

Town & Country Planning Act 1990 (as amended)
Planning (Listed Building & Conservation Area) Act 1990 (as amended)

Refusal of details reserved by condition

Applicant

Xenon 303 Limited
492-494 Claremont Road
Manchester
M14 5WA

Agent (if used)

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300 Princess Road
Manchester
M14 7HR

Part 1 – Particulars of the application/development

Proposal: Discharge of conditions 3 (noise), 5 (boundary treatment), 7 (waste), 12 (footpaths) and 14 (cycle store) attached to planning permission 130987/FO/2021

Location: 492 Claremont Road, Manchester, M14 5WA

Date of application: 8 April 2025

Application number: CDN/25/0326

Part 2 – Particulars of decision

Manchester City Council gives notice that the detail(s) referred to in Part 1 are **Refused** in accordance with the information set out below.

Condition 3 - Noise

Condition 3 is currently unable to be discharged.

The Council is in receipt of an Acoustic Report that was prepared in 2021 and a Tech Memorandum by EnviroSolution dated Oct 2024. There has been no reference of overheating and justification as to why mechanical ventilation has not been included in the memorandum. Saturday night results are higher than MCC guidelines, the explanation being that weekends are noisier. Worst case scenarios needed to be taken into account for mitigation. Furthermore the L_{Amax} shows that it exceeds 45dB however it does not state how many times a night this occurs.

Condition 5 - Boundary treatments

Condition 5 requires compliance with the approved drawing reference :A1344(02)004 Rev A. The submitted information indicates that it is not intended to install gates to drives and pathways. If this is the case the appropriate form of application is a section 73 variation of condition application to amend the details that you intend/have installed.

Condition 7 - Waste

Condition 7 relating to the type and location of bin stores is one that requires compliance with. These details are set out on approved drawing references: A1344(02)005 Rev B - Landscape plan; and A1344(02)003 - bike and bin store details. The submitted information indicates that these approved details have not been installed in line with what was approved. If it is not intended to install the approved details then the appropriate form of application is a section 73 variation of condition application to amend the details that you intend/have installed.

Condition 12 - Footpaths

Condition 12 is unable to be discharged.

In order to regularise the highway works undertaken you will need to begin the process of a section 278 application. As a Section 278 application for highways works has not yet been received, the Council is currently unable to support the discharge of this condition. This application should be undertaken through the Manchester City Council Highways Statutory Approvals team so that a process can be determined and taken forward. The following link provides access:
https://www.manchester.gov.uk/directory_record/451887/permission_to_work_on_the_highways_-_section_278_agreements

Following submission of such an application and acceptance of this by the Highway Authority you may then submit a further application to discharge the planning condition.

Condition 14 - Cycle Store

Condition 14 relating to the type and location of bike stores is one that requires compliance with. These details are set out on approved drawing references: A1344(02)005 Rev B - Landscape plan; and A1344(02)003 - bike and bin store details. The submitted details indicate that what has been installed does not reflect the approved details. These details are not in accordance with the agreed details and evidence that condition 14 has been complied with has not been provided.

If it is not intended to install the approved details then the appropriate form of application is a section 73 variation of condition application to amend the details that you intend/have installed. There would be concerns with the extent of bike/bin store side wall that is located immediately adjacent to Victory Street. The Council's advice is that this bike and bin store should be relocated to the position identified on the approved drawings.

Date: 16 May 2025

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 (as amended) or Planning (Listed Building & Conservation Area) Act 1990 (as amended) 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 or sections 20 and 21 of the Planning (Listed Building & Conservation Area) 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/appeal-planning-inspectorate. The Inspectorate will publish details of your appeal on the internet.

Alternatively, appeals can be made on a form which is obtainable from Planning Inspectorate, Customer Support Unit, Room 3/15, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 or by telephone 0117 372 6372.

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.

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.