

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

Refusal of details reserved by condition

Applicant

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Agent (if used)

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Part 1 – Particulars of the application/development

Proposal: Discharge of conditions 9 (A3 acoustics), 11 (external equipment acoustics) and 12 (roof top acoustics) attached to planning permission 126476/JO/2020

Location: 40 Fountain Street, Manchester, M2 2BE

Date of application: 12 July 2021

Application number: CDN/21/0519

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.

A3 Acoustics

Condition 9 - A3 Acoustics

Condition 9 cannot yet be discharged as insufficient information has been provided. The following has not been submitted:

- Details of door performance and details of how the internal noise level will be set and subsequently controlled;
- Verification of the noise level achieved rather than a predicted level.

Given the above, Condition 9 is not hereby discharged.

External Equipment Acoustics

Condition 11 - External Equipment Acoustics

Condition 11 cannot yet be discharged as insufficient information has been provided. The following has not been submitted:

- i. The assessment has suggested a plant limit of 50dBA. However, the assessment needs to be based on Manchester City Council's (MCC) plant noise criteria of 5dB below the background at the nearest receptor, including offices. Whilst the predicted assessment would look like the plant noise would meet MCC's criteria (in this instance 42dBA), the report would need to be updated accordingly to address this;
- ii. An assessment of plant noise associated with A3 use kitchen extraction equipment has not been included. The kitchen extraction system would need to be assessed as part of a cumulative noise impact assessment including the AHU's;
- iii. Residential properties on the upper floors of 3 York Street should be considered as receptors within the assessment; and
- iv. A validation noise assessment rather than predicted noise level assessment is required. This will need to demonstrate the cumulative noise impact of all the plant operating.

Given the above, Condition 11 is not hereby discharged.

roof top acoustics

Condition 12 - Roof Top Acoustics

Condition 12 cannot yet be discharged as insufficient information has been provided. The following has not been submitted:

- i. The verification report includes an assessment of noise breakout from the roof terrace. However, the assessment methodology is not acceptable as the assessment should be based on at least 50% of occupiers speaking in the external area;
- ii. Residential properties on the upper floors of 3 York Street should be considered as receptors within the assessment;
- iii. Comment and assessment of any noise from within the premises leading out onto the roof terrace. If there are music / entertainment noise sources in the room leading onto the roof terrace an assessment of noise breakout is required. If the roof terrace is to be closed off from the internal noise source by doors or a lobbied entrance, comment and confirmation is required of this, along with the performance specification of any proposed glazing or lobbied doors.

Given the above, Condition 12 is not hereby discharged.

Date: 16 May 2024

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.