

Planning**Growth & Development****Delegated officer report for planning application**

Application no. 131351/FO/2021

Date registered valid: 20 October 2021

Proposal: Change of Use from Class E to Use Class E and/or Hot Food Takeaway (Sui Generis)

Address: 135 - 141 Withington Road, Manchester, M16 8EE

Ward(s): Whalley Range Ward

Applicant: Co-operative Group, Food Ltd C/o Agent

Agent (if any): Pegasus Planning Group Ltd, 1st Floor South Wing, Equinox North, Great Park Road, Bristol, BS32 4QL

Case officer: Jennifer Connor
Tel: 0161 234 4545
Email: jennifer.connor@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 04.02.2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 04.11.2021

Standard consultations:

Printed: 3 November 2021 Expired: 24 November 2021

Neighbour notifications

Printed: 3 November 2021 Expired: 24 November 2021

Site notice

Posted: 4 November 2021 Expired: 25 November 2021

Press advert

Published: 9 November 2021 Expired: 30 November 2021

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

The property is a commercial property within a residential area to the south of Whalley Range Local Centre within Whalley Range Conservation Area.

Listed building: Not applicable

Conservation area: Whalley Range Conservation Area 1992

Tree Preservation Order: Not applicable

Description of development

Change of Use from Class E to Use Class E and/or Hot Food Takeaway (Sui Generis)

Consultations & Notification Responses

Objections received from 5 residents on the following grounds:

- Having already submitted objections to this proposal 131304/FO/2021, we now understand that the co-op is asking to change use to takeaways. Whalley Range does not need are more takeaways! They form over 50% of the high street already and the resultant mess, noise and traffic do not need to be further exacerbated. The units will result in constant traffic and inconsiderate parking on Mayfield Road (which is already a dangerous junction on a residential road). The same objections we raised on 131304 still apply. Please reject this application as poorly thought out and showing no concern or regard for the Whalley range community. The co-op should be ashamed of themselves as their 'Helping communities thrive by doing the right thing' is certainly not being applied here.
- No more fast food outlets x 2

- We are drowning in hot food takeaway shops.
A little sit down restaurant within walking distance would be lovely.
A small café to meet with friends would be such a pleasure.
A retail unit for dog paraphernalia would be welcome by the considerable local community of dog owners living within the vicinity of our delightful Alexandra Park.
A little aspirational thinking would go along way to creating the potential for further positive and prosperous development in Whalley Range.
- Please can you kindly accept my objection to the planning application for change of use to Hot Food outlet based on the fact that my neighbourhood is already filled with hot food outlets. The air constantly smells of cooking foot and hot fat and the litter unsightly and the increase in rats etc is very noticeable. We should be encouraging healthy eating and home cooking in our diverse Whalley Range instead of unhealthy processed foods which is not sustainable for our health our the planet.

Whalley Range Community Forum –

There would be no objection from Whalley Range Community Forum to the proposed change of use to two new retail units, as such, provided that the fence and gate dividing the existing service area from the existing car park remain in place.

The objection is to the proposed permission for use of the units as hot food takeaways.

In my letter of 28th September in response to the main application number 131304/FO/2021 I anticipated this latest application and stated that any approval of the main application should contain conditions restricting the future use of those two new units. The main issue is that any further takeaway units on Withington Road will inevitably increase the already intolerable level of littering on the local streets. Range Road is the next street to the north of the site. It is constantly plagued by litter from people who have purchased food and drink from the takeaways on Withington Road. If the new units become takeaways then Mayfield Road residents will suffer from the same problem.

There is nothing in the latest application that could address this issue, and I would therefore urge that the application for use of the units as takeaways is refused.

Range Road Residents – Whalley Range is rapidly on course to becoming the takeaway and chips capital of South Manchester! We're already inundated with them. This isn't a desirable future, as anyone who routinely has to deal with the continual dumping of takeaway containers and rotting food discarded on especially Range Road and neighbouring streets will confirm. Since there doesn't seem to be any way of effectively dealing with this, we strongly oppose the proposal to add even more. At meetings I've attended, healthy eating has been widely applauded as the way to go; now is the time to do something about it and halt the progress to worse.

The Potential Future

Due to the popularity of online shopping, the modern high street is either food or beauty/fashion and it is important we accept this and move with the times. I'm aware these suggestions may be controversial but they indicate a solution.

It is in nobody's interest that the units stand empty, so perhaps it is time to face possibilities that have previously seemed unthinkable.

In the not too distant past we were told or it was commonly believed:

- There was no demand for fresh produce in Whalley Range – nonsense; we now have four shops all competing on range and quality
- Whalley Range cannot sustain a good supermarket – nonsense; we now have two and it is difficult to imagine being without them
- Whalley Range isn't a safe place for a cash machine – nonsense, we now have two which operate with minimal problems and are essential

The area is continually changing and improving but one complaint is that anyone here who wants a decent quality sit down meal has to face the trek to Chorlton, Didsbury, Rusholme or the City Centre.

The Mediterranean Café has proved there is a demand for a quality sit down café which doesn't have to be a nuisance to the surrounding area.

For historical reasons, there is no decent bar in the immediate vicinity except the Carlton Club (shortly to become members and friends only I understand). They, the Hilary Step and Jam Street have proved that they can operate with minimal problems in a residential area when well and responsibly run. They also have a community building role.

