

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131847/FO/2021

Date registered valid: 20 October 2021

Proposal: Installation of single storey shelter to the front elevation to form outdoor seating area

Address: 457-459 Princess Road, Manchester, M20 1BH

Ward(s): Old Moat Ward

Applicant: Mr Tewfik Ouanes Pasha Restaurant 459 Withington, Manchester, M20 1BH

Agent (if any): Mr Ben Hall Studio Reform 10 Galbraith Road, Manchester, M20 6JJ

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: REFUSE

Date of recommendation: 08 April 2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 23 November 2021

Standard consultations:

Printed: 3 November 2021 Expired: 24 November 2021

Neighbour notifications

Printed: 3 November 2021 Expired: 24 November 2021

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

The application site relates to the forecourt area in front of two, two storey buildings that form the end terrace of a parade of shops on Princess Road. At first floor is a residential property which according to the existing floor plans appears to be in use as a 5 bedroom residential flat.



Photograph 1 Site as viewed from Princess Road.

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The application site is located adjacent to one of the main highways in and out of the City Centre.

Description of development

Planning History – There have been three previous applications at these addresses, details of the applications are provided below.

Application Details	Description
088879/FO/2009/S1 Recv: 17.03.2009 Application Refused - 12.05.2009	Use of basement as a 24 hour taxi base with car parking on land to the rear
077940/FU/2005/S1 Recv: 29.03.2006 Application Approved - 17.05.2006	Change of use from Use Class A1 to hot food take-away (Use Class A5)
053878/FU/SOUTH2/98 Recv: 23.02.1998 Application Approved - 30.03.1998	Change of use of basement storage to additional retail space

Consultations & Notification Responses

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

Highway Services - Plans suggest that the area of forecourt to the front of the building will be used for a single storey shelter for external seating.

At present, the level of information provided within the submission is insufficient in order for Highways to provide a full assessment of the application.

Verification is required to confirm that the forecourt to the front and side of the property is under the applicant's ownership and that the applicant has a formal written agreement to guarantee rights of access over any land which falls outside of the site's red line.

Information is required to display the level of trips that will be generated with the increase in floorspace and how this will affect the network.

Given that the development offers no in-curtilage parking, all vehicles associated with the site will contribute to existing demands within the area. Detail is sought from the applicant as where vehicles associated with the site are expected to park, along with evidence to demonstrate ample space within these locations.

Submitted plans show access doors opening out onto the highway. For the avoidance of doubt all doors/gated accesses, both vehicle and pedestrian, need to be inward opening to ensure they do not impact on the adopted footway or highway (with the exception of fire doors).

It would be useful to understand refuse and servicing arrangements in more detail, to ensure there is no obstruction on the highway. Further clarification is sought regarding:

- o Refuse storage arrangements;
- o Refuse arrangements for transportation and collection;
- o Swept path analysis is required for the largest expected service/delivery vehicle;
- o Frequency of refuse collection;
- o Frequency of deliveries;
- o Loading location of all servicing vehicles.

A Construction Management Plan should be provided by the applicant prior to any construction works beginning. The Construction Management Plan should detail the phasing and quantification / classification of vehicular activity associated with planned construction. This should include commentary on types and frequency of vehicular demands together with evidence (including appropriate swept-path assessment) of satisfactory routeing both within the site and on the adjacent highway. The document should also consider ongoing construction works and contractor parking in the locality.

Detail should be sought from the applicant in relation to any proposed construction or fitout arrangements, where there is an impact on the highway. The applicant should be advised that any requirements for licensing, hoarding / scaffolding and any associated temporary traffic management arrangements will need discussion and agreement with the council's Highways Applications and Network Resilience teams via Contact Manchester (Tel. 0161 234 5004).

Environmental Health – Recommended the following condition is attached to any approval

NSE2

External areas/outside seating

Shall only allow use of external areas within the application site between the hours of 10am to 10pm Monday to Sunday and shall not allow for the use of amplified sound or any music in the external areas at any time.

Reason - To safeguard the amenities of the occupiers of nearby properties.

Environmental health have concerns regarding the size of the seating area (accommodating 40 people), given the proximity to the adjacent residential property. Therefore, we would ask that the size of the seating area is reduced to accommodate no more than 20 people (all seated) with the hours of used limited to the above.

Issues

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant Core Strategy policies for this application are as follows:

SP1 – Spatial Principles

DM1 – Development Management 1

C1 – Centre Hierarchy

C10 ‘Leisure and the Evening Economy’

EN1 - Design Principles and Strategic Character Areas

The relevant saved UDP policies for this application are:

DC10 - ‘Food and Drink Uses’

DC26 - Development and Noise

E3.3 – Environmental Improvement

National Policy

National Planning Policy Framework (NPPF)

The Principle - Saved UDP policy DC10.2 establishes the principles for and seeks to guide food and drink uses to the City Centre, industrial and commercial areas, in shopping centres, and at ground floor level in local shopping parades of more than eight shops or offices.

Development in this application seeks to create an external seating area to the front of the restaurant and take away, with associated canopies and perspex wind breakers and planters.

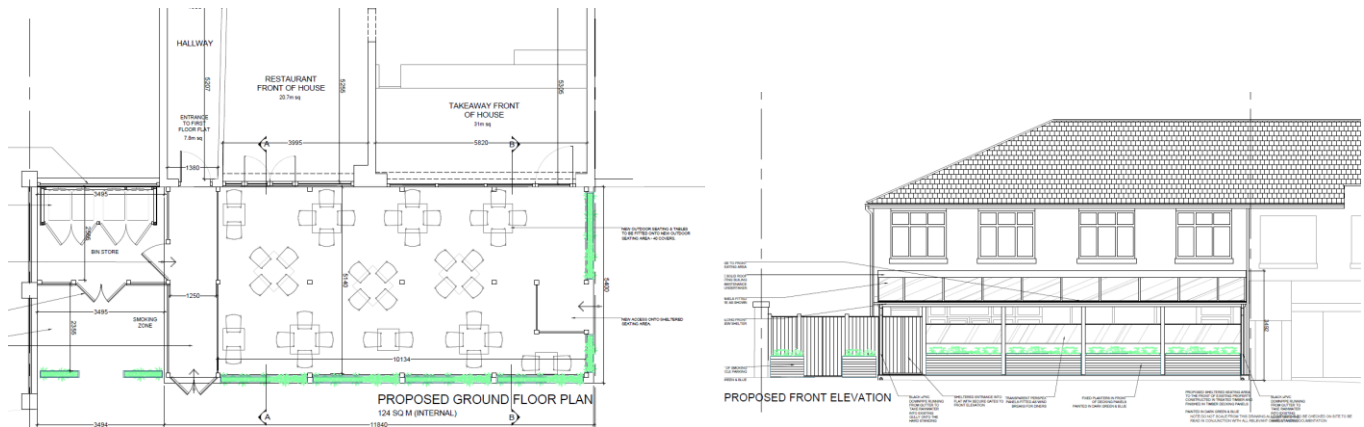
Whilst the property is in use as Class E restaurant the provision of outdoor seating needs further consideration on its impacts on residential and visual amenity,

Residential Amenity and Visual Amenity – The application site sits within a parade of 19 shops located on the corner of Princess Road and Mauldeth Road West. Princess Road is a main highway in and out of the City Centre.

Policy C10 Leisure and the Evening Economy, of the Core Strategy together with saved policy DC10 Food and Drink Uses require that proposals do not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance. This is echoed by policy DM1 of the Core Strategy states that regard should be had to the amenity of residents in considering development proposals.

Policy SP1 of the Core Strategy similarly seeks to protect amenity and the well-being of residents, as well as supporting neighbourhoods of choice.

The proposed seating area (124 SQ Metres internally) would be located at the front of restaurant and takeaway together with an area for refuse storage and a smoking zone. The flat above the unit would be accessed via a passageway created under the canopy between the seating area and refuse and smoking one that would be 1.25 metres wide and a length of 5.4 metres. Therefore, residents of the upstairs flat would have to access the flats from the front via this passageway. In addition, the entrance to the flats would be obscured by the canopy gates.



Drawings 1 + 2 Proposed Floor Plan and Proposed Princess Road Elevation (Front)

The entrance to the restaurant, take away and shelter would be accessed from the southern side close to the front entrance to the flat above 461 Princess Road.

If approved, it would be reasonable to expect that the restaurant patrons converse and when gathering in larger numbers (seating capacity 40) this might include laughter and shouting. Furthermore, should the flat occupiers have their windows open which would be reasonable in to expect in the summer months, in addition to noise, smoke from the uncovered smoking zone could drift into the four front bedrooms of Flat 457- 459 Princess Road and some would find it very unpleasant and unacceptable to their living conditions. The proximity of flat 461 Princess Road would also mean that their amenity is compromised by the numbers of restaurant patrons eating and socialising under the canopy especially late into the evening as the applicant has requested opening hours until midnight each day including bank holidays.

It is therefore considered that the level of amenity that neighbouring residents could reasonably be expected to enjoy would be compromised. The impact to their living conditions would therefore be eroded to an unacceptable degree, as such the proposal fails to comply with saved policy DC10 of the UDP and policies C10 and DM1 of the Core Strategy.

The shelter is a basic design that would be constructed from treater timber and finished in timber decking panels, painted dark green and blue. In between the columns fixed planters would be installed as with the shelter itself these would be timber decking panels painted in a dark green and blue. Above the planters would be transparent persepex panels fitted as wind breaks for diners. The roof would also be Perspex panels with black upvc guttering and downpipes.

Saved Policy E3.3 of the UDP requires that the Council improvements of the City's major radial and orbital roads and rail routes will also include improvements to the appearance of adjacent premises; encouraging new development of the highest quality; and ensuring that landscape schemes are designed to minimise litter problems. This is echoed by policy EN1 of the Core Strategy which requires that opportunities for good design to enhance the overall image of the City should be fully realised, particularly on major radial and orbital road and rail routes. The same policy under the Southern Area Characteristics refers to Princess Parkway as the principal road link between the City Centre and the Airport.

In this case it is considered that the design, materials and appearance of the canopy would not comply with saved policy E3.3 and policies EN1 and DM1 of the Core Strategy.

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 proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant before and during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

- 1) The proposed external seating area would have an adverse impact upon the residential amenity of surrounding occupiers due to potential noise and disturbance associated with congregation of people in the seated area, which would thereby affect the amenity of neighbouring and local residents, in particular residential properties at FLAT 457-459, PRINCESS ROAD, MANCHESTER, M20 1BH and FLAT 461, PRINCESS ROAD, MANCHESTER, M20 1BH. The proposed use is therefore considered to be contrary to saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and policies SP1, C10 and DM1 of the Manchester Core Strategy.
- 2) The proposed external seating area by reason of its size, design and appearance would result in a visually obtrusive feature within the street scene, and would be incongruous with the character of the building. The proposal would therefore be contrary to policies DM1 and EN1 of the Core Strategy (2012) and saved policy E3.3 of the Unitary Development Plan for the City of Manchester (1995)

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Apartment 36, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 35, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 34, Windsor House, Mauldeth Road West, Manchester, M21 7TH
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Apartment 14, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 12, Windsor House, Mauldeth Road West, Manchester, M21 7TH
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Apartment 4, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 3, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 2, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 1, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 11, Windsor House, Mauldeth Road West, Manchester, M21 7TH
463 Princess Road, Manchester, M20 1BH
Flat Above, 457 - 459 Princess Road, Manchester, M20 1BH
7 Limehurst Avenue, Manchester, M20 1GY
9 Limehurst Avenue, Manchester, M20 1GY
457 Princess Road, Manchester, M20 1BH
461 Princess Road, Manchester, M20 1BH
461A Princess Road, Manchester, M20 1BH
459 Princess Road, Manchester, M20 1BH
Apartment 15, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 16, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 17, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 18, Windsor House, Mauldeth Road West, Manchester, M21 7TH
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Apartment 11, Tudor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 10, Tudor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 1, Tudor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 40, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 39, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 38, Windsor House, Mauldeth Road West, Manchester, M21 7TH
Apartment 37, Windsor House, Mauldeth Road West, Manchester, M21 7TH

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
Flood Zones Type 2 (low to medium risk) -
Area Team Boundary - Name: SOUTH