

## Planning

## Growth & Development

### Delegated officer report for planning application

**Application no.** 131299/FO/2021  
**Date registered valid:** 26 January 2022  
**Proposal:** Erection of a single storey rear extension to existing cafe / restaurant (Class E)  
**Address:** Fire And Ice, 2 North Western Street, Manchester, M19 3NY  
**Ward(s):** Levenshulme Ward  
  
**Applicant:** Mr Zia Haque 24 Kings Drive, Stockport, SK4 4DZ  
**Agent (if any):** Frank Summerfield 216 Heaton Moor Road, Stockport, SK4 4DU  
**Case officer:** Carl Glennon  
Tel: 0161 234 4530  
Email: [carl.glennon@manchester.gov.uk](mailto:carl.glennon@manchester.gov.uk)  
  
**Recommendation:** Refuse  
**Date of recommendation:** 22 April 2022

## **Application details**

**Type of application:** Full Application Consent

**Development type:** Smallscale Major Other

**Date of site visit:** 16 March 2022

### **Standard consultations:**

Printed: 2 February 2022 Expired: 23 February 2022

### **Neighbour notifications**

Printed: 2 February 2022 Expired: 23 February 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**

**Listed building:** Not applicable

**Conservation area:** No

**Tree Preservation Order:** No

## **Description of area**

The application site is situated on the north side of North Western Street and opposite the Nawaab Restaurant (which is situated at the corner of North Western Street and Stockport Road). The site is located within Levenshulme District Centre. An operational railway is located to the west of the site.

The application building is single storey with principal elevation with a stepped parapet, and projecting bays with roller shutters and front extension. The forecourt is enclosed by a low wall. The principal elevation has distinctive staggered parapet incorporating illuminated signage.

Adjacent to the site, a roadway provided access to the rear of properties at 994 - 1004 Stockport Road. The application building site is situated in close proximity to the rear of 1004 Stockport Road, i.e., 3.7 metres.

The development would be located on land to the rear of 2 North Western Street and within the curtilage of 1002 Stockport Road. Double yellow lines are located on the south side of North Western Street and part of the northside of the street (but not immediately outside the application property).



Fig. 1 – Views of the application site

### **Description of development**

The existing building incorporates a monopitched roof running south to north from its highest point adjoining the parapet. The proposed extension would adjoin the northern elevation of the existing building projecting rearwards by 3.5 metres and rising to the height of the existing eaves, i.e., 2.4 metres. The proposed extension would align with the existing western and eastern elevations of the existing building, maintaining a distance of 3 metres to the nearest property at 1002 Stockport Road. . The overall length of the extension would be 12 metres. The siting of extension would result in the formation of a 1.5 metre wide passageway between the

northern elevation and the boundary with 1000 Stockport Road. The external elevations would be blank apart from an external doorway to an internal bin store and composed in matching materials. The extension would lead to the formation of additional internal seating to the restaurant.

## **Consultations & Notification Responses**

Local residents – No comments received.

Environmental Health – The following comments have been received:

- i. Fume extraction - The applicant will need to consult with a suitably qualified ventilation engineer and submit a kitchen fume extract strategy report for approval. The strategy should include risk assessments for odour and noise and be based on appropriate guidance such as that published by EMAQ titled 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' dated September 2018. Details should also be provided in relation to replacement air;
- ii. It is recommended that the following opening hours be conditioned as applied for: 1200-2300 hrs daily;
- iii. It is recommended that the following servicing hours be conditioned so that deliveries, servicing and collections, including waste and recycling, shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays;
- iv. Waste management - The scheme should include details of recycling in accordance with Council guidance;
- v. A condition has been recommended relating to a watching brief condition relating to any contaminated land that may be encountered.

Highway Services – The following comments have been received:

- i. Limited information has been provided in support of the application;
- ii. Further details are requested in relation to:
  - a. Estimated level of trip generation potential, including peak activity, for staff and visitors;
  - b. Confirmation regarding where visitors may park;
  - c. Intended arrangements for servicing, waste collection and construction fit out.

## **Issues**

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in July 2021. It sets out the Government's planning policies for England and how these are expected to be applied. It provides a mechanism through 'which locally-prepared plans for housing and other development can be produced.' It states that 'at the heart of the Framework is a presumption in favour of sustainable development.' However, the Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, the statutory status of the development plan remains as the starting point for decision making. In 'decision-taking', this means that development proposals that accord with the development plan should be approved without delay unless 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.

Chapter 8: Promoting healthy and safe communities - States that planning decisions should aim to achieve healthy, inclusive, accessible and safe places, where crime and disorder (and the fear of crime) do not undermine the quality of life or community cohesion (paragraph 92). The development would lead to the formation of secluded spaces that would undermine the security

of access to the rear of neighbouring properties. As stated, details have not been provided to suitably demonstrate that harm caused by the operation of the development, including fume extraction and waste management, could be appropriately managed. Chapter 8 would not, thereby, be accorded with.

Chapter 9: Promoting sustainable transport - States that in assessing specific applications for development, it should be ensured that:

- i. The potential impact of development on transport networks can be addressed;
- ii. Provide opportunities for walking, cycling and public transport use (Paragraph 104).

The site is located with Levenshulme District Centre and thereby benefits from its transport infrastructure. However, the development would increase the operational capacity of the business with an increased likelihood of traffic generation. This is considered to be significant given the limited capacity for car parking on North Western Street and the absence of an operational plan to demonstrate how additional traffic might be managed. No provision for cycle storage has been made. In these circumstances it is not considered that the development would accord with Chapter 9.

Chapter 12: Achieving well-designed places – States, amongst other things, that planning decisions should ensure that developments:

- i. Function well and add to the overall quality of the area over the lifetime of the development;
- ii. Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- iii. Are sympathetic to local character whilst not preventing or discouraging appropriate innovation or change;
- iv. Establish or maintain a strong sense of place;
- v. Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development;
- vi. Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The development would be screened from North Western Street by the existing building, with its impact related to views from the rear of 1002 Stockport Road, and the rail line to the west. Of wider significance to amenity would be related to the cramped formation of external space, with communal areas that would be more vulnerable to crime and reduce arrangements for waste storage and servicing. It is not considered that the development would be appropriately related to Chapter 12.

Planning Practice Guidance - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource and is relevant to key planning issues of significance to applicants and local authorities. In considering this application the following aspects of the PPG have been appropriately responded to:

- i. Consultation and pre-decision matters;
- ii. Health and well-being;
- iii. Noise.

It is considered that the development would not be appropriately related to the above objectives for the reasons set out in the report. The applicant has not demonstrated that potential harm caused by the development could be mitigated to accord with points (ii) and (iii).

Manchester's Local Development Framework: Core Strategy - The Core Strategy Development Plan Document 2012 -2027 ('the Core Strategy') was adopted by the 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.' The following policies are relevant to the proposed development:

Policy SP 1 Spatial Principles - Specifies the Core Development Principles for parts of the City. In this case the relevant principles relate to the extent to which the development:

- a. Makes a positive contribution to neighbourhoods of choice including the creation of well designed places that enhance or create character; making a positive contribution to the health, safety and well-being of residents, considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income and to protect and enhance the built and natural environment;
- b. Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- c. Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

The development would not accord with policy SP1 due to the potential harm caused through the increased intensity of the expanded restaurant use and loss of the servicing area / amenity space to no.1002 Stockport Road , and associated impacts to residential amenity, together the cumulative impact of highly intensive food and drink uses in close proximity to each other, which is particularly significant given the tight constraints on North Western Street

The applicant has also failed to demonstrate that the operational requirements of the use, including waste management and fume extraction, would be appropriately met.

Policy C 1 Centre Hierarchy - States that the development of town centre uses (as defined in national planning policy) will be prioritised in the centres identified in this policy, taking account of the different roles of the City Centre, District Centres and Local Centres. In order to maintain the vitality and viability of its centres, provide services as locally as possible and minimise the need to travel by car Manchester's centre hierarchy is:

- i. Manchester City Centre;
- ii. District Centres;
- iii. Local Centres.

