

P20-0884/BC/KS

1st September 2020

Ms Jennifer Atkinson
Planning and Borough Department
Manchester City Council
Town Hall
Manchester
M60 2LA

Dear Ms Atkinson

Objection to Eastlands Arena Application
Etihad Campus, Manchester
LPA ref. 126431/FO/2020

Further to our letter dated 10th June 2020, we write on behalf of our client, Manchester Nominee (1) Ltd and Manchester Nominee (2) Ltd, known as Manchester JV Limited (hereinafter referred to as MJV), in light of the 'Response to Representations' submitted by OVG Manchester Ltd in relation to planning application ref. 126431/FO/2020.

Our client continues to have serious concerns with regard to the proposed scheme for the principal reasons previously highlighted and strongly considers that the application **should be refused**. The key issues of concern are detailed further below.

Impact on Vitality and Viability of Manchester City Centre

i. Retail Trading Potential

Of the 17,451 sqm (GEA) of retail, restaurant and bar floorspace proposed, the Response to Representations submitted by OVG states the floorspace is primarily hospitality space which will only be accessible via pre-booked tickets, together with concession stands and circulation areas.

The applicant indicates no general or conventional shopping offer is to be provided, other than specialist retail including merchandise. However, it remains unclear the exact amount of floorspace which would be used for Class A1 retail.

The original submission documents state that of this total floorspace (17,451 sqm), the proposal seeks flexible A1, A3 and A4 floorspace of 7,530 sqm; flexible A3 and A4 floorspace of 9,880 sqm; and A3 floorspace of 41 sqm.

However the breakdown of this total floorspace is disaggregated in the Response to Representations made by OVG as follows:

- Hospitality – 6,652 sqm
- Food & Beverage (i.e. concessions and stands, no sit down bars or restaurants) – 3,032 sqm
- Circulation, back-of-house, plant etc areas – 7,767 sqm

The use classes of these disaggregated areas, including hospitality, are not defined in OVG's Response to Representations. Therefore they could reflect the maximum Class A1 floorspace figure set out in the original submission breakdown of up to 7,530 sqm (e.g. 6,652 sqm hospitality space + 878 sqm proportion of the back of house space).

Therefore despite the disaggregation provided, the trading potential has not changed and would therefore have a devastating impact on the City Centre and associated decrease in footfall. Furthermore justification for such a substantial amount of proposed Class A1 use is not evident in the submission; particularly if only intended for specialist retail such as merchandise.

Notwithstanding the breakdown above, there is potential that all the retail, food and drink floorspace (17,451 sqm) could be operated under Class E, in light of the recent publication of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. The Regulations revoke and reclassify Class A1 and A3 uses as falling within the broader Class E 'Commercial, Business and Service' use class. As such, the amount of Class A1 retail use could be significantly higher than 7,530 sqm detailed, as there is potential for the full 17,451 sqm of floorspace to be considered as Class E.

