

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131769/FO/2021

Date registered valid: 12 November 2021

Proposal: Creation of a restaurant (Use Class E) at ground and first floor level together with elevational alterations and the installation of a flue to the rear.

Address: 7 Progress Buildings , Cheetham Hill Road, Manchester, M8 9HJ

Ward(s): Cheetham Ward

Applicant: Dr Sajjad Riaz Mason and Marlowe Ltd 7 Progress Building, 491-493 Cheetham Hill, Manchester, M8 9HJ

Agent (if any): Dr Kanadi Jagafa Mason and Marlowe Ltd 3 Gladwin Place, 3 Colman Gardens, M5 3NT

Case officer: Janine Renshaw-Livesey
Tel: 0161 234 4555
Email: janine.renshaw-livesey@manchester.gov.uk

Recommendation: APPROVE

Date of recommendation: 16 February 2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit:

Standard consultations:

Printed: 12 November 2021

Expired: 3 December 2021

Neighbour notifications

Printed: 12 November 2021

Expired: 3 December 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

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

This application site relates to a vacant ground and first floor unit previously used by a funeral service business, which occupies a terrace position within a commercial parade that turns the corner from Halliwell Lane onto the main frontage of Cheetham Hill Road. Whilst situated outside the bounds of the district centre, the parade effectively forms an extension of the centre which continues in a southerly direction along Cheetham Hill Road.

The two-storey parade (Progress Buildings) contains a mixture of small-scale retail, office and food and drink uses, lies opposite an area of open space (Goldstone Gardens) and is separated from residential properties along Halliwell Lane by a detached building accommodating a ground floor retail unit. The rear of the site is largely residential in nature.

Planning permission is sought for the creation of a restaurant (Use Class E) at ground and first floor level together with elevational alterations and the installation of a flue to the rear.

The proposed operating hours of operation are 12:00 hrs to 23:00 hrs Monday to Sunday and Bank Holidays.

Negotiations

The original scheme included the installation of two flues. However, the scheme has been amended to the installation of one flue.

Consultations & Notification Responses

The occupiers of the surrounding properties were consulted and no representations were received.

The Highways Team- Recommend that cycle storage provision be included within the curtilage of the site and a condition has been attached to the consent. Highways recommended that subject to the level of projection the shutter may have on the highway a projection over licence may be required and any works during the fit out that impact on the highway network the appropriate licences will be required and informatives have been attached to the consent.

Environmental Health- Recommend fumes, noise, refuse and serving and operational hours be attached to the consent.

The Flood Team-Recommended that the applicant should design and construct a drainage system to prevent the increased risk of flooding, to improve and protect water quality and ensure future maintenance of the surface water drainage system pursuant to policy EN17 of the Core Strategy and an informative has been added to the consent.

Greater Manchester Police-No representation has been received.

Issues

Local Development Framework

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 - 2027.

'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.'

The following policies within the Core Strategy are considered relevant:

Policy SP1 refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the

surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Policy C10 states that new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy will be permitted, subject to the following considerations:

1. Cumulative impact - in areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities.
2. Residential amenity - the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.
3. Balance - new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area.

When considering the impact of a proposed bar or hot food take away regard will be had to the above policy and also:

- o The existing number of similar establishments in the immediate area and their proximity to each other;
- o The type and characteristics of other uses, such as housing, shops and public houses;
- o The existence of vacant shop units and the condition of the unit;
- o The importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
- o The character of the centre and its frontage, and the nature of the use proposed;
- o The potential impacts of the proposal on the wider community; and
- o Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

Unitary Development Plan for the City of Manchester (Saved Policies)

The below saved policies of the Unitary Development Plan are considered relevant:

Policy DC10 (Food and Drink Uses) states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, the Council will have regard to, in this instance:

- o The general location of the proposed development.
- o The effect on the amenity of neighbouring residents.
- o The availability of safe and convenient car parking
- o Access for all
- o The storage and collection of refuse.

Policy DC26 - seeks to reduce the impact of noise generating development. The Council will consider the effect of new development proposals and the implications of new development being exposed to existing noise sources. Developments likely to result in unacceptably high noise levels will not be permitted

DC14 Shop Fronts and Related Signs.

This policy applies to all retail premises and to other commercial premises which have similar physical characteristics e.g. betting shops, banks, building society offices, optician's premises etc. DC14.1 In determining applications relating to these premises for shop fronts, the Council will seek to ensure that proposals are in keeping with the character of the building and adjoining buildings, of adjoining shopfronts, where appropriate, and of the area within which the premises are located.

The proposed shop front and the enlarged windows consist with policy DC14 in terms of the design and appearance as they are considered to be in keeping with the host building and the neighbouring commercial ground floor properties along the parade.

