

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132515/FO/2021

Date registered valid: 11 January 2022

Proposal: Erection of single storey front extension to form covered dining area

Address: 198-200 Mauldeth Road, Manchester, M19 1AJ

Ward(s): Burnage Ward

Applicant: Mr Ahmed Salama 9 Sandray Grove, Salford, Manchester, M5 5QY

Agent (if any):

Case officer: David Lawless
Tel: 0161 234 4543
Email: david.lawless@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 2 March 2022



Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 15 February 2022

Standard consultations:

Printed: 18 January 2022 Expired: 8 February 2022

Neighbour notifications

Printed: 18 January 2022 Expired: 8 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/area

198-200 Mauldeth Road is an end-terraced commercial property, currently in use as a restaurant on the ground floor with residential above. On the Opposite side of Mauldeth Road stands the Burnage Sports and Social Club, while at the rear, beyond the yard and alleyway, there are residential properties.

To the front of the property there is an external seating area. During the Covid pandemic the applicant erected a temporary makeshift canopy to allow customers to eat outside.

Listed building: no

Conservation area: no

Tree Preservation Order: no

Description of development

The applicant is proposing to erect a permanent canopy to the external seating area.

Consultations & Notification Responses

Local Residents/Businesses – No comments received.

Environmental Health – Suggests the imposition of a condition limiting the use of the external area, along with one preventing the playing of amplified music

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.

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.

Saved UDP 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.

Issues

Principle of the Proposal – The forecourt of the site has been used as an external seating area for several years prior to the applicant taking over the site. The existing canopy was erected in response to the Covid pandemic and was the subject of an enforcement complaint (ENF/15124/21). The existing canopy is basic in both design and construction and was not intended as a permanent feature, but rather an emergency structure to enable the business to continue to trade while also encouraging social distancing.

The applicant is now proposing a permanent canopy structure which would be constructed from brick to match the existing building. This would enable the applicant to trade while still ensuring a certain degree of social distancing.

Given the above, the principle of the proposal is considered acceptable. Notwithstanding this, any impact upon existing levels of visual and residential amenity must be assessed.

Design – The existing canopy of rudimentary in construction and does not complement the existing streetscene. As the proposed canopy would be finished with a silicon render and topped by a sturdier roof, the design of the proposal is considered acceptable.

Visual Amenity – Given the design of the proposal it is not considered that the permanent canopy would have a detrimental impact upon the existing levels of visual amenity enjoyed within the vicinity of the site.

Residential Amenity – The concerns of Environmental Health are recognised and as a result conditions to agree the hours of operation of the external area and not allowing the playing of amplified music would be attached to any approval granted. With the imposition of these conditions it is not considered that the proposal would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of the nearest residential accommodation.

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 problems 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 16 December 2021:

- a) Location plan
- b) Drawing nos. 001 to 007

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) Above-ground construction works (excluding demolition of the existing canopy) shall not commence until samples and specifications of all materials, to be used in the external elevations have been submitted to and approved in writing by the City Council as local planning authority. Thereafter the development shall be carried out in accordance with those details.

Reason - To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located, as specified in policies SP1 and DM1 of the Manchester Core Strategy.

4) Following completion of the development hereby approved and prior to the use of the outside seating area, a schedule, detailing days and hours of operation of the outside seating area, shall be submitted to and be approved by the City Council as local planning authority. Thereafter the outside seating area shall only be used in accordance with the approved schedule of operation.

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to Policy DM1 in the Manchester Core Strategy and saved UDP Policy DC26.

5) No amplified sound or any music shall be played in the outside seating area at any time.

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to Policy DM1 in the Manchester Core Strategy and saved UDP Policy DC26.

Informatives

1) **Informative for Condition no. 4** - In an effort to discharge this condition the applicant is required to submit a sufficient acoustic assessment of noise from the external seating area. This must include details of the number of patrons permitted within the area, details of the intended use of the area (i.e dining, seated patrons only or will the area be used for the consumption of alcohol only).

Once the assessment is undertaken, a scheme for managing noise from the external area to a levels which does not cause disamenity to nearby residents must be submitted, and agreed, with environmental health before first use commences. The assessment must be based on a 'worse case scenario'.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

198A Mauldeth Road, Manchester, M19 1AJ
192 - 196 Mauldeth Road, Manchester, M19 1AJ
202A Mauldeth Road, Manchester, M19 1AJ
Flat 3, 192 Mauldeth Road, Manchester, M19 1AJ
Flat 2, 192 Mauldeth Road, Manchester, M19 1AJ
Flat 1, 192 Mauldeth Road, Manchester, M19 1AJ
200 Mauldeth Road, Manchester, M19 1AJ
5 Broadhill Road, Manchester, M19 1AQ
202 Mauldeth Road, Manchester, M19 1AJ

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
Area Team Boundary - Name: SOUTH