

P21-1009_LO13v2_PL_MAN_RD

01 September 2023

Manchester City Council
Planning
PO Box 532
Manchester
M60 2LA

Dear Sir / Madam

Town and Country Planning Act (As Amended) 1990
Variation of Condition 2 and Condition 9 of Application 132373/FO/2021
2 Spinningfields Square, The Avenue, Manchester, M3 3AP

Introduction

We have been instructed on behalf of our client, Caprice Holdings Ltd (the Applicant), to submit an application under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 and Condition 9 of application 132373/FO/2021.

Application 132373/FO/2021 grants permission for the erection of single storey extension, the creation of an external seating area and external alterations to the existing building at 2 Spinningfields Square, Manchester, M3 3AP.

Condition 2 of 132373/FO/2021 lists the approved drawings and documents to ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Core Strategy. Following the granting of permission for the external seating area, which comprised tables and chairs, the external seating area has been refined to include barriers and parasols which are shown on the drawing provided. We propose that Condition 2 is reworded accordingly.

Condition 9 of 132373/FO/2021 states:

Outside of the hours of the external seating area, all external furniture including tables, chairs 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.

The external seating area will close before the restaurant. The way that the condition is worded, it requires the external furniture to be brought into the restaurant when the external seating area is closed but the restaurant is still open. There is no space within the restaurant to store the external furniture when the restaurant is open without it conflicting with the operation of the restaurant. As

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such, this S73 application seeks approval for a variation to Condition 9 so that the external furniture is brought inside when the restaurant is closed.

The S73 application comprises:

- Planning Application Form, including relevant Ownership Certificates
- Proposed External Seating License Plan (ref: 7330 / 237 / A)
- Operating Schedule Rev A, prepared by Pegasus Group

Planning Appraisal

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

As mentioned, the S73 application seeks to vary Condition 2 and Condition 9. These conditions are pursuant to the following two policies:

- Policy SP1 Spatial Principles; and,
- Policy DM1 Development Management.

It follows that it is these two policies which are relevant in the assessment of the proposal to bring the external furniture inside when the restaurant is closed, rather than open.

Once the external seating area is closed at 23.00 the tables, chairs, barriers, and parasols will be rendered unusable. Doormen will have visibility of the external seating area and will manage the area so that there is it is not used in an unauthorised matter. Once the restaurant closes the doormen will bring external furniture indoors. The Operating Schedule Rev A demonstrates that the proposed development will ensure that the proposal will not conflict with the requirements of Policy SP1 Spatial Principles and Policy DM1 Development Management.

Schedule of Conditions

The table below provides details of the suggested wording of Condition 2, Condition 3 and Condition 9. It to be read in conjunction with the separate S73 application for the smaller single storey extension.

Condition	Proposed Wording	Rationale
Condition 2 (Approved Plans)	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)	Condition 2 needs rewording so that it refers to the relevant plans and documents. This proposed wording takes into account the separate S73 application for the smaller single storey extension, this

	-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-RO02 date: 16th February 2022 Addendum Report ref 211004-RO03 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-RO04 <u>Received by the City Council as Local Planning Authority on 27 January 2023:</u> <u>PT-01 Farrow and Ball 'Breakfast Room Green'</u> <u>SF-04 Dicksons External Awning Fabric in 'VERT' ORG 0003</u> <u>MT-02 Brass Details</u> <u>Euromarble Ltd Type: Honed Antique Brown</u> <u>ST-01 'Verde Esmerelda' Marble</u> <u>Received by the City Council as Local Planning Authority on 24 August 2023:</u> <u>Proposed GA Plan – Ground Floor (ref: 7339-202-AA)</u> <u>Proposed External Elevations (ref: 7339-230-M)</u>	S73 application for the external seating area and the material samples. approved pursuant to CDN/23/0060. These amendments are proposed to Condition 2 so there is no doubt as to what is authorised by the approval.
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	<u>Heritage Statement, prepared by Pegasus Group</u> <u>Received by the City Council as Local Planning Authority on 01 September 2023:</u> <u>Operating Schedule Rev A</u> <u>Proposed External Seating License Plan (ref: 7330 / 237 / A)</u> 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.	
Condition 3 (Materials)	~~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.~~	Condition 3 is no longer required and could be removed as the material samples have been approved pursuant to CDN/23/0060.
Condition 9 (External Seating Area)	Outside of the hours of the ~~external seating area~~ <u>restaurant</u>, all external furniture including tables, chairs, ~~and barriers and parasols~~ shall be moved to the inside of the premises.	The restaurant is open later than the external seating area, and there is no space within the restaurant to store the external furniture when the restaurant is open without it conflicting with the operation of the restaurant. As such, permission is sought for a variation to Condition 9 so that the external furniture is brought inside when the restaurant is closed. The Operating Schedule Rev A provided details of how the external seating area will be managed. The Operating Schedule Rev A demonstrates that the proposal accords with Policy SP1 Spatial Principles and Policy DM1 Development Management.

We trust the content of this letter are clear and we look forward to receiving confirmation that the application has been validated.



Yours sincerely,

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Associate Planner

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