

Ms J Atkinson
Principal Planning Manager
Development Management Central Core
Planning and Building Control and Licensing - Growth and Development
Manchester City Council
Town Hall Extension
Lloyd Street
Manchester
M2 5DB

Date: 12 February 2025
Our ref: 66476/02/SPM/HR/33084319v1
Your ref: PP-13532376

Dear Jennifer

Land at Cornbrook Road, Manchester

Application for a Non-Material Amendment to the Planning Permission ref. 139133/FO/2024

On behalf of our client, FG Vivere Manchester Ltd [the Applicant], Lichfields is pleased to enclose an application pursuant to Section 96a of the Town and Country Planning Act 1990 [the 1990 Act] for a non-material amendment [NMA] to the planning permission (ref. 139133/FO/2024) [the Planning Permission] at the above site. This application seeks to amend the wording of the description of development for the Planning Permission.

This application has been submitted to Manchester City Council [the Council] via the Planning Portal (ref. PP-13532376) and comprises this covering letter and completed application forms.

The requisite application fee of £293 has been paid via the Planning Portal.

Background

The Planning Permission at the site was granted 26 September 2024 for:

“Erection of a 24-storey mixed use building incorporating 224 residential apartments (Use Class C3a), 87 apart-hotel studios (Use Class C1), amenity space, flexible commercial space (Use Class E), and cafe (Use Class E(b)), together with infrastructure, landscaping, and other associated works.”

As the Applicant has progressed the design of the scheme ahead of commencing development on site, due to changes in legislation, it has become apparent that amendments to the approved development are required to ensure that the scheme can be delivered. The amendments are required to provide an additional fire-fighting staircase, in accordance with the requirements of the Building Regulations 2010 Approved Document B: Fire Safety (Published April 2024). Due to the increased costs arising from these changes, amendments to the scheme are also required to ensure that the scheme is viable and

deliverable. FG Vivere Manchester Ltd remain committed to delivering the scheme on the site at the earliest possible opportunity.

The description of development for the Planning Permission explicitly references the height and unit mix of the development. To facilitate amendments to the unit numbers, it is necessary to amend the description of development for the Planning Permission.

The Court of Appeal decision in the case of *Finney vs Welsh Ministers* [2019] EWCA ruled that it is no longer lawful for local planning authorities to use powers under Section 73 of the 1990 Act to amend the description of development on a planning permission. Where changes are required to a description of development it is necessary to do this through an application for a non-material amendment made under Section 96a.

This application therefore seeks to amend the description of development for the Planning Permission to remove reference to the quantum of development and building height. This application does not seek to amend any approved drawings at this stage. Pursuant to this application, an application for a minor material amendment, made under Section 73 of the 1990 Act will be made to amend the approved drawings to reflect changes to the approved scheme. The principle and extent of the amendments are to be considered as part of the subsequent application and not at this stage.

Proposed Description of Development

To account for the aforementioned changes, we propose the following amendment to the description of development for the Planning Permission:

“Erection of mixed-use building incorporating residential apartments (Use Class C3a), apart-hotel studios (Use Class C1), amenity space, and café (Use Class E(b)), together with infrastructure, landscaping, and other associated works.”

The quantum of development and layout as currently approved would remain controlled by the approved drawings and supporting information listed in Condition 2 of the Planning Permission.

Consideration of Non-Material Amendment

Section 96a of the 1990 Act permits a Local Planning Authority to make changes to any planning permission provided it is satisfied that the change is not material, including the power to alter the description of development. There is no statutory definition of what constitutes ‘non-material’. It is therefore left to the authority to consider the nature and scale of the proposed amendments in the context of the overarching planning permission.

This application solely seeks to amend the description of the development, with any changes to the scheme to be considered as part of the subsequent s.73 application.

On this basis, this application does not change any of the details approved under the planning permission, any of the conditions attached to the planning permission or the associated Section 106 legal agreement.

In our view, the proposed amendment is non-material, will not conflict with any planning policy or guidance.

Concluding Remarks

This application is made pursuant to Section 96a of the 1990 Act and proposes a non-material amendment to the description of development of the Planning Permission at Land at Cornbrook Road. This application does not seek to amend any of the approved details at this stage. For the reasons set out above, the proposed amendment is considered to be clearly non-material and therefore acceptable.

We trust that the information provided is sufficient to enable you to validate the application and progress it towards determination at the earliest opportunity. However, should you require any further information, please do not hesitate to contact me, or my colleague Dominic Holding, at this office.

Yours faithfully



Harry Russell

Planner

BA (Hons) MSc MRTPI