

Planning

Growth & Development

Delegated officer report for planning application

Application no. 129889/FO/2021

Date registered valid: 9 August 2021

Proposal: Installation of a new commercial extraction system, to facilitate the proposed part change of use of existing Retail Unit, Use Class E(a) to Restaurant, use class E(b), with external seating area

Address: 276 Barlow Moor Road, Manchester, M21 8HA

Ward(s): Chorlton Park Ward

Applicant: Mr Afif Haj-Omar, 276 Barlow Moor Road, Manchester, M21 8HA

Agent (if any): Mr Nadir Khan, NK Architects, Sovereign House, Stockport Road, Cheadle, SK8 2EA

Case officer: Dave Morris
Tel: 0161 600 7924
Email: dave.morris@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 31.03.2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 19 November 2021

Standard consultations:

Printed: 6 January 2022 Expired: 27 January 2022

Neighbour notifications

Printed: 6 January 2022 Expired: 27 January 2022

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

This application relates to a two storey 1930's style end of parade property. The ground floor which is currently vacant was last used within class E of the use classes order. It appears that there is residential accommodation above the property which is accessed from the alley at the side of the property. There is a deep forecourt and a yard at the rear of the property. There is an advertisement hoarding on the side elevation.



Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

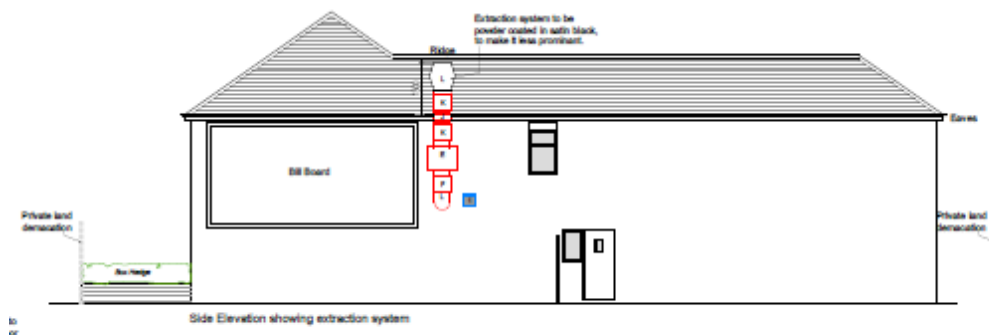
Description of area

The application site is located in a small local centre based on Barlow Moor Road at its junction with Hardy Lane. The centre extends to the west of the application site. To the east separated by an alley is a former two storey detached house, now extensively extended and uses as a medical centre. The building is set further back than the application site and adopts the same building line as residential properties to the east all of which have seep front gardens. To the rear of the site are the rear gardens of houses on Houghend Crescent, whilst facing across Barlow Moor Road are residential properties.

Description of development

As submitted the application sought consent for the use of the premises as a hybrid class E restaurant and sui generis hot food takeaway. It was claimed that this was an error on the part of the agent, who has now been replaced. And consent is sought solely for the installation of the flue in connection with the use of the premises as a class E restaurant with an outside seating area.

The proposed flue would be positioned on the side elevation of the property approximately 7 metres from the front elevation and 2.8 metres above ground level. The flue would be powder coated black.



Consultations & Notification Responses

Ward Members

The three ward members objected to the application as originally submitted. The issues raised are summarised below.

- They recognise the challenging retail environment but there are already many hot food takeaways in the vicinity and therefore believe that granting consent would be in breach of the city council's Hot Food Takeaway policy.
- They consider that Hot Food Takeaways already constitute more than 10% of frontages in this local centre.
- This is not a night time economy centre and a further takeaway would create an over concentration of takeaways.
- They are concerned about traffic safety should more vehicles be enticed into stopping at this location. It is already highly problematic with cars regularly double parked and driving along the pavement. The increase in delivery has been very noticeable here and drivers often show no regard for safe parking. We do not wish to see further pressure added to this already contested

junction right at the end of the cycleway just at the point when cyclists have to rejoin the main carriageway.

-The location is extremely close to Chorlton Park Primary and en route for many children to two high schools Chorlton High and Loreto, both just about half a kilometre away. Again the Hot Food Takeaway policy states that new takeaways should not be permitted within 400 metres of a school, Chorlton Park Primary is within 400 metres.

-No evidence has been supplied to show that no other use can be found for these premises.

Members were notified when the hot food element was deleted from the scheme and no further representations received.

Local Residents businesses

One letter was received objection to the proposed development as originally submitted. The issues raised are summarised below.

-Of the 11 retail units on this side of Barlow Moor Road, 3 are already used as hot food takeaways; another is a cafe. 1 of the 4 units on the opposite side of the road is a hot food takeaway. The proposal would increase the proportion of hot food takeaway frontages being more than 10% of non-residential ground floor frontages in this particular part of the retail centre. The proposal is therefore contrary to policy 1 of the adopted Hot Food Takeaway SPD.

-The site is within 440m of a primary school and proposed opening hours include between 3 pm to 5.30pm on weekdays. The proposal is therefore contrary to policy 3 of the SPD.

Residents were re notified of the changes to the scheme and no representations were received.

Environmental Protection

The fume extraction system is satisfactory. Conditions requested in respect of delivery time, acoustic insulation of the building, acoustic insulation of external plant and the hours of use of the outside area.

Highways

Commented on the original proposal which included a change of use. They were not reconsulted over the changes to the scheme as there are no highways implications.

Policy

Core Strategy

The relevant Core Strategy policy is DM1 which seeks to protect the amenity of an area from the adverse impact of development.

Unitary Development Plan

The relevant saved UDP policies are DC5 and DC26

Policy DC5 sets down the criteria to be considered in determining applications for food and drink uses including the impact of fumes.

Policy DC26 seeks to protect residents from noise.

Issues

Principle

This application relates to the future use of a premises within an existing commercial centre. In principle the granting of consent for the flue is considered acceptable.

Visual impact

The proposed flue is to be located on the side elevation of the property. However, due to the set back of the adjacent medical centre the proposed flue would be more visible. It is proposed to powder coat the flue black to reduce the impact. The applicant has investigated repositioning the flue to the rear of the property, however, this is not possible due to the internal configuration of the premises.



The increased visibility would affect people travelling northwest along Barlow Moor Road and views of it would be limited. On balance it is considered that by powder coating the flue the impact of the flue would not be significant.

Residential amenity

Environmental protection are satisfied that the specification of the proposed flue is such that it would not adversely impact on amenity of nearby residents.

Noise

Environmental protection requested a condition in respect of the acoustic insulation of external plant and the applicant has agreed to this as a pre commencement condition.

A condition was also requested regarding the acoustic insulation of the building and whilst this application does not relate to a change of use the proposed flue has internal elements which could generate noise and impact on the flat above.

Use

The intended use is as a restaurant within Class E and consequently there is no change of use involved as the last use of the premises is also within Class E. Conditions relating to the use of the premises cannot therefore be applied and this includes the outside seating area which does not require consent as it is part of the planning unit.

Hot food take away

The original agent sought to include hot food take away as part of the development which would have required consent as a hybrid use, class E/sui generis and there were objections to this from ward members as well as a resident. As previously stated the use as a restaurant or café falls within class E and therefore no change of use occurs. However, the premises can offer a limited take away service as long as it is ancillary to the main use without the need for planning permission. It is understood that this is the intention here.

Conclusion.

Whilst the proposed flue would have some visual impact it is considered that the proposed finish will minimise this and that it is not so significant as to sustain a refusal of planning permission.

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 based on seeking solutions to issues arising from the consideration of this 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 and documents:

603.01 revision B received 9 March 2022

603.03 received 1 November 2021

Kitchavent Grease, smoke and odour control solutions received 9 March 2022

Email from the agent dated 9 March 2022

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) All external parts of the flue hereby approved shall be powder coated in black prior to installation. The flue and any replacement components which should be removed when no longer required shall retain its black finish as long as it is in position.

Reason - To protect the visual amenity of the area pursuant to Core Strategy policy DM1

4) 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.

b) Prior to occupation of the development 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 Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policies DC10 and DC26.

5) a) The premises shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority. 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 10dB 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, 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 pursuant to Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policies DC10 and DC26.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

339 Barlow Moor Road, Manchester, M21 7QH
337 Barlow Moor Road, Manchester, M21 7QH
335 Barlow Moor Road, Manchester, M21 7QH
331 Barlow Moor Road, Manchester, M21 7QH
Flat Above, 278 Barlow Moor Road, Manchester, M21 8HA
Bargain Booze, Ground Floor, 278 Barlow Moor Road, Manchester, M21 8HA
First Floor Flat, 276 Barlow Moor Road, Manchester, M21 8HA
274 Barlow Moor Road, Manchester, M21 8HA
333 Barlow Moor Road, Manchester, M21 7QH

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
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH