

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

Refusal of details reserved by condition

Applicant

Airshack Projects Ltd
396 Wilmslow Road
Manchester
M20 3BN

Agent (if used)

David Ormesher
Holborow and Ormesher Ltd
Via Email

Part 1 – Particulars of the application/development

Proposal: Discharge of condition numbers 8 (Acoustic insulation) and 12 (Drainage) from planning approval reference 128939/FO/2019

Location: 25 Ladybarn Road, Manchester, M14 6WN

Date of application: 5 July 2022

Application number: CDN/22/0426

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.

Acoustic insulation

The information provided comprising of the product name of what is being fitted and details of where it is being installed, is inadequate to discharge this condition. There are no details showing the noise levels it will emit or proof that the MCC internal noise criteria will be met. The applicant must demonstrate that the MCC internal noise criteria will still be met if this equipment is installed. As there will be a discharge of the MVHR system, the applicant will also need to ensure that this complies with MCC's external plant condition:-

a) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. Prior to commencement of the use hereby approved the scheme shall be submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the site. 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.

b) Prior to the operation of the scheme a verification report shall be submitted to and approved in writing by the City Council as local planning authority to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic report. The report shall also undertake post completion testing to confirm that the noise 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 minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site.

Once work is complete the applicant will need to demonstrate that the recommendations of the Miller Goodall Noise assessment number 102573 have been implemented and provide a Verification Report to show that the MCC internal noise criteria and fixed plant noise criteria are being met."

As such, condition 8 of application 128939/FO/2019 is not discharged at the present time.

Drainage

The evidence provided to discharge condition No.12 is inadequate. For the condition to be re-considered for discharge, the following outstanding issues need to be presented:

The feasibility of discharging the site to the ordinary watercourse culvert located in Moseley Road should be considered, in accordance with the drainage hierarchy as stated within Building Regulations 2010 Document H. Only once this method of outfall has been considered and evidenced as unfeasible then it can be considered acceptable to discharge surface water into the public sewer.

Surface water drainage layout including discharge points, proposed attenuation and proposed overland flow routes for extreme events (up to a 1 in 100 year including 40% climate change allowance). - surface water drainage layout should also include position of existing public footway/highway.

Details of how the scheme shall be maintained and managed after completion.

As such, condition 12 of application 128939/FO/2019 is not discharged at the present time.

Date: 30 August 2022

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.