

26 May 2022

Delivered via Planning Portal

Angela Leckie
Manchester City Council
Town Hall
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Dear Angela

REMOVAL OF PLANNING CONDITION 2 OF PRIOR APPROVAL LPA REF. 121754/JO/2018: 121 PRINCESS STREET, MANCHESTER, M1 7AG

On behalf our client, Centurion Investments Ltd ('the applicant'), we are pleased to enclose an application to remove Condition 2 of the above referenced prior approval at 121 Princess Street, Manchester.

This application has been submitted via the Planning Portal (ref. PP-11265555) and comprises the following information:

- Completed Application Form and Certificates
- This Covering Letter
- Site Location Plan, prepared by Equilibrium Architects (dwg ref. C-0476-SLP)
- Technical Design Note, prepared by Hydrock (doc ref. 17658-HYD-XX-XX-RP-Y-1001)
- Draft Section 106 Agreement

The requisite application fee of £234.00 has been paid online via the Planning Portal.

Background

In November 2016, Manchester City Council ('MCC') granted prior approval pursuant to Class O, Part 3, Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) for prior approval change of use from offices to dwellinghouses (LPA ref. 114023/P3OPA/2016). The full wording of the approved development is as follows:

"Prior notification of change of use from offices (Class B1) for change of use to 126 apartments (use Class C3) comprising 100 studios, 25x 1 bed and 1 x 2 bed"

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The approval was subject to a number of planning conditions.

In February 2017, an application (LPA ref. CDN/17/0080) was submitted to formally discharge Condition 3 (Acoustic Insulation) and Condition 4 (Parking Management). This application partially discharged Condition 3, which could be fully discharged following submission of a report after completion of the installation, and fully discharged Condition 4.

A further application was submitted (LPA ref. CDN/18/0103) to fully discharge the outstanding requirements of Condition 3. This application was refused due to insufficient information being provided in order to satisfactorily resolve the condition.

A Section 73 application was submitted (LPA ref. 121754/JO/2018) to vary Condition 3 so as to require the approved scheme be retained in situ in the future. This application was approved by MCC in June 2019, subject conditions. Following this approval by MCC, an appeal (Appeal ref. APP/B4215/W/19/3232722) was made against a grant of approval subject to conditions; specifically against the imposition of Condition 2. The appeal was allowed by the Planning Inspector, who varied the application by deleting Condition 2 and substituting it for the following condition 2:

2) (a) Within 16 weeks of the date of this decision, a supplemental scheme for acoustically insulating the residential dwellings hereby permitted against any actual or potential sources of noise from any existing commercial/industrial premises in the vicinity of the development (including in particular entertainment noise from the lawful operation of the nightclub in the basement of the premises and the potential entertainment noise from the permitted use of the currently-vacant ground floor of the premises) shall be submitted to the Local Planning Authority in writing for its written approval. The scheme shall:

(i) demonstrate how the acoustic insulation to be installed in the development will achieve the following noise criteria in respect of all apartments hereby permitted:

o Bedrooms (night time - 23.00 - 07.00): 30 dB LAeq (individual noise events shall not exceed 45 dB LAmax,F by more than 15 times) #

o Living Rooms (daytime - 07.00 - 23.00) 35 dB LAeq

o in respect of the entertainment noise from the basement and ground floor premises, noise levels in the 63Hz and 125Hz octave centre frequency bands do not exceed 47dB and 41dB, respectively in habitable rooms, measured at 5 minute intervals over both the daytime and night time periods set out above;

(ii) include details of the sound testing and other steps which will be taken to ascertain whether the works or measures have achieved compliance with the criteria set out in part (a) of this condition and which will form part of the verification report referred to below;

(iii) specify a timetable for the carrying out of such measures.

(b) The supplemental acoustic insulation scheme approved by the Local Planning Authority shall be installed in accordance with the approved timetable.

(c) Within 4 weeks of the completion of the approved supplemental acoustic insulation scheme, a further report (the "verification report") shall be submitted to the Local Planning Authority for their written approval. The verification report must accord with the details approved by the Local Planning Authority and must demonstrate:

(i) That the further acoustic insulation or other measures have been installed or taken, that they have been tested and whether they achieve the internal noise criteria set out above, and;

(ii) If the verification report does not demonstrate that the noise criteria specified above can be met, the report shall include details of the further works or measures to be taken ("the remedial works") to achieve compliance with the noise criteria specified above, together with a timetable for their carrying out. The remedial works shall be carried out in accordance with the approved timetable and the requirements of part (c) of this condition shall apply to the remedial works and any subsequent requirement for further remedial works.

(d) The acoustic insulation and any other measures forming part of the approved scheme or schemes and any verification report shall be retained in situ for as long as the use hereby permitted continues.

(e) If any obligations under this condition are not complied with in respect of the permitted apartments then the occupation of any apartment (or apartments) in respect of which there is non-compliance shall cease within 4 weeks of the Local Planning Authority confirming in writing that such a failure has occurred and no such apartment shall be re-occupied until the Local Planning Authority has confirmed in writing that any failure to comply with this condition has been remedied.

An application (LPA ref. CDN/21/0663) was submitted to discharge this condition, in September 2021. This application is pending determination. However, it is now proposed that the approval be varied through the removal of this condition.

Removal of Condition

All the issues that have arisen since the occupation of the residential properties authorised by the prior approval relate to noise arising from use of the basement for entertainment purposes, specifically Fifth Avenue nightclub. The terms of Condition 2 (originally, and as varied), were designed to address noise impacts arising from the nightclub, and the permitted use of the ground floor as a bar, through acoustic insulation of the residential properties.

The Fifth Avenue nightclub has now ceased trading, and the basement and ground floor are in the control of the applicant, who now own the building in its entirety. Not only is the entertainment noise that was the cause of the issues no longer arising, but the applicant is also committed to the basement and ground floor not being used for such purposes.

Prior to the determination of the application, the applicant will enter a planning obligation under Section 106 of the 1990 Act, through which the owner would covenant either not to occupy the basement and/or ground floor as a nightclub, live entertainment venue or bar or not to occupy or permit the occupation of any residential apartment if the basement and/or ground floor is in use as a nightclub, live entertainment venue or bar. The restriction would come into effect immediately on the grant of the planning permission which is being sought in this application and would be in place permanently unless a new planning permission is granted for those uses. A draft S106 Agreement has been issued to the Council in advance of making this application, but is also submitted alongside this application.

In respect of other potential sources of noise disturbance, the accompanying Noise Impact Assessment and Technical Design Note, prepared by Hydrock, confirms the daytime and night-time noise levels within noise sensitive rooms satisfy national guidance. Therefore, it is evidenced that the existing scheme of insulation is sufficient in mitigating internal noise ingress from other external noise sources and with the removal (and prevention by planning obligation) of the entertainment use of the ground and basement floors, there is no need for further mitigation. An acceptable residential environment

already exists, without the need for additional attenuation. Condition 2 is no longer necessary and can be removed.

In reviewing the information detailed above, I trust you have all the information that you require to validate this application and approve the proposed variation of approval ref.121754/JO/2018 (as varied by APP/B4215/W/19/3232722) by way of removal of Condition 2. Should you require any further information, please contact my colleague Stephen Bell (stephen.bell@turley.co.uk) or I.

Yours sincerely

A handwritten signature in black ink, appearing to read 'W. Hannah'.

Will Hannah
Assistant Planner

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