Both of the new units face onto the main road – away from residential properties – have plenty of room inside and have an area in front of them for tables and sitting out if necessary. They also have off street parking.

Conclusion

While strongly opposing any new takeaways in the area, it is clearly in nobody's interest for the new shop units to stand empty. Retail may be the ideal solution but perhaps it is time to consider raising our ambitions for Whalley Range and its new demographic by bringing our High Street experience into the 21st century, if retail isn't an available option.

Environmental Health – Satisfied subject to the imposition of appropriate conditions.

Highways – Have concerns that the addition of hot food takeaways to this location will generate a high turnover of trips that cannot be adequately accommodated in the car park, this could add to on-street car parking demand and this may cause congestion/highway issues.

Policies

Local Policy

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 Evening Economy

EN3 - Heritage

The relevant **UDP** policies for this application are:

DC10 Food and Drink Uses

Hot Food Take Away SPD (March 2017)

National Policy

National Planning Policy Framework. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF was revised in July 2021 and is a material consideration in the determination of all planning applications.

Legislative requirements. Section 72 of the Listed Building Act 1990 provides that in considering whether to grant planning permission for development that affects the setting or character of a Conservation Area the local planning authority shall have special regard to the desirability of preserving or enhancing the character or appearance of that area.

Issues

This is an application not just purely for the change of use of part of 135-141 Withington Road to Hot Food Takeaway, although the subdivision of the existing co-op unit itself to provide two separate Class E uses would not require consent (there is a separate planning application reference 131304/FO/2021 for external works to facilitate the subdivision of the retail unit into 3 units to include shopfront works, two new entrance doors, rear service access doors, installation of plant and enclosure, bollards, cycle stands, external roller shutters, reconfigured car park, new service bay and amended servicing proposals), it is also an application for alterations to the hours of operation.

Extant 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.

The existing premises is not considered to be within a district centre or a local centre as defined by the Core Strategy (2012) under policy C1 nor is it located within a shopping parade of 8 or more units.

It is considered that this application represents a policy conflict, at paragraph 5.11 of the submitted supporting planning statement it sets out that this location is not in the city centre, industrial or commercial areas, in a shopping centres or in a parade of more than 8 shops. Paragraph 6.2 of the submitted supporting planning statement acknowledges the site is outwith a defined centre. Where a proposed change of use is outside of these areas the principle may be acceptable subject to no adverse impact on the amenity of nearby residents.

The proposed operating hours are 07.00 to 23.00 Monday to Sunday inclusive.(although reference was made in the submitted Planning Statement about the proximity to a school and that a condition in accordance with the recommendations of the Hot Food Takeaway Supplementary Planning Guidance could be accommodated).

The hours of operation set by the planning application for the unit 096967/JO/2011/S1 were: 07.00 to 22.00 hrs Monday to Saturday, 10.00 to 16.00 hrs on Sundays.

This planning permission also restricts the hours of deliveries to 07.00 to 19.00 hrs Monday to Saturday and 08.00 to 16.00 on Sundays and Bank Holidays.

The current application would therefore see an increase in the hours of operation of: 1 hours in the evening Monday to Saturday and three hours in the morning on a Sunday and seven hours in the evening.

We have received objections from Whalley Range Forum, Range Road Residents and a local resident relating to the use of the proposed units for take-away use and the associated littering and parking issues. We have also received concerns from Highways on the basis that there would be an increase overall trips and car parking demand associated with take-away uses.

Amenity is a material consideration. It is considered that the introduction of two takeaway units would affect the character and function of the immediate area by virtue of the generation of an unacceptable level of pedestrian and vehicular activity, associated noise and disturbance and the congregation of people in and adjacent to the premises. It is considered that there is conflict with relevant development plan policies and it is not considered that there is sufficient mitigation to overcome the harm to adopted policy. There is also harm associated with the addition of the hours proposed late in the evening and on early in the morning and late in the evening on a Sunday when there is an expectation of lower levels of noise disturbance.

Impact on the character of the Whalley Range Conservation Area – This application does not involve physical change, however, the character of this part of Whalley Range Conservation Area is predominately residential and the proposed change of use will be harmful to residential amenity as set out above. This however will cause less than substantial harm to the Conservation Area and there is not reason for refusal relating to the impact of the proposed change of use on the character of the Conservation Area.

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. 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.

Reasons for recommendation to refuse

1. The proposed use would have an adverse impact upon the residential amenity of surrounding occupiers due to its potential generation of an unacceptable level of pedestrian and vehicular activity, associated noise and disturbance and the congregation of people in and adjacent to the premises, which would thereby affect the amenity of neighbouring and local residents. 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 and Hot Food Take Away SPD (March 2017)

2. The creation of a hot food takeaway (Sui Generis Use) at 135 - 141 Withington Road is an inappropriate use, as it is located outside an established and defined shopping parade/centre where hot food take away uses are usually considered to be appropriately located, to avoid any adverse impacts on the character or amenities of the occupiers of residential premises. The proposed use is therefore considered to be contrary to saved policy DC10 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Manchester Core Strategy and Hot Food Take Away SPD (March 2017)

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Whalley Range Forum
Whalley Range Conservation Area Group

List of properties notified on Uniform

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
Conservation Area - Whalley Range Conservation Area 1992
Flood Zones Type 2 (low to medium risk) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH