

Planning

Growth & Development

Delegated officer report for planning application

Application no.	131509/FO/2021
Date registered valid:	27 August 2021
Proposal:	Retrospective application for the installation of 3 extraction units at the rear of the building, replacing existing external mechanical plant.
Address:	Alberts Restaurant And Bar, 120 - 122 Barlow Moor Road, Manchester, M20 2PU
Ward(s):	Didsbury West Ward
Applicant:	Mr James Ramsbottom Elle R Leisure Lower Ground Floor, Eastgate, 2 Castle Street, Manchester , M3 4LZ
Agent (if any):	Mr Chris Hymas Fasciato Architects 14A Regent Road, Altrincham, WA14 1RP
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	28/10/21

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 14 September 2021

Standard consultations:

Printed: 6 September 2021 Expired: 27 September 2021

Neighbour notifications

Printed: 6 September 2021 Expired: 27 September 2021

Site notice

Posted: 14 September 2021 Expired: 5 October 2021

Press advert

Published: 14 September 2021 Expired: 5 October 2021

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

Alberts Bar and Restaurant, located at the junction of Barlow Moor Road and Old Lansdowne Road. To the rear of the property there is a car park and beyond that residential properties fronting Old Lansdowne Road and Clyde Road.

Listed building: no

Conservation area: Albert Park Conservation Area 1988

Tree Preservation Order: no

Description of development

Retrospective application for the installation of 3 extraction units at the rear of the building, replacing existing external mechanical plant.

Consultations & Notification Responses

Local Residents – Three letters of objection have been received, the comments are summarised below:

- The fans are not currently operated within the time frames suggested, often being left to run overnight. The noise is negatively impacting the local area including the flats at 109 Clyde road.
- Noise from the Albert's site has continued to be an issue over several years.
- They are loud and we can hear them in all rooms of our flat (basement level) a council officer visited in 2019 which confirmed this. They are on from 8am every day until 11pm at night and sometimes we can hear them even when the TV / radio is on. Please consider only approving this application with some measures to reduce the noise and therefore the impact that these fans have on the lives of the neighbours.
- Albert's kitchen extractor fans were installed 2 years ago when they had their most recent refurbishment, without permission. They're loud and often left on overnight, their own sound report describes the significant adverse impact that they have on neighbouring properties, our building is shown on the sound impact maps. The sound assessment also agrees that there is a significant adverse impact of these fans without any further modifications (which they've been promising since we complained to the council about this in 2019). Therefore, if permission should be granted, ideally it is on the grounds that they install further silencers.

Environmental Health – No objections to the proposal subject to the imposition of an acoustic insulation condition and a condition limiting when the units can operate.

Policies

The National Planning Policy Framework July 2021 (NPPF) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In addition to the above, Section 16 (*Conserving and enhancing the historic environment*) is of relevance:

Paragraph 197 in Section 16 states that in determining planning applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long-term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below:

Policy SP1, *Spatial Principles* – Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy DM1, *Development Management* – This policy states that all development should have regard to a number of issues, in this instance the most relevant are considered as follows:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Flood risk and drainage.

Saved UDP Policies – Policy DC26, *“Development and Noise”* – Policy DC26.1 states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider both:

- a) the effect of new development proposals which are likely to be generators of noise; and
- b) the implications of new development being exposed to existing noise sources which are effectively outside planning control.

Policy DC26.2 states that new noise-sensitive developments (including large-scale changes of use of existing land or buildings), such as housing, schools, hospitals or similar activities, will be permitted subject to their not being in locations which would expose them to high noise levels from existing uses or operations, unless the effects of the noise can realistically be reduced. In giving effect to this policy, the Council will take account both of noise exposure at the time of receiving a planning application and of any increase that may reasonably be expected in the foreseeable future.

Policy DC18, *“Conservation Areas”* – Policy DC18.1 states that the Council will give particularly careful consideration to development proposals within Conservation Areas by taking into consideration the following:

- a) The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:
 - i. the relationship of new structures to neighbouring buildings and spaces;
 - ii. the effect of major changes to the appearance of existing buildings;
 - iii. the desirability of retaining existing features, such as boundary walls, gardens, trees, (including
 - iv. street trees);
 - v. the effect of signs and advertisements;
 - vi. any further guidance on specific areas which has been approved by the Council.
- b) The Council will not normally grant outline planning permission for development within Conservation Areas.

- c) Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance or character of the area.
- d) Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.
- e) Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

Issues

Principle of the Proposal – There is no objection in principle to an existing restaurant use wishing to install extraction units to enable their business to trade successfully. However, when it is sited within a predominantly residential area, the impact upon existing levels of residential amenity must be assessed. In addition, as the site is located within Albert Park Conservation Area, the impact upon this heritage asset must be assessed.

Design and Siting – The design of the extraction units and their siting on the roof of the rear single storey extension is considered acceptable.

Residential Amenity – Environmental Health have confirmed they have no objections to the proposal if the measures described in section 3.1.1 of the acoustic report are implemented, i.e. the installation of further silencers which would provide a minimum of 19 dB insertion loss. In addition, they have requested that a condition be imposed which limits the operation of the extraction units to the times stated in the submitted report.

As the two conditions suggested by Environmental Health are to be attached to any approval granted, it is considered that any impact from the extraction units can be successfully managed and the impact upon local residents can be minimised and as a result existing levels of residential amenity protected.

Impact upon the Albert Park Conservation Area – Given their design and siting at the rear of the premises, it is not considered that the proposal would have a detrimental impact upon the character of the Albert Park Conservation Area.

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: Approve

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner to resolve any matters 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 the expiration of three years beginning with the date of this permission.

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 stamped as received on 27 August 2021:

- a) Drawing no. 1741.00
- b) Drawing nos. 1741.PL01 to 04
- c) Drawing nos. 1741.EX01 to 04

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) a) Within one month of the date of this permission, the mitigation measures detailed in section 3.1.1 of the Noise Impact Assessment (Nova Acoustics), stamped as received on 27 August 2021, shall be installed and retained in perpetuity.

b) Within two months of the installation of the measures referred to in section 3.1.1 of the Noise Impact Assessment, 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, pursuant to saved UDP Policy DC26 and Policy DM1 in the Manchester Core Strategy.

4) The extraction units hereby approved shall only be operational between the following hours:

- Saturdays to Mondays - 0800hrs to 2215hrs
- Tuesdays to Fridays - 1000hrs to 2215hrs

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to saved UDP Policy DC26 and Policy DM1 in the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

West Didsbury Residents Association

105 Clyde Road, Manchester, M20 2WW

132 Old Lansdowne Road, Manchester, M20 2NY

Basement Flat, 132 Old Lansdowne Road, Manchester, M20 2NY

Flat 3, 124 Barlow Moor Road, Manchester, M20 2PU

Flat 2, 124 Barlow Moor Road, Manchester, M20 2PU

Flat 1, 124 Barlow Moor Road, Manchester, M20 2PU

Flat 6 - 9, 105 Clyde Road, Manchester, M20 2WW

Flat 6, 126 Barlow Moor Road, Manchester, M20 2PU

Flat 5, 126 Barlow Moor Road, Manchester, M20 2PU

Flat 4, 126 Barlow Moor Road, Manchester, M20 2PU

Flat 3, 126 Barlow Moor Road, Manchester, M20 2PU

Flat 2, 126 Barlow Moor Road, Manchester, M20 2PU

Flat 1, 126 Barlow Moor Road, Manchester, M20 2PU

107 Clyde Road, Manchester, M20 2WW

95 Old Lansdowne Road, Manchester, M20 2NZ

124 Barlow Moor Road, Manchester, M20 2PU

126 Barlow Moor Road, Manchester, M20 2PU

Flat 4, 109 Clyde Road, Manchester, M20 2WW

Flat 3, 109 Clyde Road, Manchester, M20 2WW

Flat 2, 109 Clyde Road, Manchester, M20 2WW

Flat 1, 109 Clyde Road, Manchester, M20 2WW

Didsbury Business Centre, 137 Barlow Moor Road, Manchester, M20 2PW

118 Barlow Moor Road, Manchester, M20 2PN

130 Old Lansdowne Road, Manchester, M20 2NY

Appendix 2 – Planning constraints

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

Conservation Area - Albert Park Conservation Area 1988

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH