

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131958/FO/2021

Date registered valid: 19 November 2021

Proposal: Installation of glazed retractable awning structure to the flat roof to create an outdoor terrace area

Address: 60 Beech Road, Manchester, M21 9EG

Ward(s): Chorlton Ward

Applicant: Mr Tony Reynolds, Loca Shading Designs Ltd, 6 Knights Park, Hussey Road, Shrewsbury, SY1 3TE

Agent (if any): Mr Peter Lee, PLTS, 1 The Crescent, Stourbridge, DY9 7LF

Case officer: Jennifer Connor
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Email: jennifer.connor@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 21.01.2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Standard consultations:

Printed: 23 November 2021

Expired: 14 December 2021

Neighbour notifications

Printed: 23 November 2021

Expired: 14 December 2021

Site notice

Posted: 23.11.2021

Expired: 14 December 2021

Press advert

Published: 30 November 2021

Expired: 21 December 2021

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

The building is a commercial premises granted consent for use as a restaurant under the cover of planning permission 033139 in 1988 subject to the imposition of conditions with an existing single storey side extension permitted under the cover of planning application reference 050292/FO/SOUTH2/96 in 1996.

The area is a local shopping area within a predominantly residential Conservation Area.



Listed building: Not applicable

Conservation area: Wilbraham Road/Edge Lane (Extension) Conservation Area 2007

Tree Preservation Order: Not applicable

Description of development

Installation of glazed retractable awning structure to the flat roof to create an outdoor terrace Area.

Consultations & Notification Responses

Objections have been received from 5 residents on the basis that:

- Concern about the noise impact given the proximity of the development to residential properties.
A noise statement is included with the submission but this does not include any assessment of noise from patrons on the terrace impacting upon the existing properties and as such there is no way to validate that the noise mitigation measures proposed are sufficient. Furthermore, the noise statement indicates that double glazed windows will form part of the noise mitigation but the design and access statement clearly shows large areas of open windows. If windows are open then the mitigation is bypassed and it would be reasonable to expect a significant impact on the dwellings which face the proposed terrace. It is my understanding that MCC do not support the application for external terrace areas in close proximity to residential properties.
- Noise and overlooking. The proposal includes full height motorised rise-and-fall glass. During the summer, I assume, that these glass panels will be lowered to provide the comfortable al-fresco seating space. In the summer the windows of my flat (and adjacent Flats) will also be open. My property has no air conditioning (and with the threat of climate change none will be added). The only way to cool my home is to open the windows front and rear to allow a breeze. The insulation is good and my heating bill drops to near zero in the summer. My windows are typically open between May and September and open wide 24x7 in the hotter months a consequence of the heat retaining design, flat roof and the full height windows.
In the summer there will be NO BARRIER TO SOUND between the proposed development and my kitchen and living area. There is a clear unobstructed line of sight and with the walls lowered I will be able to look down and listen to the conversations of the diners sitting about 18m from my sofa. (Other flats are a similar distance but at the same elevation and flats are even closer at just 8m directly across the road).
Currently, although Beech Road is busy, Acres Road is quiet and the loudest noise is the emptying of bins at Suburban Green and the phone conversations of the kitchen staff by the fire escape. The development will significantly increase the scale and hours during which noise affects the adjacent properties and those who live there.
Fixed double glazed windows would address this issue.
I also have a concern about overlooking. The diners in the proposed development who sit facing north will be able to watch me at my cooker and at my kitchen sink. I know that open kitchens are a popular feature in restaurants, but this is my home. For another flat the entire kitchen will also be visible.
- We are concerned that our quality of life would be negatively affected by noise nuisance from the proposed roof terrace. Even with insulation to the rear elevation we are still concerned that sound would travel - and that this noise nuisance would be made worse when the roof sections are retracted and the window panels are opened.

We also feel that the overall appearance of the terrace structure is not in keeping with the other buildings in the Beech Road area.

A similar planning application (063397/FO/SOUTH1/01) for a roof terrace has been made previously for the same premises. This previous application was rejected by the council for the following reasons.

