

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137973/JO/2023

Date registered valid: 4 September 2023

Proposal: Proposal to vary conditions 2 (Specified Plans) and 9 (Furniture) of permission 132373/FO/2021

Address: 2 Spinningfields Square, Manchester, M3 3AP

Ward(s): Deansgate Ward

Applicant: Rebecca Caprice Holdings Ltd

Agent (if any): Miss Rebecca Dennis Pegasus Group

Case officer: Max Gibson
Tel: 0161 219 6359
Email: maximillian.gibson@manchester.gov.uk

Recommendation: Approved

Date of recommendation: 15 November 2023

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Date of site visit:

Standard consultations:

Printed: 6 September 2023

Expired: 27 September 2023

Neighbour notifications

Printed: 6 September 2023

Expired: 27 September 2023

Site notice

Posted: 20/09/2023

Expired: 11/10/2023

Press advert

Published: 12 September 2023

Expired: 26 September 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

2 Spinningfields Square is of a high quality and is considered a landmark building that has scissor geometry, angled upper storeys that realign the east-west axis towards Hardman Square at the heart of Spinningfields. The trapezoidal form of the building's plan is echoed in the vibrant glazing which animates the elevations and creates a unique experience inside the building.

Listed building: Not applicable

Conservation area: Deansgate Conservation Area 1985

Tree Preservation Order: n/a

Description of area

The application site is located within the Spinningfields area of Manchester City Centre which contains a mixed of uses including financial and professional services as well as leisure uses. It is bounded by Deansgate, the River Irwell, Quay Street and Bridge Street. The site is located within Deansgate Conservation Area and is adjacent to John Rylands Library, which is a Grade I listed building.

Description of development

The application relates to a variation of Conditions 2 (Specified Plans) and 9 (Furniture). At present these allow for an outside seating area until 23:00, at which time the furniture is to be removed and stored internally. The application seeks to vary these conditions to allow for the furniture to remain outside, albeit secured from use, until the restaurant closes.

Consultations & Notification Responses

Publicity - a notice was displayed on site advertising the works as those affecting a conservation area and the setting of a listed building. Letters were sent to surrounding occupiers notifying

them of the development. A notice was posted in the local press advertising the works as those affecting a conservation area and the setting of a listed building.

Highways Services - no objection in principle as not placed on adopted highway. Satisfied that there would be sufficient room for pedestrian movement.

Environmental Health - accept that that door staff will be responsible for ensuring the external seating area will not be accessed by customers from 23.00-03.00, the seating and tables would need to be brought inside when the premises closes.

Design for Security at Greater Manchester Police - preference for furniture to be stored securely to prevent anti-social behaviour.

Issues

The main policies that relate to this application are DM1 (Development Management) and SP1 (Spatial Principles) of the Manchester Core Strategy (2012) and saved policy DC26 (Development and Noise) of the Unitary Development Plan for Manchester (1995).

Principle/Amenity

The original permission for the ground floor restaurant at 2 Spinningfields Square included a condition for tables and chairs to be removed from the public realm and stored inside the restaurant once the outdoor area had closed at 23:00. The application seeks to vary the condition to allow the external furniture, including tables, chairs and parasols to be left outside until the restaurant has closed, at which point they would be removed to be securely stored inside the restaurant.

There are concerns that the creation of a permanent outdoor seating area on Spinningfields Square would leave the furniture open to misuse. The seating area could be used to congregate outside of opening hours, leading to a potentially unacceptable increase in noise levels that would be harmful to visual amenity, whilst loitering late at night can increase the fear of crime. Furthermore, there are concerns that the furniture could create clutter on the building's primary elevation to the detriment of visual amenity.

Hence, a condition was attached to app. ref. 132373/FO/2021 that requires the external furniture to be removed and placed inside the building to prevent any unacceptable amenity impacts. The condition requires the furniture to be removed at 23:00 when the external area is required to close. However, the restaurant is permitted to operate until 02:30 Mon-Thurs and 03:30 Fri-Sun and there is not sufficient storage space for the furniture inside the restaurant whilst it is still operational.

The proposal would see the condition varied to allow the furniture to remain outdoors until the restaurant itself has closed. The furniture would be stacked externally from 23:00 until the restaurant closes to preclude use. Door staff would monitor the external area to ensure it is not used during this period and any individuals congregating there are dispersed. Within 30 minutes of the restaurants approved closing time, all external furniture would be removed inside to be stored internally. These measures are outlined in the operating strategy submitted in support of the application.

The storage of the furniture inside when the restaurant is closed would physically preclude the furniture from misuse that would create an increase in background noise levels or antisocial behaviour which would lead to an unacceptable level of disamenity. It would also prevent the creation of permanent clutter on the building's primary elevation or on Spinningfields Square.

The proposal, by virtue of the measures outlined in the operating strategy, is considered acceptable pursuant to policies DM1 and SP1 of the Manchester Core Strategy and saved policy DC26 of the Unitary Development Plan for Manchester.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approved

Article 35 Declaration

In assessing the merits of a planning application officers worked with the applicant in a positive and proactive manner to seek solutions to problems arising in relation to dealing with the planning application.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

- 1) The development must be begun not later than 26.05.2025.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Received by the City Council as Local Planning Authority on 01 December 2021:

- Site Location Plan and Block Plan (ref: 464)
- Existing Basement Plan (ref: 464-101);

- Existing Ground Floor Plan (ref: 464-102);
- Existing Mezzanine Floor Plan (ref: 464-103);
- Existing External Elevation (ref: 464-104);
- Proposed GA Ground Floor Plan (ref: 464-201-S)
- Proposed External Elevations Plan (ref: 464-205-D);
- Proposed External Signage Plan (ref: 464-206);
- Proposed External Structure Plan (ref: 464-901-B);
- Caprice Manchester External Furniture Schedule;
- Sexy Fish Manchester External Furniture Visual;
- Noise Assessment, prepared by ACA Acoustics;
- Heritage Statement, prepared by Pegasus Group;
- Operating Schedule, prepared by Pegasus Group; and
- Crime Impact Assessment, prepared by GMP

Received by the City Council as Local Planning Authority on 15 December 2021:

- Waste Management Proforma

Received by the City Council as Local Planning Authority on 22 February 2022:

Proposed GA Plan - Basement ref 4322 / 464 / 203 / F

Background Sound Level Survey ref. 211004-R002 date: 16th February 2022
Addendum Report ref 211004-R003 date: 16th February 2022

Received by the City Council as Local Planning Authority on 03 February 2022:

Proposed External Structure 4322 / 464 / 902

Proposed External Structure - Side Section ref. 4322 / 464 / 903

Received by the City Council as Local Planning Authority on 04 March 2022

Addendum Report ref. 211004-R004

Received by the City Council, as Local Planning Authority, on 13 September 2023:

PROPOSED EXTERNAL SEATING - DETAILS ref.7330 / 238 / A

Received by the City Council, as Local Planning Authority, on 10 November 2023:

Supporting Information (KR | P21-1009 | R002) V5 OPERATING SCHEDULE REV B

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Core Strategy.

3) Prior to any above ground works, samples and specifications of all materials to be used on all external elevations of the development shall be submitted to and approved in writing by the City Council as local planning authority.

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 of the area within which the site is located, as specified in policies SP1 and DM1 of the Core Strategy.

4) The restaurant and proposed extension hereby approved shall only be open between the following hours:

Sunday - Wednesday - 08:00 to 02:30
Thursday - Saturday - 08:00 to 03:30.

The external seating area to the front of the unit hereby approved shall only be open between the following hours

-Daily between 08:00 and 23:00

There shall no use of amplified sound or any music within the external seating area at any time.

Reason - To safeguard the amenities of the occupiers of nearby properties pursuant to policies DM1 of the Core Strategy and UDP Policy DC26.

5) a) The premises shall be acoustically insulated and treated in accordance with the submitted information: Acoustic Assessment referenced 211004-R001A prepared by ACA Acoustics dated 29 October 2021 and Acoustic Assessment addendum report reference 211004-R005 dated 20th May 2022. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as local planning authority.

Where entertainment noise is proposed the LAeq (entertainment noise) shall be controlled to 5dB below the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive location, and internal noise levels at structurally adjoined residential properties in the 63Hz and 125Hz octave frequency bands shall be controlled so as not to exceed (in habitable rooms) 47dB and 41dB (Leq,5min), respectively.

b) Prior to occupation of the development a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties in accordance with Core Strategy Policies DM1 and SP1 and Saved UDP Policy DC26.

6) The approved scheme for the storage and disposal of refuse 'Waste Management Proforma' received by the City Council as Local Planning Authority on 15 December 2021 and 'Proposed GA Plan - Basement ref 4322 / 464 / 203 / F' received by the City Council as Local Planning Authority on 22 February 2022 shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In order to ensure that adequate provision is made within the development for the storage and recycling of waste in accordance with policies DM1 and EN19 of the Core Strategy for the City of Manchester.

7) Should the proposed extension no longer be required, it should be removed and the building facade re-instated to its original appearance.

Reason - In the interest of visual amenity pursuant to Core Strategy Policies SP1, DM1 and EN3.

8) The development hereby approved shall comply with the recommendations contained within sections 4 and 5 of the submitted Crime Impact Statement prepared by Greater Manchester

Police and referenced 2007/0857/CIS/03 received by the City Council as local planning authority on 01 December 2021. These measures shall be fully implemented prior to occupation and shall be maintained for the duration of the uses hereby approved. The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of Secured by Design accreditation.

Reason - To reduce the risk of crime pursuant to policies SP1 and DM1 of the Core Strategy and to reflect the guidance contained in the National Planning Policy Framework.

9) Outside of the hours of the restaurant and proposed extension approved under Condition 4, all external furniture including tables, chairs, parasols and barriers shall be moved to the inside of the premises.

Reason - In the interests of amenity in order to reduce noise and general disturbance in accordance with policy DM1 of the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Unit 2A, Spinningfields Square, Manchester, M3 3AP
Seventh Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Sixth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Ninth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Eight Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Fifth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Tenth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Fourth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Second Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Ground Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Basement, Centurion House, 129 Deansgate, Manchester, M3 3WR
Eleventh Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
First Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
John Rylands Library, 148 - 158 Deansgate, Manchester, M3 3EH
Advertising Right Outside 1, Spinningfields Square, Manchester, M3 3AP
1 Spinningfields Square, Manchester, M3 3AP
Australasia, 2 Spinningfields Square, Manchester, M3 3AP
Left, 133 Deansgate, Manchester, M3 3RW
Third Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Unit 3A, Spinningfields Square, Manchester, M3 2BA
Unit G22, 2 Spinningfields Square, Manchester, M3 3AP
164 Deansgate, Manchester, M60 6DS

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - Deansgate Conservation Area 1985
Area Team Boundary - Name: CENTRAL