

Manchester City Council
Planning Services
Manchester
M60 2LA

FAO Steven McCoombe
Ref: 137425/FO/2023

24 September 2024

Dear Steven

Section 73, Town and Country Planning Act (1990) (TCPA) as amended.
577-579 Wilbraham Road – M21 9AF

On behalf of our client please find enclosed an application submitted under Section 73 of the TCPA (1990) for the variation of planning condition 02 attached to planning permission **137425/FO/2023**, as granted on 26 July 2023.

The description of this S73 application can be summarised as follows:

“2) Notwithstanding details submitted, no development that is hereby approved, shall commence unless and until samples and specifications of all materials to be used on all external elevations of the development have been submitted to and approved in writing 137425/FO/2023 Page 3 of 8 by the City Council as Local Planning Authority. The development shall only be implemented in accordance with the agreed materials. Reason - To ensure that the appearance of the development is acceptable to the City Council as Local Planning authority, in the interests of the visual amenity, pursuant to policies SP1 and DM1 of the Manchester Core Strategy.”

This application has been submitted electronically via the Planning Portal along with the following documents:

- Planning application forms (signed and dated)
- Cover Letter prepared by JH. A
- S73 Architectural Pack prepared by JH.A:
 - AV1.01 – Barlow Moor Road Elevation
 - AV1.02 – Wilbraham Road Elevation

A payment has been made via BACS to the Planning Portal in the total amount of £293.00 which is the requisite statutory planning application fee in this instance.

Background

Planning permission was granted by Manchester City Council on 26 July 2023 for an extension of GF Bank and FF / SF apartment building, at 577-579 Wilbraham Road, Chorlton-cum-Hardy Manchester. The description of the development as shown on the decision notice is: *Erection of a three storey rear extension and elevational alterations to the Barlow Moor Road and Wilbraham Road frontages, in connection with the creation of two retail units (Class E) on the ground floor with six self-contained flats above (Class C3)*

Proposed Amendments

This application seeks to vary planning condition 02 (materials) attached to **137425/FO/2023** in order to accommodate minor changes to the layout following a detailed design review / review with Manchester City Council highways and further review with adjacent property.

The High Court case of *Armstrong v Secretary of State for LUHCA* [2023] EWHC 176 (Admin) confirms that a S73 application can be used to make a material amendment by varying or removing conditions associated with a planning permission. The judgement confirms that there is no statutory limit on the degree of change permission to conditions under S73, but the change must only relate to conditions and not to the operative part of the permission.

The proposed amendments do not change the operative part of the permission and as such an application to vary the existing condition under S73 is appropriate in this instance. The principle of this approach was discussed and agreed with the case officer via email.

The proposed changes are shown in the updated drawing pack and summarised as follows:

AV1.01 – Barlow Moor Road Elevation

- Variation of external material finish on floor levels 1 and 2 on the existing building element only. The decision to make these amendments became apparent to the client following tests to remove the external render and existing fascia panels (features added to the existing building by the previous owner). The proposal seeks to make sensible alteration to the existing application, as seen in the attached document, the condition of the brickwork is poor, there is a patchwork of brick types, both imperial and metric, and behind the existing HSBC fascia, the brick is non-existent altogether. Therefore, the existing proposal would detract from the buildings structural and aesthetic quality with poor exposed patchwork brick. It was anticipated in early planning discussions that the existing brickwork beneath the render is to be examined at the construction stage, and a secondary approach was to be investigated if required.

AV1.02 – Wilbraham Road Elevation

- Variation of external material finish on floor levels 1 and 2 on the existing building element only. The decision to make these amendments became apparent to the client following tests to remove the external render and existing fascia panels (features added to the existing building by the previous owner). The proposal seeks to make sensible alteration to the existing application, as seen in the attached document, the condition of the brickwork is poor, there is a patchwork of brick types, both imperial and metric, and behind the existing HSBC fascia, the brick is non-existent altogether. Therefore, the existing proposal would detract from the buildings structural and aesthetic quality with poor exposed patchwork brick. It was anticipated in early planning discussions that the existing brickwork beneath the

Schedule of Amended Drawings

For ease of reference, the schedule below sets out the previously approved drawing references listed under planning condition 03 and the updated drawings which form part of this S73 application. Please note that not all of the previous drawings were included as approved drawings in planning condition 03, however they were submitted and consulted on as part of application **137425/FO/2023** and accepted by the Planning Officer and Technical Consultees.

Should this S73 application be approved, it is requested that all updated plans are listed as approved drawings on the decision notice for the avoidance of doubt.

Previous Drawing Reference	Current S73 Drawing Reference
Elevation – Barlow Moor Road – AV.01 – REV F	Elevation – VP01-C-AV1.01 – REV J
Elevation – Wilbraham Road – AV.03 – REV F	Elevation – VP01-C-AV1.02 – REV I

Planning Conditions

The following list of pre-commencement conditions attached to **137425/FO/2023** have all been discharged under application ref: CDN/24/0235 approved on 11 June 2024 which means that the development can now lawfully commence:

Condition 2 (materials)
 Condition 4 (CMP)
 Condition 5 (air quality)
 Condition 7a (external plant)
 Condition 8a (noise/overheating)
 Condition 16 (ES)

Should this section 73 application be approved, it is requested that these pre-commencement conditions are not reinstated on the decision notice, but instead new conditions are added which require the development to comply with the approved documents.

Yours sincerely,

Josh Greenfield