

29th February 2024

Delivered via Planning Portal

Jennifer Atkinson
Principal Planning Manager
Development Management Central Core
Planning Building Control and Licensing - Growth and Development
Manchester City Council

Dear Jennifer,

MANCHESTER FORT SHOPPING PARK AND MCDONALDS – APPLICATION PURSUANT TO SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR THE AMENDMENT TO PLANNING PERMISSION REF. 111260/JO/2016/N1 (REMOVAL OF LINK ROAD AND REGULARISATION WITH MCDONALDS APPEAL DECISION)

On behalf of Nuveen Real Estate ('the applicant'), I am pleased to enclose an application for the approval of an amendment to planning permission ref. 111260/JO/2016/N1. The application is made pursuant to the provisions of Section 73 of the Town and Country Planning Act ("TCPA") 1990 (as amended).

This application is submitted via the Planning Portal (ref. PP- 12858504).

This application is supported by:

Site Location Plan	24122-105-P-00
Proposed Site Plan	24122-6001 P-00
Vehicle Tracking Plan	24122-6005 00

BACKGROUND

Manchester Fort Shopping Park is a key retail destination serving the needs of North Manchester and is owned by the applicant. Planning permission was first granted in April 2014 for a development within and immediately adjacent to Manchester Fort for a development in line with the following description (LPA ref. 104616/FO/2014/N1):

"Erection of two-storey (Use Classes A3/A5) drive-through restaurant facing Queens Road and erection of single-storey (Use Class A3) restaurant, together with formation of link road to connect the proposed

1 New York Street
Manchester
M1 4HD

T 0161 233 7676 turley.co.uk

development sites, and associated car parking, landscaping, boundary treatment and other associated works, following demolition of former Irish World Heritage Centre.”

The permission has been varied (by way of Section 73 application) four times, in addition to the approval of two non-material amendments (Section 96a applications). The most recent permission relating to the development is planning permission ref. 132796/JO/2022 which was allowed on appeal (Planning Inspectorate ref. APP/B4215/W/22/3304464) in February 2023. This permits 24/7 operation of the Class A3/A5 drive-through restaurant. The preceding permission, to which this current Section 73 application is seeking to amend is planning permission ref. 111260/JO/2016/N1 which approved a substitution to the acoustic fence screening the A3/A5 unit from Signet Walk to the west.

The reason for amending planning permission ref. 111260/JO/2016/N1 as opposed to 132796/JO/2022 is due to the fact that the latter amended the original permission, and therefore does not reflect the amendments or details approved during the intervening period. In order to not prejudice the ability to implement longer opening hours as secured within the most up-to-date permission however, these are proposed to be included within this Section 73 application. This Section 73 application therefore brings together the proposed amendment along with the other approved amendments, into one place/permission for completeness. A more detailed summary of the planning history is set out under **Appendix 1** of this covering letter.

The approved development has been partially implemented in so far as the erection of a Class A3/A5 drive-through restaurant which opened in 2016 and continues to be operated by McDonalds. No other element of the approved development has been implemented – that being a Class A3 unit within the main shopping park or the formation of a through route/ link road connecting Queens Road and McDonalds to the shopping park.

AMENDEMENTS

Removal of Link Road

The only new change proposed to the approved development is to omit the through route/ link road which is shown connecting Queens Road and McDonalds to the main shopping park by utilising the existing service route to the east of the detached ‘Halfords’ unit. The link road was a proposition of the original application in order to provide an alternative route into the shopping park when travelling from the east along Queens Road. The road is only of sufficient width to allow one-way traffic and is not required to make the development acceptable in highway safety terms. The link road is not required for the operation of McDonalds which is currently operating without this link road.

The proposed amendment is required for reasons of commerciality with tenancies at the shopping park due for renewal and the requirement to deliver the link road deemed onerous, and to formalise the current operational access arrangements.

It is therefore proposed to omit the following conditions:

13) The approved 'Box-junction' signing and lining scheme, reference drawing 60308812-D-1200-002, designed to warn motorists of the wide manoeuvring space required by delivery vehicles making the left-turn within The Fort, adjacent to Halfords, shall be implemented prior to the first public use of the internal link ramp, and shall be so maintained.

14) The approved cycle link details, including road markings, and precise location, reference drawing 60308812-D-1200-002, shall be implemented prior to the first public use of the internal link ramp, and shall be so maintained.

16) In the event issues are identified by the City Council as local planning authority with regards to the new access road being used as a 'rat run' or 'short cut' , full details of the signage measures to discourage this usage, and timeframe for delivery of these measures, shall be submitted to the City Council as local planning authority for approval in writing. The approved details shall be implemented within the approved timeframe, and shall be so maintained.

32) The approved link road from Queens Road into Manchester Fort Shopping Park shall be delivered within two years of the A3/A5 drive-through restaurant commencing use, and shall be so maintained whilst the use is in operation.

It is also necessary to substitute the approved drawings listed at Condition 2 indicating the link road as set out below:

Drawing Name	Approved Ref.	Proposed Ref.
Proposed Site Plan	6001-F, received 6/3/14	24122-6001 P-00
Vehicle Tracking Plan	6005-E, received 6/3/14	24122-6005 00

In summary, removing the requirement to provide a link road can be deemed to be dealt with pursuant to Section 73 for a number of reasons. Firstly there was no explicit requirement to deliver the link road within the original planning permission, it is a distinct element of the approved development that can be removed without impacting on the ability to deliver the remainder of the development. The link road is not required to service or access the unimplemented A3 unit within the centre of the shopping park which would be serviced in accordance with previously approved details by the Council via the main entrance to the shopping park.

The link road is not required to make the development acceptable in highway safety terms and was simply included so as to provide an alternative, albeit one-way route, into the shopping park for users accessing the A3/A5 restaurant. The route into the shopping park for vehicles, pedestrians or cyclists alike travelling west from Queens Road remains available via the main entrance at Cheetham Hill Road and this access is both entirely suitable and the most appropriate, including for any users who wish to combine a visit to the A3/A5 restaurant and the shopping park.

Removing reference to the link from road from the permission therefore has no impact on the intended use of the approved development, nor does it influence the reasoning for the grant of the original permission (i.e. it is not integral to the development or required to make the development acceptable). The development will remain compliant with Core Strategy Policies DM1 (Development Management) and T2 (Accessible areas of opportunity and need) used to determine the original permission.

Incorporation of Extended Operating Hours

As set out above, McDonalds secured planning permission to allow 24/7 operation of the class A3/A5 unit although the permission did not vary the most up-to-date permission relating to the development. In confirming the implementation of permission ref. 111260/JO/2016/N1 and so as to not prejudice the ability for McDonalds to operate 24/7 it is proposed to incorporate the updated approved hours within this new permission (if granted pursuant to this Section 73 application). To this extent it is proposed to amend the following conditions as follows:

Condition 3 Wording pursuant to 111260/JO/2016/N1	<i>The A3/A5 premises and the A3 premises shall not be open outside the following unit specific hours:</i> <i>A3/A5 McDonalds Unit only 6:00 to 23:00 daily</i> <i>A3 Frankie and Benny's Unit only 9:00 to 23:00 daily</i>
Proposed Amended Wording to Condition 3 as per approved wording of 132796/JO/2022	<i>The A3 premises shall not be open outside of the hours of 09:00 to 23:00 daily. For the avoidance of doubt, the A3/A5 restaurant (McDonald's) may operate 24 hours a day, seven days a week.</i>

Proposed Amendments to Condition No. 3

In addition to the above a revised Noise Management Plan was approved as part of planning permission ref. 132796/JO/2022. In order to tie the revised Noise Management Plan to this new permission (if granted pursuant to this Section 73 application) the additional amendment is also necessary:

Condition 18 Wording pursuant to 111260/JO/2016/N1	<i>The approved Noise Management Statement for the A3/A5 use, reference Version 4, received 19/2/15, and drawing 4593_8604_0104 Rev. B, received 25/2/15, and details of posts, received 25/2/15, shall be implemented prior to the first operation of the unit, and shall be so maintained.</i>
Proposed Amended Wording to condition 18 as per approved wording of 132796/JO/2022	<i>The restaurant and associated 'drive-thru' facility shall be operated in accordance with the Premises Noise Management Plan, set out as Appendix B of the Noise Impact Assessment Report No 14-0167-82 R01 dated 17 November 2021 and the Site Management Plan.</i>

Proposed Amendments to Condition No. 18

This is purely a regularisation exercise which effectively amalgamates what is already consented into one permission.

SUMMARY

The link road isn't required to make the wider development acceptable, and it is not a highway safety or planning policy requirement. Incorporating extended operating times would also simply amalgamate what has been consented through a more recent grant of planning permission. Overall the amendments and regularisation exercise can therefore be deemed acceptable to be considered pursuant to Section 73 of the TCPA.

I trust that the above is in order for you to validate and determine the application within the 28 days defined by the Act, but please do let me know if you have any specific questions.

Yours sincerely

Steven Healey
Senior Planner

Appendix 1: Planning History

Application ref.	Description	Status
104616/FO/2014/N1	Erection of two-storey (Use Classes A3/A5) drive-through restaurant facing Queens Road and erection of single-storey (Use Class A3) restaurant, together with formation of link road to connect the proposed development sites, and associated car parking, landscaping, boundary treatment and other associated works, following demolition of former Irish World Heritage Centre.	Approved April 2014
105679/JO/2014/N1	Variation of condition Application for the variation of conditions 3, 13, 14, 15, 16 and 26 of planning approval 104616/FO/2014/N1 to allow a phased development and amendments to wording.	Approved July 2014
106461/NMC/2014/N1	Non material amendment to planning permission 105679/JO/2014/N1 to allow for elevational alterations	Approved August 2014
106742/NMC/2014/N1	Application for a non-material amendment to Planning Approvals 104616/FO/2014/N1 and 105679/JO/2014/N1, in terms of the materials to be used on the corner shields of the A3/A5 McDonald's building.	Approved September 2014
108486/JO/2015/N1	Variation of condition 28 'BREEAM' of planning permission 105679/JO/2014/N1 to allow submission of review certificate to be submitted within 3 months of first occupation	Approved July 2015
111260/JO/2016/N1	Variation of planning condition 20 of planning permission 108486/JO/2015/N1 to change specification of acoustic fence	Approved July 2017
131454/JO/2021	Variation of planning condition 3 of planning permission 104616/FO/2014/N1 to allow 24 hour trading	Refused November 2021

1 New York Street
Manchester
M1 4HD

T 0161 233 7676 turley.co.uk

"Turley is the trading name of Turley Associates Limited, a company (No. 2235387) registered in England & Wales. Registered office: 1 New York Street, Manchester M1 4HD."

132796/JO/2022	Variation of planning condition 3 of planning permission 104616/FO/2014/N1 to allow 24 hour trading	Refused April 2022, Allowed on Appeal February 2023
----------------	---	---