National Planning Policy Framework

The central theme to the NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role (paragraphs 6 & 7).

Paragraphs 11, 12, 13 and 14 of the NPPF outlines a "presumption in favour of sustainable development". This means approving development, without delay, where it accords with the development plan and where the development is absent or relevant policies are out-of-date, to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

Issues

Principle - Due to the location of the premises within a busy commercial frontage of 8 or more units and containing other similar uses, including the immediately adjoining premises, the principle of the use proposed is considered satisfactory and broadly compliant with the principal, overarching policy. Namely, saved policy DC10 of the UDP and policies C8 and C10 of the Core Strategy. These detail the considerations that should be taken account of for food and drink uses and seek to support proposals that contribute to the vitality of centres and in particular, those that contribute to the evening economy.

Impact on the District Centre

With reference to Policy C10 of the Core Strategy, it is not considered that the proposed use would have an adverse impact upon the vitality and viability of the Cheetham Hill district centre as a consequence of the cumulative impact of similar uses in or on the edge of the district centre, nor would the proposed use affect the importance of the centre for local shopping.

The application premises has been vacant for some time and whilst there has not been any recently analysis of the centre, a Land Use Survey undertaken in August 2012 found that there is not a high concentration of night-time or food and drink uses within the district shopping centre or the wider environs of Cheetham Hill. Therefore, it is maintained that the proposed use would not undermine the shopping function or character of the area.

Residential Amenity - Due to the existing, semi-commercial context of the area, the similarity of other neighbouring operations and the situation of Goldstone Gardens opposite, it is not

believed that there would be a significant impact in terms of background noise levels and levels of activity.

Whilst it is acknowledged that residential properties are situated nearby and there is potential for some loss of amenity from the comings and goings and noise associated with the use, it is believed that any impact can be limited by a restriction to the opening proposed. In this instance the opening hours of premises are limited until 12pm daily.

On balance, given that the premises is situated within a commercial parade in a busy part of Cheetham Hill, it is considered that the amenity of residents would not be so adversely affected as to justify refusing permission.

Car Parking - The application does not contain any car parking within the curtilage of the property and would therefore rely on on-street parking in the locality for any parking demand. This is typical of other businesses in the area and the application parade in particular.

It is not considered that occupation of the unit for use as a restaurant would result in a material different or detectable impact in terms of coming and goings and vehicle movements than that of the previous retail use of the ground floor unit.

Highway Services who were consulted during the processing of the application are satisfied that the proposed change of use would not result in any significant adverse effects upon the highway in terms of traffic movements or on-street parking demand.

Refuse storage - In comparison to other businesses in the parade, the submitted scheme indicates space within the rear yard for the storage of refuse and moved from the premises at times of collection.

Environmental health have commented that additional containers are required as the containers proposed are insufficient. The drawings state that the containers will be collected daily which we agree with especially considering the size of receptacle proposed (240lite) however it states that they will be collected at 6am. This is too early and refuse collections will need to comply with the servicing hours condition above and the information on the diagram updating to confirm this. Therefore, a refuse strategy condition has been attached to the consent.

Fume extraction -A fume extraction flue is proposed on the rear elevation of the host building. It is believed that in the context of proposed location and the presence of similar flues in the parade, the visual impact of the pipe is limited and any potential, adverse impact in terms of its appearance and odours emitted can be controlled via a planning condition. A suitable condition is therefore recommended in this regard which requires that a scheme is submitted and approved which details the colouration of the flue and its future maintenance.

Noise - This type of development can generate noise through the plant and fume extraction equipment on site and from the activities of patrons. The former can be addressed through acoustic attenuation and an appropriate condition is proposed in this respect.

The activities of patrons is more difficult to control. In such cases, the solution is to restrict the hours of opening. The opening hours on this occasion are relatively modest and lesser than other similar uses in the area in order to take account of nearby residential occupiers. A restrictive hours of operation condition has been included.

Visual Amenity

The shop front is non original and approved under planning 057578/FO/NORTH1/99.

The proposal includes some minor building works to the premises, the installation of a new door and shopfront.

The introduction of a new shop front is considered to be acceptable. The alterations to the shop front in terms of its appearance and design does not detract from the appearance and character of the architecture of the host building. The current arrangement has a recessed doorway and a central entrance. The new shop allows for a wider expanse of glazing due to the relocation of the entrance allowing more visibility into the unit. The new shop front in terms of its design and materials are considered to modernise the exterior of the building. Consideration of this type of alteration to the elevations are also assessed on the visual impact on the neighbouring property, and in this instance the neighbouring property has remodelled the ground floor which has improved the visual aesthetic of the unit. The neighbouring units does differ in terms of design and appearance in relation to the application site, however, given that both design solutions are considered to be an improved aesthetic compared with what was there previously and as a result of the implementation of the alteration would not detract from the character and appearance of the host building nor would the changes detract from within the street scene. The alterations are considered to be acceptable.

