

Our ref: MA/DG/001-15A/L004m

Your ref: 16F/2027



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**S73 APPLICATION 16F/2027- ADDITIONAL CONDITIONS FOR CONSIDERATION (10, 23, 33, 34, 37 and 40).
LAND AT EDGE LANE RETAIL PARK, EDGE LANE, LIVERPOOL L13.**

Dear Jon

Further to our discussions and dialogue with our key tenants, it would be helpful if we could (as part of the current s73 application) agree to consider other conditions which impede the business models of tenants.

COND. REF	TOPIC COVERED	APPROVED TEXT	PROPOSAL
10	Trading Hours	With the exception of the supermarket (Unit 20A), the retail premises shall not be open for business outside the hours of 0700 to 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays	Vary
23	Delivery Hours	With the exception of the supermarket no loading or unloading, servicing, collections or deliveries shall be carried out on the site outside the hours of 0700 and 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays.	Vary
33	Convenience Goods Provision	The total net retail floorspace used primarily for food retailing shall not exceed 5017m ² including, for the avoidance of doubt, any mezzanine floorspace. For the further avoidance of doubt, the net retailing areas for such uses devoted to convenience products shall be not more than 3657m ² .	Vary
34	Retail Floorspace Comparison Goods	The total net retail floorspace used and available for general comparison goods retailing shall be no more than 18954 sqm including, for the avoidance of doubt, any mezzanine floorspace. Of this, at least 6856 sqm of the net floorspace hereby approved is for the following goods unless otherwise agreed in writing with the Local Planning Authority prior to implementation: watches, clocks and jewellery; books and stationery; health and beauty products; unrecorded and pre-recorded media; recreation goods, sports clothing and footwear; and fashion accessories (including handbags, briefcases and luggage).	Vary
37	Subdivision	There shall be no subdivision of the A1 retail units.	Vary
40	Concessions	There shall be no in-store concessions or subletting of retail floorspace without approval of the LPA.	Delete

The following text proposes an amended approach re these conditions and considers this against the framework of the NPPG as to the basis for the use of appropriate planning conditions.

Condition 10

This condition applies to all the units across the site (with the exception of the larger foodstore), some of which have a proximate relationship with residential receptors, and others that are less sensitive in noise terms.

A more satisfactory approach is to identify at the outset that there are parts of the site which are less sensitive and for the residual areas to rely on the previously approved trading hours which would apply generally. We suggest the following wording for condition 10 (changes shown in red):

"With the exception of the supermarket (Unit 20A), the retail premises shall not be open for business outside the hours of 0700 to 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays. *Notwithstanding the above, the retail units located within the area identified red on plan M8565-AEW-C23 shall not open for trade outside the hours of 0700 to 2200 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays.*

On the basis of the above, those units which are proximate to the railway line with no immediate residential receptors would have slightly relaxed evening trading hours controls reflective of their realistic potential for causing noise nuisance. It is noted that the Frankie and Benny and McDonald's restaurants in this vicinity have established trading hours into the late evening so there is no substantive change in character. For other units, the previously approved trading hours are maintained.

Condition 23

This condition applies to all the units across the site, some of which have a proximate relationship with residential receptors, and others that are less sensitive in noise terms. It also (as worded) provides no opportunity for the Council to consider measures to mitigate noise effects for the operation of certain parts of the site without having to vary the condition in its entirety.

A more satisfactory approach is to identify at the outset that there are parts of the site which are less sensitive and for the residual areas to provide a framework for additional information to be submitted and approved (through discharge of conditions) to secure extended hours. The proposed condition also provides a fallback position for acceptable servicing hours which would apply generally.

"Prior to the submission to and approval in writing of a Servicing Noise Mitigation Strategy, no loading or unloading, servicing, collections or deliveries shall be carried out on the site outside the hours of 0700 and 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays. Notwithstanding the above, no loading or unloading, servicing, collections or deliveries shall be carried out to units located within the area identified red on plan M8565-AEW-C23 outside the hours of 0500 and 2345."

On the basis of the above, those units which are proximate to the railway line with no immediate residential receptors would have slightly relaxed servicing controls reflective of their realistic potential for causing noise

nuisance. For other units, the previously approved servicing hours are maintained but a mechanism is introduced whereby information could be approved through planning condition to secure revised hours for specific units subject to justification and any mitigations necessary.

Condition 33

This retail user condition reflects the quantum of floorspace for foodstore uses which has been previously tested through the retail impact modelling.

It does not however reflect the common business model for modern retailers wherein they will seek to stock ancillary ranges of convenience goods which complement their principal non-food function (i.e. clothing and general merchandise retailers will commonly display seasonal food gifts such as boxed chocolates).

