). As such, it is not possible within the consideration of this application to assess potential noise impacts to other floors within the building by way of noise etc. However, due to the changes proposed to the front elevation, including the introduction of a new entrance and 2.no bi-folding doors, it is necessary to consider how these changes would change the sound profile of the area by breakout noise, especially when considering relatively nearby residential properties. In addition, new external plant is proposed that would also require consideration in terms of its noise impacts.

In order to address concerns relating to noise breakout, a suitable report by a qualified acoustician was produced. The report identified that the sound profile of the area would change as a result of the proposed alteration to the front elevation, when considering the likely sound generation from the proposed use as a restaurant. The assessment includes consideration that entertainment sound (music) would also have in terms of sound generation. The submitted report includes measures that would be taken that would limit sound breakout to such a degree that the proposal would meet Manchester City Council's maximum permissible sound levels. As a result of providing this report, it is not considered that a pre-commencement noise condition is required. However, a verification report condition would be required to ensure the proposed interventions would limit noise to an acceptable level.

It is likely that the incoming tenant (restaurant) would generate different amounts of different types of waste, which the LPAs environmental health team have picked up on. However, due to there being no change of use occurring as defined by the Use Class Order 1987 (As Amended), it is not possible to control this element of the proposal.

As part of the application, there are amended mechanical/ventilation installations in order to expel waste fumes etc. from internal cooking equipment. **VENTS**

UDP Policy 26 (Noise and Development) and CS Policies DM1 (Development Management) and SP1 (Spatial Principles).

Crime

As a result of the change in the front elevation design, Greater Manchester Police (GMP) were consulted on the proposals. GMP made a number of recommendations as to how safety and security could be shored up as part of the development, or how crime prevention could be designed into proposals. The recommendations put forward by GMP can be added as an informative should approval be granted. The proposal duly complies with Section 12 of the NPPF and CS Policy DM1 (Development Management).

Highways & Accessibility

The LPA's Highways Services department raised queries relating to the bi-folding doors to the front elevation as well as a proposed awning and outdoor seating area. Through further correspondence with the applicant/agent and through amended plans, it was clarified that the bi-fold doors will not open out over the highway, there is no awning proposed and there is no outdoor seating area under this application. As such, it is considered that the proposal accords with Paragraph 111 of the NPPF and Core Strategy Policy DM1.

It is observed from the submitted plans that the unit would be accessible for all users, including those with restricted mobility. As such, the proposal accords with CS Policy SP1 in this regard.

RECOMMENDATION:

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

In assessing the merits of the planning application, officers have worked with the applicant in a positive and proactive manner to seek solutions to problems arising in relation to dealing with the planning application. In this instance this has included advice about the information required to be submitted to support the application and discussions regarding amendments to the proposals.

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 FM/MKS/08 dated 03 September 2021) – Received 18 October 2021
- Block Plan (Drawing FM/MKS/09 dated 03 September 2021) – Received 18 October 2021

- Existing Section A-A (Drawing 597-EX-200 Revision P6 dated 08 April 2019) – Received 18 October 2021
- Existing South Elevation (Drawing 597-EX-302 Revision P6 dated 09 April 2019) – Received 18 October 2021
- Existing Rear Elevation (Drawing FM/MKS/01-1 dated 28 September 2021) – Received 18 October 2021
- Existing Roof Plan (Drawing FM/MKS/01-2 dated 29 September 2021) – Received 18 October 2021
- Existing Ground Floor Plan (Drawing FM/MKS/01 dated 28 September 2021) – Received 18 October 2021
- Proposed Floor Finishes (Drawing FM/MKS/05/1 Revision A dated 27 July 2021) – Received 18 October 2021
- Proposed Wall Finishes (Drawing FM/MKS/05/2 Revision A dated 27 July 2021) – Received 18 October 2021
- Proposed West Elevation (Drawing 001-848-04 dated 14 July 2021) – Received 18 October 2021
- Proposed Rear Elevation (Drawing 001-848-03 Revision A dated 14 October 2021) – Received 18 October 2021
- Proposed Ground Floor Plan (Drawing FM/MKS/02-1 Revision A dated 28 September 2021) – Received 18 October 2021
- Proposed Shopfront (Drawing FM/MKS/10 Revision C dated 02 September 2021) – Received 17 January 2022
- Ground Floor Ventilation Layout (Drawing 001-848-01 dated 27 July 2021) – Received 18 October 2021
- Roof Ventilation Layout (Drawing 001-848-02 Revision A dated 12 September 2021) – Received 18 October 2021
- Acoustic Report prepared by ACA Acoustics (Reference 220114-R001A dated 08 February 2022) – Received 08 February 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.