Policy C1 states that district centres, such as Levenshulme, have an essential role in providing key services to the City's neighbourhoods including shopping, commercial, leisure, public and community functions, ensuring that residents can access such services easily.

Policy C2 District centres - States that development will support thriving district centres, with distinct local character, providing a good range of accessible key services, including retail, health facilities, public services, leisure activities and financial and legal services. The delivery of this floor space should respect the network of centres across the City and in neighbouring districts.

Policy C10 Leisure and the Evening Economy - States that new development that supports the evening economy should contribute to the vitality of district centres and support a balanced and socially inclusive evening/night-time economy; taking account of:

- i. Cumulative impact;
- ii. Residential amenity;
- iii. Balance.

It is considered that the development would exceed the operational capacity of the site and a positive contribution to Levenshulme District Centre would therefore not be achieved. Policies C1, C2 and C10 would therefore not be accorded with.

Policy EC9 South Manchester - States that within South Manchester, including Levenshulme District Centre, development proposals and planning applications should have regard to: ensuring efficient use of existing employment space; improving public transport, walking and cycling connectivity between residential neighbourhoods and the City Centre. In this case, cycle storage would not be provided due to the constraints of the site. Although the site is in a sustainable location, it is considered that any increase in vehicular activity could have a harmful impact on the operation of the adjacent tightly constrained highway. It is not considered, therefore, that the development would accord satisfactorily with policy EC9.

Policy EN19 Waste - Requires consideration of the submitted details relating to determine if the applicant has satisfactorily demonstrated how:

- i. Both construction and demolition waste will be minimised and recycled on site wherever possible;
- ii. The sustainable waste management needs of the end user will be met.

The applicant has not demonstrated that the site has the capacity to satisfactorily accommodate segregated waste and recycling. Policy EN19 therefore would not be accorded with.

Policy T1 Sustainable Transport - Relates to the delivery of sustainable, high quality, integrated transport system, which encourages a modal shift away from car travel to public transport, cycling and walking and prepare for carbon free modes of transport.

Policy T2 (Accessible areas of opportunity and need) - Discusses the relationship of development to transportation routes and the utilisation of sustainable transport modes. It states, amongst other things, that the Council will take account of the circumstances of each proposal to establish what level of parking is appropriate and whether proposals are likely to be access or transport issues.

The application site is located in proximity a main radial route , with access to the public transport links. However, it is considered that any increase in vehicular activity could have a harmful impact on the operation of the adjacent tightly constrained highway. Cycle storage has not been provided. Policies T1 and T2 would not thereby be appropriately accorded with.

Policy DM1 (Development Management) - States that all development should have regard to the following specific issues, which are considered to be relevant to the consideration of this application:

- a. Appropriate siting, layout, scale, form, massing, materials and detail;
- b. Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development to ensure that development has regard to the character of the surrounding area;
- c. Effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation;
- d. Accessibility: buildings and neighbourhoods should be fully accessible to disabled people with new development providing access to all via sustainable transport modes;
- e. Community safety and crime prevention;
- f. Design for health;

- g. Adequacy of internal accommodation and external amenity space;
- h. Refuse storage and collection.

It is considered that on the basis of the submitted information and the characteristics of the application site, the development (for the reasons set out below) would fail to accord with policy DM1.

Unitary Development Plan (UDP) Saved Policies -The following saved UDP policies are also considered to be relevant:

Policy DC10 (Food and Drink Uses) - This policy (DC10) is relevant to the proposed development and particular consideration has been given to the following:

Policy DC10.1 - States that, in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises, the Council will have regard to:

- a. The general location of the proposed development, including any reference to the area in other policies in the development plan;
- b. The effect on the amenity of neighbouring residents;
- c. The availability of safe and convenient arrangements for car parking and servicing;
- d. Ease of access for all, including disabled people;
- e. The storage and collection of refuse and litter.

Policy DC10.4 - Where, having regard to the preceding policies, the Council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and the collection of litter.

The submitted information has not demonstrated that the proposed development can be satisfactorily accommodated within the site, and has not demonstrated that the required mitigation of identified harmful impacts can be achieved to accord with policy DC10.

Policy DC26 Development and Noise - Is relevant to the proposed development due to its potential to generate noise and disturbance through the operation of the proposed use and any external associated equipment. The following aspects of this policy (DC26) are considered to be relevant to the proposed development.

Policy DC26.1 - Has been related to the proposal potential contribution to the local noise environment, in relation to the operation of associated external equipment and the additional activity that may be generated by customers and traffic movements and the undertaking of servicing and deliveries, particularly with regard to the residents of neighbouring residential accommodation.

Due to the limited supporting information, it has not been satisfactorily demonstrated that the development can be accommodated within the site without unduly affecting amenity resulting from noise disturbance. This is particularly significant, and the development would utilise an extraction system that does not appear to have been related to approved details. Compliance with policy DC26 has therefore not been demonstrated.

#### Guide to Development in Manchester

The Guide aims to support and enhance the on-going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of

development we all want to see in Manchester. The following aspects of the guide have been given consideration in this case and have been appropriately responded to:

- i. Paragraph 4.11 - States that all developments should be supported with a waste management strategy;
- ii. Paragraph 11.24 - States that district and local centres are an important feature of neighbourhoods and contribute to the image and sense of place of an area;
- iii. Policy 11.25 - State that, whether they play a district or local function, centres should accommodate a range of facilities and services, not simply shops and hot food premises.

Whilst the continued operation of an established restaurant is appropriate, it is considered that the development would not accord with the Guide due to the harm caused by the expanded use of the property (as set out below).

Positive and proactive engagement with the applicant - An amendment to the DMO, which came into effect on 1st December 2012, requires every decision notice relating to planning permission and reserved matters application to include an explanation as to how the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems which arise during the determination of the planning application.

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. In this case, officers have engaged with the applicant and attempt to secure additional details to aid the assessment of the planning application. In the absence satisfactory details and expressed concerns regarding the impact and magnitude of the development, the applicant was advised that the development would not be supported. The applicant has not accept an offer to withdraw the planning application, which has therefore been determined on the basis of the submitted details and without further negotiation.

Principle of the development – The application relates to and established restaurant use. The suitability of increasing the operational floorspace has been related to the impact of a significant intensification of the existing use on the operation of neighbouring businesses and servicing arrangements. It is considered that the proposed development would disproportionately increase the operational capacity of the site. The extension would be sited within a service yard to the adjoining 1002 Stockport Road and would thereby compromise the capacity of the occupiers of No.1002 Stockport Road to facilitate servicing, deliveries and the storage of waste and recycling (including of existing commercial and upper floor residential uses). The development would also significantly limit the provision of amenity space for residents of upper floor residential accommodation.

Highways - The development would increase the operational capacity of the premises with an associated increase in activity in North Western Street directly to the south of the premises, which is narrow and also serves the Royal Nawaab restaurant to the south . The planning agent has indicated that there would be an uplift in seating from a 25 seat café to a 45 seat café. This increased level of activity raises significant concerns regarding the suitability of an expansion of the existing commercial offer, and the capacity of the adjacent highway to accommodate the related cumulative impact of the development with the operation of the neighbouring Royal Nawaab restaurant, including additional pedestrian and vehicular movement and servicing.

Accuracy of the submitted details - The submitted drawings contained some inaccuracies and limited detail. The front elevational drawing does not accurately depict the adjoining the extension to the east of the building. The related roof, door opening and window apertures have

not been accurately expressed. The stepped arrangement of the parapet detail does not reflect the constructed building. Reference has not been made to elevation detailing including, the configuration of eaves and roller shutters and housing boxes. The applicant has been advised of these inaccuracies and no further details have been submitted for consideration. In the absence of accurate elevational drawings, the proposal cannot be positively assessed.

Extraction flue – The applicant has not provided comprehensive details relating to arrangements for fume extraction. Instead the applicant has indicated that an existing flue that is related to the implementation of planning permission ref: 117615/FO/2017. In these circumstances the flue would need to be maintained in accordance with approved specifications. However, the appearance of the installed flue differs from the details shown on the submitted drawings and the relevant Google Streetview image captured in November 2020. The installed flue has not been assessed to determine its suitability and related specifications should have been submitted as part of the application. The proposed front elevation indicates the provision of a second flue in a highly prominent position, which would not be supported due to its harmful visual impact. The applicant has been advised of the need to provide satisfactory details relating to fume extraction. However further details have not been submitted.

The expanded use has the potential to require further externally mounted equipment that would potentially be attached to external walls with resulting encroachment into the passageway as shown on the proposed drawings. In such circumstances, the available space for the access and egress by neighbouring occupants to the retained yard area would be restricted.

It is considered that the applicant has therefore failed to demonstrate that the existing flue and other external plant and equipment would be capable of supporting the expanded use of the premises.

Waste and recycling management - The development would increase operational floorspace with a commensurate rise in the generation of waste and recycling. Development would significantly increase the extent of site coverage. In the absence of a dedicated service yard, the applicant has not demonstrated that all required bins can be accommodated within the building with achieved storage capacities that accord with Council guidance. The development would not achieve appropriate waste and recycling storage based on the submitted details.

Crime and security – There is concern that the siting of the proposed extension would lead to the formation of secluded spaces within the yard area that would leave 1002 Stockport Road, the extended building and associated occupants to more vulnerable to crime.

Inclusive access – The existing access arrangement would be maintained, i.e., a shallow ramp the main entrance achieving a level threshold.

Conclusion – The development would exceed the operational capacity of the site, have an adverse impact to residential amenity, and to the function of neighbouring businesses. The application has not been supported with sufficient detail to demonstrate that the expanded use could be undertaken without unduly harming amenity; including the amenity of residents potentially occupying the upper floors above 994 – 1004 Stockport Road. The development is therefore considered to be unacceptable.

### **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: Refuse**

### **Article 35 Declaration**

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. In this case, officers have engaged with the applicant and attempt to secure additional details to aid the assessment of the planning application. In the absence satisfactory details and expressed concerns regarding the impact and magnitude of the development, the applicant was advised that the development would not be supported. The applicant has not accept an offer to withdraw the planning application, which has therefore been determined on the basis of the submitted details and without further negotiation.

### **Reasons for recommendation to refuse**

1)The proposal would result in a cramped, over development of the site , with an associated increase in the level of occupation and related activity, within and around the application site, that would exceed its operational capacity to the detriment of residential amenity, and thereby be contrary to policies SP1 and DM1 of the Core Strategy for the City of Manchester, saved policy DC10 of the Unitary Development Plan and the National Planning Policy Framework.

2) The planning application has not been supported with accurate and satisfactory information to demonstrate the development can be accommodated within the site without undue harm to the amenities and character of the surrounding area. This includes insufficient details relating to arrangements for fume extraction, the future siting of external plant and equipment and a site management plan, relating to the storage and collection of waste and recycling and the operation of appropriate equipment for the extraction of fumes and vapours. The development would thereby be contrary to policies SP1 and DM1 of the Core Strategy for the City of Manchester, saved policy DC10 of the Unitary Development Plan and the National Planning Policy Framework.

### **Appendix 1 – List of consultees & neighbours notified**

Highway Services  
Environmental Health  
Greater Manchester Police

Flat Above, 994 Stockport Road, Manchester, M19 3WN  
Mecca Bingo, 1008 Stockport Road, Manchester, M19 3WN

996 Stockport Road, Manchester, M19 3WN  
Tesco, Stockport Road, Manchester, M19 3NN  
1002A Stockport Road, Manchester, M19 3WN  
1000A Stockport Road, Manchester, M19 3WN  
1008 Stockport Road, Manchester, M19 3WN  
1002 Stockport Road, Manchester, M19 3WN  
998 Stockport Road, Manchester, M19 3WN  
994 Stockport Road, Manchester, M19 3WN  
1006 Stockport Road, Manchester, M19 3WN  
1004 Stockport Road, Manchester, M19 3WN  
1000 Stockport Road, Manchester, M19 3WN

## **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: NORTH2