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:

Article 35 Declaration

Officers worked in a positive and proactive manner with the applicant to address the unauthorised use and to negotiate the submission of the correct information for the application. Therefore, the scheme has now been considered retrospectively and is acceptable and in accordance with the Development Plan.

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:

The Location Plan and the Site Plan, stamped as received on the 29 September 2021 and the Technical Data for the Extraction System, Electrostatic Precipitator, the Odour Control and Extraction System by Ideal Catering Solutions, stamped as received on the 29 September 2021 and the drawing numbered A 2, stamped as received on the 20 January 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) No part of the development shall be occupied until space and facilities for bicycle parking have been provided in accordance with details to be submitted to and approved in writing by the City Council as local planning authority. The approved space and facilities shall then be retained and permanently reserved for bicycle parking.

Reason - To ensure that adequate provision is made for bicycle parking so that persons occupying or visiting the development have a range of options in relation to mode of transport in order to comply with policies SP1, T1 and DM1 of the Core Strategy.

4) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, deliveries/waste collections on Sundays/Bank Holidays restricted to 10am to 4pm.

Reason - In the interests of public amenity pursuant to Policies DM1 of the Core Strategy.

5) a) Fumes, vapours, and odours, , shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences.

b) Prior to commencement of the use hereby permitted confirmation of the colour specification, shall be submitted for the approval of the City Council as local planning authority that the approved scheme has been implemented.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy and extant policy DC10 of the Unitary Development Plan for the City of Manchester.

6) The premises shall not be open outside the following hours unless otherwise agreed in writing by the City Council as local planning authority: -

As applied for - 12:00hrs to 23:00 hrs Monday to Sunday and Bank Holidays.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

7) 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 nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy.

8) 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 safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy.

9) Before the development commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

New developments shall have refuse storage space for segregated waste collection and recycling. Internal and external storage areas are required.

Reason - In the interests of public amenity pursuant to Policies DM1 of the Core Strategy.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no part of the development shall be used for any purpose other than the purpose(s) of part (g)(i) of Class E (restaurant use) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason - To safeguard the amenities of the neighbourhood by ensuring that other uses which could cause a loss of amenity do not commence without prior agreement, pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

11) The permission hereby approved does not allow any part of the development to be used for the sale of hot food to be consumed away from the premises. The premises can only be used for Class E (restaurant use).

Reason - To safeguard the amenities of the neighbourhood by ensuring that other uses which could cause a loss of amenity do not commence without prior agreement, pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

12) Notwithstanding details submitted, full details of the proposed roller shutters to be installed shall be submitted to and approved in writing by the City Council as Local Planning Authority prior to installation. The development shall only be implemented in accordance with the approved details and retained thereafter.

Reason - In the interests of visual amenity, pursuant to policies DM1 and SP1 of the Manchester Core Strategy.

Informatives

1) The applicant should design and construct a drainage system to prevent the increased risk of flooding, to improve and protect water quality and ensure future maintenance of the surface water drainage system pursuant to policy EN17 of the Core Strategy.

2) If the roller shutter extends further than 0.35m over the adopted highway a projection over license will be required. This is obtainable via Contact Manchester on 0161 234 5004 and is to be funded at the applicant's expense

3) The applicant is 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).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
MCC Flood Risk Management
Greater Manchester Police

1B Greenhill Road, Manchester, M8 9LN
396 Cheetham Hill Road, Manchester, M8 9LE
398 Cheetham Hill Road, Manchester, M8 9LE
12 Halliwell Lane, Manchester, M8 9ER
10 Halliwell Lane, Manchester, M8 9ER
1A Progress Buildings, Halliwell Lane, Manchester, M8 9ER
1A Greenhill Road, Manchester, M8 9LN
Flat Above, 9 Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
Flat 8, Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
Basement, 8A Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
9 Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
4 Progress Buildings, Halliwell Lane, Manchester, M8 9ER
1 Progress Buildings, Halliwell Lane, Manchester, M8 9ER
5 - 6 Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
8 Progress Buildings, 491 - 493 Cheetham Hill Road, Manchester, M8 9HJ
2 Progress Buildings, Halliwell Lane, Manchester, M8 9ER
3 Progress Buildings, Halliwell Lane, Manchester, M8 9ER
400 Cheetham Hill Road, Manchester, M8 9LE

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 - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH1