

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132754/LP/2022

Date registered valid: 24 January 2022

Proposal: Certificate of lawful proposed use of the ground floor as a cafe/restaurant, , Hours:, Monday to Sunday 10:00 to 00:00

Address: 18 Greenbrow Road, Manchester, M23 1EX

Ward(s): Baguley Ward

Applicant: S Hanif 18 Greenbrow Road, Manchester, M23 1EX

Agent (if any): Mr V Alyas Architek 916 Stockport Road, Manchester, M19 3AB

Case officer: Linda Marciniak
Tel: 0161 234 4636
Email: linda.marciniak@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 21 March 2022

Application details

Type of application: Certificate Lawful Developmnt Proposed

Development type: Certificates of lawfulness

Date of site visit: None for LP

Standard consultations:

Printed: 27 January 2022 Expired: 17 February 2022

Neighbour notifications

Printed: 27 January 2022 Expired: 17 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: Not applicable

Tree Preservation Order: Not applicable

Description of area

Description of development

Consultations & Notification Responses

Highway Services

The application seeks consent for the Certificate of lawful proposed use of the ground floor as a cafe/restaurant Hours: Monday to Sunday 10:00 to 00:00 at 18 Greenbrow Road, Manchester, M23 1EX

The site is located adjacent to the adopted highway of Greenbrow Road in the ward of Baguley. The site is adjacent to a bus stop clearway, with a traffic restriction of No Waiting at anytime. There is a private forecourt to the front of the property which is segregated from the adopted footpath by fixed bollards. To the rear of the property is a private alleyway which is shared with neighbouring units and used as a service route.

HIGHWAYS RESPONSE

The property is located in a local centre and is considered suitably accessible by public transport via bus services on Greenbrow Road and Metrolink services on Hollyhedge Road. The proposed use as a cafe/restaurant is considered unlikely to generate a significant increase in vehicle trips. Highways considers that the relatively small scale of the development, coupled with the likelihood that a high proportion of customers would arrive at the building on foot as the site is located within a residential area and in close proximity to the district centre, is acceptable in principle from a Highways perspective.

There is no detail is provided regarding waste storage - this should be confirmed.

There is no detail is provided regarding cycle storage - to encourage sustainable travel this should be provided in line with MCC Guidelines. Cycle storage should be secure and weatherproofed.

Should a delivery service be proposed, the applicant should confirm where delivery vehicles will be expected to park/load.

EHO comments

1.FUME*

Fume/odours

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.

Mixed use schemes shall ensure provision for internal ducting in risers that terminate at roof level. Schemes that are outside the scope of such developments shall ensure that flues terminate at least 1m above the eave level and/or any openable windows/ventilation intakes of nearby properties.

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

Reason - In the interests of the amenities of occupiers of nearby properties.

**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.*

2.HOURS1

Premises opening hours

The premises opening hours shall be agreed in writing by the City Council as local planning authority prior to occupation.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation.

*It is noted that the premises has applied for 10am to midnight but there is no noise study with the application to demonstrate that these hours will not cause noise disamenity from patrons coming and going and congregating outside at the later times applied for and from any music breakout.

3.HOURS2

Deliveries to commercial premises

Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation.

4.NSE1

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 5dB 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 (Leq,5min), 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.

5.NSE6

External plant/equipment/servicing

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. 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.

b) Prior to the operation of the scheme 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.

6.REF*

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

b) 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.

Reason - In the interests of amenity and public health.

**The proforma/ Waste Management Strategy must include the following information:*

*Estimated volumes and types of waste produced by the development;
Details of internal and external stores for both waste and recycling, including any plans and designs;
Location of the proposed collection point and details of the route the collection vehicle will take;
Details of how waste will be transferred between stores and to the collection location; and
Details of number and capacity of bins proposed and collection frequency.
Other details as per 'Waste Proforma v1.0' - refer to guidance at:
http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy*

Legislation

The proposal is subject to assessment on the basis that the qualification for the proposed use meets the criteria relating to the existing, former A1 use of the shop unit in line with the legislative changes which came into force on the 1st of August 2021 which consolidated a number of Use Classes under one new Class E of development. This falls within Schedule 2, Part A of the Town and Country Planning Act (General Permitted Development) (England) Order (as amended) 2015.

SCHEDULE 2 - PART A - Commercial, Business and Service

Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,

- (ii) professional services (other than health or medical services), or
- (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Issues

The applicant has not provided any evidence to support the A1 status of the site. However, the planning register contains sufficient detail to demonstrate that this criteria is met.



An entry from 1979 contains the first evidence that the shop unit was in situ at this time (Ref: F10349 - Alterations and new shopfront to Newsagents Shop).

The shop unit was subject to an application in 2006 for a cash machine; a photo taken by the Planning Officer confirms its A1 status (*see left*)

A declaration of the existing use was provided in an application in 2016 for a change of use from A1 to A5 (Ref: 114536/FO/2016 - Withdrawn), and Google Street

View images are available which confirm that the unit was in use as an A1 retail store during 2009, 2012, 2015 and is then shown as vacant from August 2018 to the present day. The A1 use was therefore the established use as of the qualifying date for subsuming under Class E.

On the basis of the above evidence, the Council is confident that the unit has traded as an A1 use with no deviation to a class of use outside of the qualifying criteria to permit a change to a café/restaurant use within Class E(b). The proposed change of use is therefore permitted as Lawful Development.

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

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

Approve on the basis that proposed use of the ground floor at 18 Greenbrow Road, as shown on the Location Plan (Ref: A101 Rev P1) received by the City Council as Local Planning Authority on the 24th of January 2022, constitutes permitted development, as both the existing retail use and proposed restaurant use, involving the consumption of food and drink on the premises, fall into the same use class - Class E (commercial, business and service) of the Town and Country Planning (Use Classes Order) 1987 (as amended).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

22 Fouracres Road, Manchester, M23 1FG
20 Fouracres Road, Manchester, M23 1FG
1 Firbank Road, Manchester, M23 2QH
Flat At, The Red Rose Inn, Greenbrow Road, Manchester, M23 1EU
Flat 5, 22 Greenbrow Road, Manchester, M23 1EX
Flat 3, 22 Greenbrow Road, Manchester, M23 1EX
Flat 8, 22 Greenbrow Road, Manchester, M23 1EX
Flat 7, 22 Greenbrow Road, Manchester, M23 1EX
Flat 6, 22 Greenbrow Road, Manchester, M23 1EX
The Red Rose Inn, Greenbrow Road, Manchester, M23 1EU
26 Greenbrow Road, Manchester, M23 1EX
24 Greenbrow Road, Manchester, M23 1EX
22 Greenbrow Road, Manchester, M23 1EX
14 Greenbrow Road, Manchester, M23 1EX
12 Greenbrow Road, Manchester, M23 1EX
Flat 4, 22 Greenbrow Road, Manchester, M23 1EX
Flat 2, 22 Greenbrow Road, Manchester, M23 1EX
Flat 1, 22 Greenbrow Road, Manchester, M23 1EX
20 Greenbrow Road, Manchester, M23 1EX
13 Greenbrow Road, Manchester, M23 1EU

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 45M
Area Team Boundary - Name: SOUTH