MANCHESTER CITY COUNCIL

Town & Country Planning Act 1990 (as amended)

Refusal of Planning Permission

Applicant

Pizza Express Restaurants
95 Lapwing Lane
Manchester
M20 6UR

Agent (if used)

Mr Jonathan Phillips
Bidwells LLP
Seacourt Tower
West Way
Oxford
OX2 2JJ

Part 1 – Particulars of the application/development

Proposal: Variation of Condition 3 (Hours of Opening of Outdoor Seating Area) attached to planning permission 103114/FO/2013/S2 to allow opening from 0800hrs to 2300hrs Monday to Sunday

Location: 95 Lapwing Lane, Manchester, M20 6UR

Date of application: 17 December 2019

Application number: 125449/JO/2019

Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **Refused** in accordance with the application and plans submitted for the reason(s) listed below.

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant before and during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

Reason(s) for decision

1) The variation of condition 3 attached to application 103114/FO/2013/S2 would allow the operation of the outdoor seating area later into the evening to the detriment of the residential amenity of surrounding property by reasons of associated noise and disturbance from comings and goings contrary to policies DM1 and C10 of the Core Strategy and saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester.

Date: 11 February 2020

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/planning-inspectorate. The Inspectorate will publish details of your appeal on the internet. Alternatively If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the City Council (planning@manchester.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.