Our ref: Q240720/SB/EL
Your ref: 137589/JO/2023
Email: Sam.baggaley@quod.com
Date: 26 September 2024

Jennifer Atkinson
Planning
Manchester City Council
PO Box 532
Manchester
M60 2LA

By Planning Portal: PP-13431369

Dear Jennifer,

Section 96a of the Town and Country Planning Act 1990 (as amended) Non-Material Amendment Pursuant to Planning Permission Reference 137589/JO/2023 Swan House, Swan Street, Manchester M4 5DF

Please find enclosed a S96a application or non-material amendment (NMA) application submitted on behalf of Ridge Manchester s.a.r.l (the "Applicant") pursuant to planning permission 137589/JO/2023 (the "Consent") at Swan House, Swan Street, Manchester (the "Site").

The Consent for a part 31, part 13, part 5 storey residential development of 385 dwellings with ground floor commercial space was approved on 24th October 2019 (121380/FO/2018) and the development commenced in February 2021. It has since been amended via a Section 73 application, consented on 19th June 2024, i.e. the Consent. The residential element of the development has since been occupied this year and this application is, therefore, made in relation to the commercial units at ground floor level.

This NMA seeks to amend the wording of Condition 42 (Ground Floor Windows) to allow the Applicant greater flexibility to display signage in the windows ahead of the units being occupied. As currently worded, the Condition would preclude the installation of any advertisements or signage. This application proposes to amend Condition 42 to provide greater flexibility whilst ensuring the Council maintain control over any proposed advertisements in the Ground Floor Windows in order to ensure an active frontage/streetscene is maintained.

The application comprises the following submission documents:

- Completed Application form.
- Requisite application fee.
- This Cover Letter, setting out the key planning considerations and why the proposed amendments are non-material.

The application has been submitted via the Planning Portal (reference: PP-13431369) and payment of £293 (exclusive of £70 Planning Portal service charge) has been made in accordance with the Town and Country Planning (Fee for Applications, Deemed Applications, Requests and Site Visits (England) Regulations 2012 (as amended).

Relevant Non-Material Amendment Guidance

The National Planning Practice Guidance (PPG) accepts that new issues may arise after planning permission has been granted which require modification to the approved planning permission (Paragraph: 001 Reference ID: 17a-001-20140306). Where less than substantial changes are proposed and the development remains consistent to an approved description of an existing planning permission, it is appropriate to pursue amendments through a section 96a application.

What is deemed to be 'non-material' is a matter of judgment, determined on a matter of "fact and degree" and in the context of the specifics of the proposal (NPPG Paragraph: 002 Reference ID: 17a-002-20140306). Any changes to a planning permission must, therefore, be considered against the overall context of the development, and those changes that are non-material are those that:

- Retain the purpose and spirit of the original consent.
- Give rise to a proposal which remains consistent with the approved description of development.
- Will not result in any significant change to the type, amount, or nature of the development to take place.

TCPA 1990, s 96A paragraphs 1 and 2 are clear that Local Planning Authorities (LPA's) have the power to make a change to a planning permission to impose new conditions or remove or alter existing conditions if they are satisfied that the change is non-material as is the case with this application as presented.

Proposed Condition 42 Amendment

Condition 42 as existing reads as:

> *All windows at ground level, unless shown otherwise on the approved drawings detailed in condition 2, shall be retained as a clear glazed window opening at all times and views into the premises shall not be screened or obscured in any way.*
>
> *Reason - The clear glazed window(s) is an integral and important element in design of the ground level elevations and are important in maintaining a visually interesting streetscene consistent with the use of such areas by members of the public, and so as to be consistent with saved policy DC14 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.*

It is proposed to amend Condition 42 as follows:

> *All windows at ground level, ~~unless shown otherwise~~ as shown on the approved drawings detailed in condition 2, shall be retained as a clear glazed window opening at all times and views into the premises shall not be screened or obscured ~~in any way~~ unless otherwise agreed in writing by the City Council as Local Planning Authority or permitted without express consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).*
>
> *Reason - The clear glazed window(s) is an integral and important element in design of the ground level elevations and are important in maintaining a visually interesting streetscene consistent with the use of such areas by members of the public, and so as to be consistent with saved policy DC14 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.*

This amendment seeks to allow greater flexibility for the Applicant to introduce advertisements, as is typical for any commercial unit. The amendment to the condition will still leave the control of whether to accept any proposed obscuring of the glazed windows with Manchester City Council (MCC). It is also relevant to note that advertisements are also controlled by a separate regulation in the form of the Advertisement Regulations[1] which allow for greater assurance that MCC can ensure a "*visually interesting streetscene*" is maintained as referred to in Condition 42, and is also the desire of the Applicant.

Therefore, the amendment to this condition will have no material impact on the purpose or spirit of the condition and can be considered to have no material impact on the wider consent. It does not give rise to a proposal inconsistent to the approved description, and nor does it significantly change the type, amount, or nature of the development to take place.

The alternative wording proposed is consistent with other recently consented planning conditions issued by MCC.

Summary

Overall, the amendment to Condition 42 proposed by this NMA is required to allow for the Applicant and future commercial operators of the commercial units that the ground floor windows are a part of to have some level of obscuration to the windows in the form of advertisements. This condition needs to be amended for the sake of good order and to ensure that any potential advertisement that is brought forward is not in direct breach of this condition.

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[1] The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

As explained the proposed amendment is demonstrably non-material in the context of the wider scheme that has brought forward 385 dwellings. Furthermore, the amendment does not change the purpose or spirit of Condition 42 either and the control of whether any proposed obscuring or screening is acceptable remains with MCC.

I trust the above is acceptable and I look forward to receiving conformation of formal validation in due course. Please do not hesitate to contact me if you require any further information.

Yours sincerely



Sam Baggaley
Assistant Planner