3. Notwithstanding the details shown in the approved documents and detailed in condition 2 of this decision, full and final details of the following shall be submitted and approved in writing prior to any works to those elements commencing on site:

- a) Detailed method statement for the proposed removal of glazing/frames from the ground floor front elevation and making good/repairing any external fabric as required.
- b) Details of the new glazing and frames to be installed to the front elevation, including cross-section through the framing and details of how it connects with existing fabric, to include colour and fitting detail.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies DM1, SP1, CC9 and EN3 of the Manchester Core Strategy (2012)

and saved policies DC18.1 and DC19.1 of the Unitary Development Plan for the City of Manchester (1995).

4. Prior to occupation of the development a verification report will be required to validate that the work undertaken throughout the development (including external plant equipment) conforms to the recommendations and requirements in the approved acoustic consultant's report (Report Reference 220114-R001A dated 08/02/2022). 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 - To ensure that the development does not cause undue impacts to amenity and to ensure accordance with Policies DM1 and SP1 of the Manchester Core Strategy (2012), saved Policy DC26.1 of the Unitary Development Plan for the City of Manchester (1995).

LBC 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 FM/MKS/08 dated 03 September 2021) – Received 18 October 2021
- Block Plan (Drawing FM/MKS/09 dated 03 September 2021) – Received 18 October 2021
- Existing Section A-A (Drawing 597-EX-200 Revision P6 dated 08 April 2019) – Received 18 October 2021
- Existing South Elevation (Drawing 597-EX-302 Revision P6 dated 09 April 2019) – Received 18 October 2021
- Existing Rear Elevation (Drawing FM/MKS/01-1 dated 28 September 2021) – Received 18 October 2021
- Existing Roof Plan (Drawing FM/MKS/01-2 dated 29 September 2021) – Received 18 October 2021
- Existing Ground Floor Plan (Drawing FM/MKS/01 dated 28 September 2021) – Received 18 October 2021

- Proposed Floor Finishes (Drawing FM/MKS/05/1 Revision A dated 27 July 2021) – Received 18 October 2021
- Proposed Wall Finishes (Drawing FM/MKS/05/2 Revision A dated 27 July 2021) – Received 18 October 2021
- Proposed West Elevation (Drawing 001-848-04 dated 14 July 2021) – Received 18 October 2021
- Proposed Rear Elevation (Drawing 001-848-03 Revision A dated 14 October 2021) – Received 18 October 2021
- Proposed Ground Floor Plan (Drawing FM/MKS/02-1 Revision A dated 28 September 2021) – Received 18 October 2021
- Proposed Shopfront (Drawing FM/MKS/10 Revision C dated 02 September 2021) – Received 17 January 2022
- Ground Floor Ventilation Layout (Drawing 001-848-01 dated 27 July 2021) – Received 18 October 2021
- Roof Ventilation Layout (Drawing 001-848-02 Revision A dated 12 September 2021) – Received 18 October 2021

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.

3. Notwithstanding the details shown in the approved documents and detailed in condition 2 of this decision, full and final details of the following shall be submitted and approved in writing prior to any works to those elements commencing on site:

- a) Detailed method statement for the proposed removal of glazing/frames from the ground floor front elevation and making good/repairing any external fabric as required.
- b) Details of the new glazing and frames to be installed to the front elevation, including cross-section through the framing and details of how it connects with existing fabric, to include colour and fitting detail.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies DM1, SP1, CC9 and EN3 of the Manchester Core Strategy (2012) and saved policies DC18.1 and DC19.1 of the Unitary Development Plan for the City of Manchester (1995).