The total net retail floorspace used primarily for food retailing shall not exceed 5017m² including, for the avoidance of doubt, any mezzanine floorspace. For the further avoidance of doubt, the net retailing areas for such uses devoted to convenience products (within stores used primarily for food retailing) shall be not more than 3657m².

These ranges (where they are genuinely ancillary) will create no substantive effects on the vitality or viability of centres over and above what has already been tested and found acceptable in planning terms.

Condition 34

This retail user condition reflects the quantum of floorspace which has been previously tested through the retail impact modelling

It does not however reflect the very common business model for modern retailers wherein they will seek to stock ancillary ranges of other goods which complement their principal function (i.e. fashion retailers will commonly display very small ranges of watches and handbags, and seasonal gifts such as boxed chocolates).

"The total net retail floorspace used and available for general comparison goods retailing (other than ancillary to the principal retail use of the premises) shall be no more than 18954 sqm including, for the avoidance of doubt, any mezzanine floorspace. Of this, at least 6856 sqm of the net floorspace hereby approved is for the following goods (other than ancillary to the principal retail use of the premises) unless otherwise agreed in writing with the Local Planning Authority prior to implementation:

watches, clocks and jewellery; books and stationery; health and beauty products; unrecorded and pre-recorded media; recreation goods, sports clothing and footwear; and fashion accessories (including handbags, briefcases and luggage). For the purposes of this condition, it will be "ancillary" where the area occupied by a type of goods or service does not exceed 15% of floorspace for any given unit."

These ranges (where they are genuinely ancillary) will create no substantive effects on the vitality or viability of centres over and above what has already been tested and found acceptable in planning terms.

Condition 37

This retail user condition reflects the position of the LPA wherein there was a concern (at a point in time) that the character of development could change over time to one dominated by smaller format units less consistent with a traditional retail park environment. As such, a control was imposed to restrict the ability for approved units to be sub-divided. This however sits in tandem with a related control for small units (condition 39) which places an upper threshold on the quantum of smaller units.

It also (as worded) provides no opportunity for the Council to consider sub-division without having to vary this condition in its entirety. Given that a sub-divided unit would inevitably result in elevational amendments (i.e. new customer and loading doors) then that would require consent for the replacement of approved plans.

*"There shall be no subdivision of the A1 retail units **without prior approval**".*

On the basis of the above, a mechanism is introduced whereby information could be approved (updated floorplans and elevations) on their merits without having to vary this condition. Given that condition 39 shall be retained, there is no prospect that the extent of small units will exceed the quantum previously concluded acceptable.

These changes will create no substantive effects on the vitality or viability of centres over and above what has already been tested and found acceptable in planning terms.

Condition 40

This condition (in similar form to the sub-division control) reflects the position of the LPA wherein there was a concern (at a point in time) that the character of development could change over time to one dominated by smaller format units less consistent with a traditional retail park environment. As such, a control was imposed to restrict the ability for tenants to introduce concession uses or to sub-let. It is important to note that this condition sits in tandem with the user controls provided by conditions 33-35 as well as the small units condition (condition 39) which places an upper threshold on the quantum of smaller units.

We suggest that this condition should be **deleted**.

The ability to sub-let space is important to potential tenants (to give protection if they were to go into commercial difficulties) and a prohibition of that ability is a fundamental issue for the majority of tenants which will impede gainful occupation and the delivery of much needed jobs.

In the event that Tenant X did decide to sub-let, the prospective new tenant would need to comply with the planning consent. This consent (at conditions 33-35) sets out clearly upper thresholds for the provision of units principally used for food and fashion retailing. Condition 36 requires a schedule which identifies the type of use,

and for any change to be submitted and approved in writing. As such, should a given unit seek to move from bulky retailing to fashion retailing that would need to be in accord with the retail floorspace conditions and an approved schedule of uses through condition 36. There is no planning basis by which the prohibition of sub-letting is necessary and would reasonably protect the vitality of centres.

In terms of concessions, it is now a very common element of retail business models for these to be operated within stores. For example, it is commonplace for fashion stores to have concessions for specialist ancillary ranges such as accessories. These ranges (where they are genuinely ancillary) will create no substantive effects on the vitality or viability of centres over and above what has already been tested and found acceptable in planning terms.

Given that the proposed amended condition 34 sets out what would be acceptable in terms of ancillary uses, this ensures that there is a precise and enforceable control as to the extent of those uses which could be provided within a given unit without materially affecting the character of that use. There is no planning basis by which the prohibition of concessions is necessary and would reasonably protect the vitality of centres.

These changes will create no substantive effects on the vitality or viability of centres over and above what has already been tested and found acceptable in planning terms.

Summary

I trust the submitted information is sufficient and look forward to receiving confirmation of determination in due course. In the meantime, please do not hesitate to contact me if you have any questions regarding this.

Yours sincerely



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