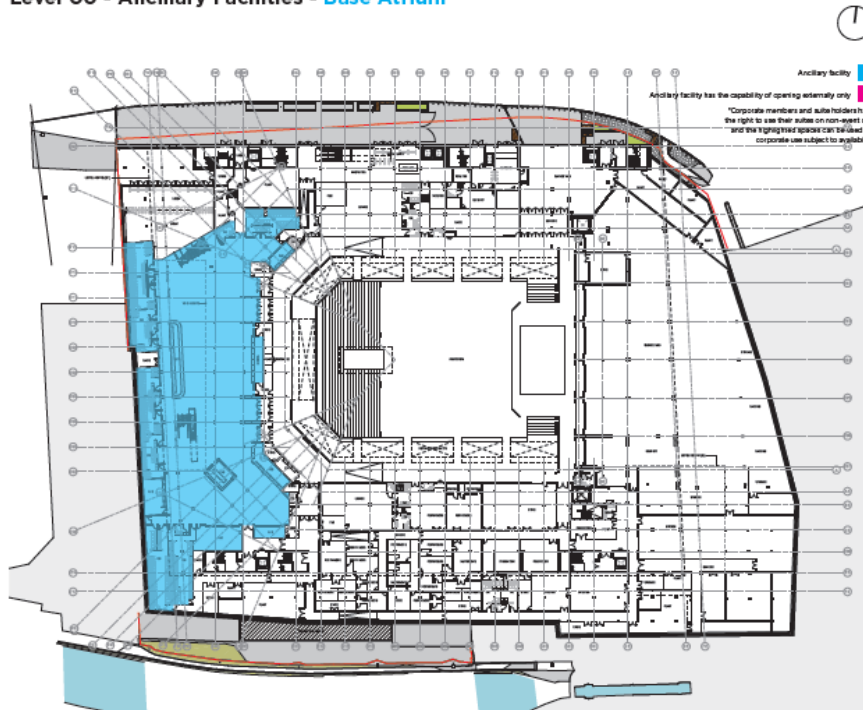
This trading potential arising from this would clearly result in a significantly detrimental impact on the vitality and viability of the City Centre and this has not been addressed in the applicant's Response.

ii. Applicant's Claim of Ancillary Nature

In respect of the ancillary nature of the retail uses, the applicant states that "*the provision is ancillary to the proposed arena use and an integral part of the arena offer*". However this is not correct, when considering when and by whom the space is to be used.

The applicant states that there will not be general access to the retail, food and drink facilities outside of event days; with the exception of certain areas which could be operated for local community or sponsor / partner events – namely two substantial areas at ground and first floor as illustrated at Appendix O, extracts of which are shown in Figure 1 below. The floorspace figures of these areas are not defined, however would appear to equate to a total in excess of 4,000 sqm.

Level 00 - Ancillary Facilities - Base Atrium



Level 01 - Ancillary Facilities - Backstage Club + Canalside

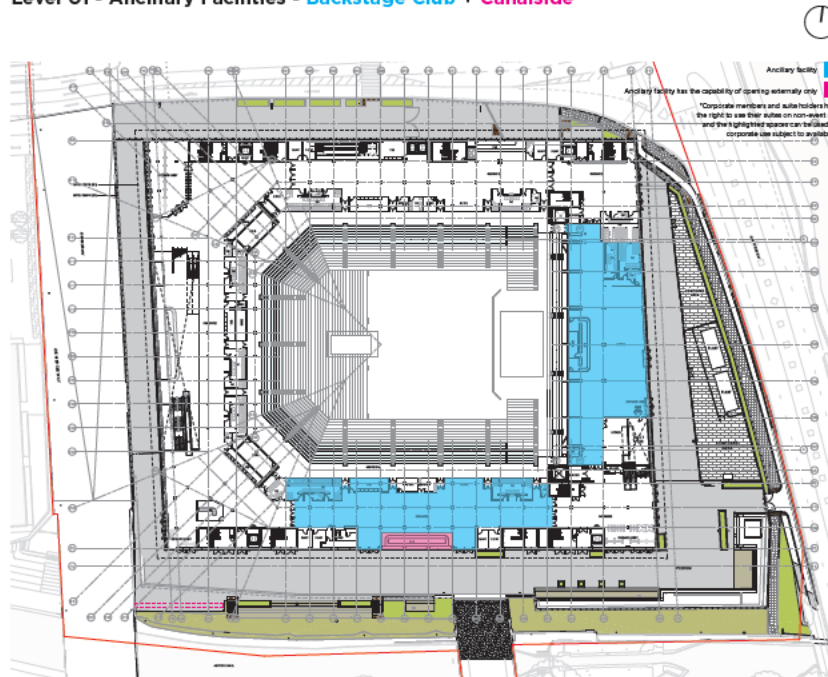


Figure 1: Extract of Ground and First Floor Plans from Appendix O showing Ancillary Facilities to be used for local community and sponsor events outside of Arena Event Days (highlighted blue and pink)

Use by these parties also includes those related to "other Etihad Campus events". The Response states that *"a proportion of the hospitality space may also be used on non-event days, for example on match days as an additional offer for those attending the Etihad Stadium"*.

Therefore contrary to the applicant's assertion, these substantial areas of proposed retail, food and drink uses would **not be wholly ancillary to the proposed arena use** as they would serve attendees of other entirely separate venues and events, unrelated to the predominant arena use.

Furthermore, the applicant acknowledges that of the food and beverage facilities, 3 canalside kiosks and a single kiosk to the external podium (comprising a total of 223 sqm) will be *"operational completely independently of event and match days, or community or hospitality uses"* and will be publicly accessible daily. These uses are therefore unequivocally **also not ancillary to the proposed arena use**.

As set out before, this is contrary to Policies EC5 (East Manchester) and EC7 (Eastlands Strategic Employment Location) of the Core Strategy which states that in respect of retail uses, only *"a major leisure visitor destination with ancillary retail and offices"* (our emphasis) and *"developments that are predominantly tourism / leisure based, including hotels and food and drink will be appropriate together with ancillary retail required to support the principal uses"* (our emphasis) are appropriate in this location.

Notwithstanding that the proposed retail, food and drink uses seeks to serve arena event attendees, given a substantial proportion will also be used on match days and other events by certain parties for purposes entirely unrelated to the arena use, in addition to the food and drink kiosks which will be publicly accessible daily, it is clear that not all the proposed retail uses will be ancillary to the proposed arena use.

iii. The threat associated with Out-of-Centre Competition and Decreased Footfall

Applicant's Assertion of Proposal not forming a Retail Destination

The applicant asserts in their response that the proposal will not be a retail destination. However to the contrary, the significant amount of retail and leisure floorspace (totalling 68,608 sqm, of which 17,451 sqm is A class use) will clearly create a substantial new leisure and retail destination for the wider city region in an out-of-centre location. This will result in direct competition with the City Centre and result in an associated decrease in footfall to the detriment of its vitality and viability.

As set out above, a substantial amount of the retail, food and drink uses are not wholly ancillary to the proposed arena. The substantial amount of potential A1 floorspace proposed when viewed in context with the food and drink offer, and the opportunity for their frequent use through the significant number of events which would take place at the arena and wider Etihad Campus (including match days), will result in the proposed development clearly acting as a significant retail destination.

Underestimation of Displacement of Food and Beverage Spend from City Centre

As a significant retail destination, this will in turn draw footfall and trade from the City Centre. Indeed, this is supported in the applicant's acknowledgement of displacement of up to £3m per annum from food and beverage spend in City Centre. This is based on OVG Manchester's "industry insights" that only 25% of such spend at a large arena relates to ticked people who arrive more than 30 minutes before the event starts. Notwithstanding that this percentage does not appear to have a robust evidence base, in reality the proportion of spend to be displaced is likely to be significantly higher. Particularly as the submitted Planning Statement and Transport Assessment make clear that longer dwell times prior to events are actively sought, in order to minimise the demand on the travel network, particularly during peak times and on match days at Etihad Stadium. Indeed, the Transport Assessment at paragraph 6.3.4 states that *"on major concert days, spectators are likely to start arriving 2-3 hours before the start of the concert in order to secure a position close to the stage."*

The applicant also relies on surveys undertaken by the Audience Agency to support their case that the City Centre would benefit from the arena, which conclude that 70% of those surveyed would spend on food and beverage *before* the event at a place other than at the venue (including City Centre) and 49% would spend *after* the event at a place other than the venue. However, somewhat tellingly they do not appear to have asked or disclosed the percentage of visitors who would spend on food and beverage at the arena venue. Ultimately whilst consumers are not against dining or drinking in the City Centre, when presented with the arguably easier choice of purchasing food and drinks at the arena, this is likely to be a preferable option for many.

Notwithstanding this, this survey is not a robust measurement to predict future consumer behaviour – particularly as 42% of respondents to this survey had not attended any UK arena events in the last 5 years, despite all living within a 90 minute catchment of one.

Applicant's failure to consider the adverse impacts of the proposal on the City Centre

Whilst the applicant asserts that Etihad Campus is neither disconnected to or significantly distant from the City Centre, the application site remains out-of-centre in retail planning policy terms – being located some 2.2km from the City Centre's Primary Shopping Area.

Although it is acknowledged that City Centre is not the only contributor to the Regional Centre's success as the applicant states, Policy C1 makes explicitly clear that Manchester City Centre, as the highest order centre, is the regional focus for comparison retail, commerce, culture, leisure and tourism in the Manchester City Region.

The applicant asserts that *"the City Centre's future economic success is dependent on the growth of East Manchester"* however there is no doubt that the proposal will draw trade and footfall from the City Centre to its detriment, entirely contrary to Policy C1, and this has not been adequately considered within the additional information submitted. It is for this reason to protect the viability of the City Centre that the supporting justification to Policy C1 states at Paragraph 10.11 that *"this [town centre] hierarchy has provided the **basis to resist***

significant out-of-centre retail development whilst pro-actively supporting developments within existing centres and older existing retail parks” (our emphasis).

Chapter 5 (Retail Impact) of the applicant’s response is also contradictory; stating that “*nor is the City Centre the fragile entity that is characterised by these representations*” but then conversely acknowledges the economic challenges of the City Centre both past and present, stating that “*it will be the responsibility of landowners to re-think business models in order to respond to the new realities of the market place, which, if anything, have merely been intensified and brought into sharper focus by the Covid-19 crisis. This applies as much to the retail sector as any other.*”

The applicant goes on to state “*the Arndale has yet to adapt their offer to respond to challenges posed by a restructuring of the retail sector, which Covid has merely intensified. There needs to be a change from the current ‘business as usual’ approach for the City Centre to achieve its full economic potential.*”

Clearly it is in the interest of City Centre retailers, as it always has been, to positively respond to market changes, however these remarks miss the point entirely. The City Centre is facing serious economic challenges over a sustained period of time as detailed in our previous letter, and the applicant has not demonstrated that the proposed development will not have an adverse impact on the vitality and viability of the City Centre, in light of these challenges. There appears to be a misplaced onus of responsibility on existing retailers within the City Centre to ensure the robustness of the Centre, in order to mitigate the adverse impact of the proposed development. When in actuality, the proposed development will only serve to exacerbate the challenges already felt to the detriment of the City Centre, which is the regional focus for retail and leisure use under Policy C1. As such the application should be refused.

Our objection to the proposed development therefore remains on the basis it comprises a significant out-of-centre development incorporating a substantial A Class element, which would harm the vitality and viability of the City Centre contrary to Policy C9 (Out-of-Centre Development) and in turn, the position of the City Centre in the hierarchy, contrary to the overarching aim of Policy C1 (Centre Hierarchy) of the Core Strategy.

iv. Inadequate Sequential Test and Impact Assessment

Sequential Assessment

In relation to the Sequential Assessment, the applicant states there is no requirement to disaggregate the retail element in the sequential assessment on the basis it is not ancillary.

The proposed A class uses are evidently not all ancillary to the arena use as set out above, on the basis they would be operated on non-arena event days. In particular, the food and drink uses which will be publicly available daily are certainly not ancillary.

This given, the disaggregation of the A class element must be considered in the sequential assessment in order to demonstrate due flexibility required by Paragraph 87 of the NPPF to fulfil the purpose of ensuring that town centre [City Centre] or edge of centre sites are fully

explored, which has not been undertaken. There remains no assessment of potential sequentially preferable sites to accommodate the A Class element, including the kiosks which will be operated entirely independently of the arena.

As such the requirements of the NPPF have still not been met for the sequential assessment, and the application cannot be supported on that basis.

Impact Assessment

A Retail Impact Assessment is still not submitted in support of the application.

The applicant appears to dismiss the need for a full impact assessment given they consider the retail uses to be ancillary, and that only 223 sqm of food and beverage kiosks will be publicly accessible and operated outside of event and match days for use by visitors to the Campus, towpath users and local residents. They consider the impact of these kiosks to be of local significance only in accordance with Policy C9 which states that an assessment of impacts will be required for retail developments of more than local significance.

Regardless of whether used outside event days or not, given the substantial scale of the proposed out-of-centre development, and the amount which could be operated as Class A1 use (up to 7,530 sqm as proposed) the arena would clearly act as a significant retail destination. In turn it would undoubtedly impact the City Centre and therefore have a significantly greater impact than of local significance in accordance with Policy C9. Therefore an impact assessment is required to substantiate the applicant's claims otherwise.

Furthermore, given the recent amendments to the Town and Country Planning (Use Classes Order) 1987, all the proposed retail, food and drink floorspace would have the ability to be used for Class A1 retail purposes under the new Class E 'Commercial, Business and Service' use class – equating to up to 17,451 sqm. The impact of this on the City Centre would be significant and the impact of this has not been addressed anywhere within the Response to Representations.

The fact remains that the trading potential of the floorspace whether it is event day only or not needs to be quantified in terms of trade derivation (i.e. a retail impact assessment) – particularly given that a high percentage of floorspace could be occupied by 'traditional' A1 end users and the trading potential could be worse under the provisions of Class E use.

Assessment of vitality and viability of the City Centre in the applicant's response predominantly refers back to the previously submitted PwC and Ekosgen reports which do not provide adequate assessment under the requirements of Paragraph 89 of the NPPF as we previously highlighted. No review of the health of Manchester City Centre has been made using such indicators as referred to in National Planning Practice Guidance.

The applicant has given further consideration of part (a) of Paragraph 89 in considering a greater number of schemes, however this remains limited to assessment of investment into predominantly leisure and cultural schemes within the Regional Centre, and still does not consider the impact of the proposal on investment in existing, committed and planned retail schemes in the City Centre.

The lack of proper retail planning policy analysis continues to be a significant flaw in the application submission. The proposed development, including out-of-centre Class A1, A3 and A4 uses, cannot be given due consideration by the Council without a sequential test which considers disaggregation of the proposed A class uses, and without an impact assessment which addresses the retail element of the proposal.

v. Impact on Manchester Arena

The applicant continues to assert that two arena venues can be supported in Manchester, contrary to the view of the operators of Manchester Arena who state that current levels of demand do not support two venues of this size and that unrealistic levels of growth would be needed for both to break even and cover investment costs.

Notwithstanding this, the applicant's response conversely also highlights *"the inherent weaknesses in the existing offer of the Manchester Arena...there is evidence that the local arena market in Manchester has stagnated because of the poor experience at the existing arena."* On this basis, it is inevitable that a brand new out-of-centre purpose built arena with greater capacity will clearly threaten the viability of the existing Manchester Arena, located within a far more sustainable location within the City Centre.

The applicant has not acknowledged the positive spin-off benefits which Manchester Arena has on the City Centre which we previously identified, instead suggesting that *"rather than boost activity in Manchester City Centre, the proportionate value of Manchester Arena's contribution will continue to decline."* Contrary to this, we evidenced the footfall increase within the Manchester Arndale when the Manchester Arena hosts an event in our previous letter – clearly demonstrating the positive spin-off benefits that Manchester Arena has for businesses within the City Centre.

Ultimately, should Manchester Arena close, or indeed its operation considerably reduce as a result of the direct out-of-centre competition, footfall within the City Centre would be markedly decreased, and in turn the City Centre would suffer through consequential loss of associated spin-off benefits and expenditure within the centre. This would have a detrimental impact on the vitality and viability of the City Centre.

Non-Compliance with Statutory Development Plan

Whilst the applicant asserts that the proposal is "within the spirit of" Policy EC7, they have not adequately addressed that the proposed development would clearly prejudice and conflict with other policies in the Core Strategy, including Policies C1 and CC4 which together seek to direct leisure and retail uses to the City Centre in accordance with the centre hierarchy, given it is the most sustainable location.

This is notwithstanding that Policy EC7 itself states *"Developments which support the overall vision for this major regeneration initiative on sites within the general environs of Eastlands will be appropriate, **provided they do not prejudice other policies within the plan**"* (our emphasis).

Instead they refer to Policy EC1 to support their case which states "*the Council will support other significant contributors to economic growth and productivity including health, education, retailing, cultural and tourism facilities, and other employment generating uses **mainly in the City Centre and Eastlands in line with Policy C1***" (our emphasis). However the proposed retail uses in this out-of-centre location clearly conflicts with Policy C1 as set out above and detailed in our earlier letter, particularly given they are not ancillary.

The proposed development clearly conflicts with these other up to date policies and is therefore not in accordance with the Development Plan when considered as a whole.

Conclusion

Our previous concerns with the proposed development still stand. Owing to its significant scale, out-of-centre location, and the nature of the proposed A class uses (which are not all wholly ancillary), the proposal will result in a significant adverse impact on the vitality and viability of Manchester City Centre, both in terms of reduced footfall and 'out-of-centre' competition for A Class uses.

The trading potential for Class A1 retail use remains significant, and the Response to Representations still fails to consider and assess the impact of the significant element of proposed retail use on both the vitality and viability of the City Centre in accordance with the requirements of national planning policy and practice guidance. Nor is consideration given to the impact arising from the potential for a significantly greater amount of retail use (up to 17,451 sqm) to be provided under the new Class E use, introduced through recently published amendments to the Use Classes Order.

The sequential test also fails to adequately consider the substantial A class uses element including potential disaggregation of these uses; which are not all ancillary to the arena use as set out above.

The proposed development will have a devastating effect on the retail and leisure market during a time where Manchester Arndale and the City Centre are already competing with other parts of the City for a diminishing number of potential retail, food and beverage, and leisure occupiers. The onus is on OVG to demonstrate otherwise, and is not for existing City Centre businesses to ensure the robustness of the Centre, in order to mitigate the adverse impact of the proposed development.

The current spin off benefits of Manchester Arena for the City Centre as a whole which benefit food and beverage facilities, hotel and retail operators are not acknowledged by the applicant. The operators of Manchester Arena are of the view that two arena venues cannot be supported in Manchester, and in the event Manchester Arena was to close, or indeed its operation considerably reduce as a result of the direct out-of-centre competition, the consequential impact on the City Centre would be significant.

On the basis of the above, the proposed development would result in a significant adverse impact on the vitality and viability of the City Centre and the application does not provide

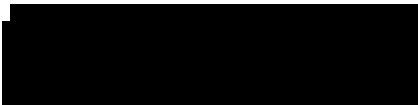
sufficient evidence in accordance with the requirements of the NPPF to demonstrate otherwise.

In summary, MJV remains extremely concerned about this proposal. It will create a significant out-of-centre leisure Arena in direct competition with the City Centre provision which will draw footfall and corresponding spend potential from the City Centre. Critically, the application has not been properly assessed, in particular the lack of Retail Impact Assessment is a serious omission from the supporting material.

As such, the application should be **refused** and there is evidently no material consideration which outweighs the long-established policy support for protecting the city centre's vitality and viability.

I trust the above will be given due consideration in the determination of this application.

Yours faithfully



Barry Cansfield
Senior Director