'The creation of a roof top patio would have a detrimental affect on the amenity of the occupiers of residential property on Acres road by reason of increased noise and a loss of privacy. The proposed development is therefore contrary to the provisions of policy DC10 Food and Drink of the Unitary Development Plan for the City of Manchester.'

We are of the opinion that this new proposal would have the same negative effect on occupiers of residential property on Acres Road.

- My objection concerns noise and overlooking.

The 'Design and Access Statement' describes the proposal as creating "a comfortable al fresco seating space" on the flat roof of the extension to the north side of the property.

However the structure describe, with a retractable overhead canopy and full-height motorised rise-and-fall glass on the front and side elevations, will be capable of varying from being almost completely open to being completely enclosed. It is therefore likely to be in use throughout the year, regardless of weather conditions, and is not just an "al fresco seating space".

The address of Suburban Green is 60 Acres Road, but the main elevation of the proposed extension is on Acres Road, a quiet residential street with no business premises other than the north aspect of Suburban Green. My residence is directly opposite Suburban Green on Acres Road, with the windows of both bedrooms and one window of the lounge being directly across from and approximately 8 meters away from the proposed extension.

My property is well insulated and has wide full-length windows and a flat roof. During spring and summer we need no heating and often require to have the lounge and bedroom windows open to cool the rooms. It is in such weather that the proposed Suburban Green extension will be creating most noise, with the roof retracted and the rise-and-fall glass walls at their lowest position. The noise will continue until late in the evenings.

I am also concerned about overlooking, with my bedroom windows being so close to the diners sitting along the longest elevation of the proposed Suburban Green extension.

If this proposal was simply for a rooftop "al fresco seating space" the usage would at least be limited by weather conditions. If, on the other hand, it was for a solid-walled first floor extension then the noise nuisance would be reduced. In its current form, however, it is the worst of both worlds as the nuisance it creates would be throughout the year and in all weather conditions.

- We welcome the development of Suburban Green at 60 Beech Road - It has been done to a high standard so far and the owners have done a good job. This outdoor terrace sounds great, however I (and others) are cautious about the noise implications for residents on Acres Rd and quality of life.

I think almost all of the houses/flats within 20 meters of Suburban Green are owner occupied. We've all made substantial investments to live in a lovely area. I'm aware that we all have potential concerns over the noise from this outdoor area.

Will there be a limit for the sound system on the outdoor terrace?

Can we ensure that there is no customer gathering/regular access at the rear of Suburban Green (Acres Road aspect) with the installation of the new staircase?

Will there be guidance over when the outdoor area will be closed (i.e. roof drawn/glazing up) a curfew/time limit?

Acres Road is a narrow residential street of terrace houses and apartments. We have at least x5 families with young children within 20 meters of Suburban Green, so while the development is exciting and welcome, clear guidance on controlling the noise that comes from this terrace would be appreciated.

Chorlton Voice - Chorlton Voice objects to this proposal.

The semi-enclosed seating area would be an incongruous feature in the street scene, with no relationship to the historic and architectural character of the area. I would accordingly detract from the appearance and character of the Conservation Area.

The elevated seating area, with minimal acoustic screening 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.

Highways - The site is located adjacent to the adopted highway of Beech Road to the south and Acres Road to the west. An area of unadopted highway is in place between the edge of the property and the adopted highway of Beech Road and Acres Road. A 20mph speed limit is in place along the entirety of Beech Road and Acres Road. No Waiting (Mon-Sat, 8am-6pm) is in place at Beech Road junction with Acres Road.

The outdoor terrace area will be situated at first floor level above the west elevation of the property along Acres Road.

The outdoor terrace area will be situated within the red line boundary of the development site and not impinge on the adopted highway at Beech Road or Acres Road.

As the proposed tables and chairs are not located on the adopted highway a tables and chairs licence is not required.

All furniture is to be stored internally within the premises outside of operational hours. This is considered appropriate in preventing unnecessary obstruction of the adjacent highway.

It is requested that a minimum headway clearance of 2.3m is in place for the pergola.

The applicant should be advised that all gated accesses (except fire escapes) will need to provide inward opening gates to ensure they do not impact on the adopted footway or highway.

It is expected that refuse servicing will continue as present, bins will be stored within the site's curtilage and presented to the highway on waste collection days.

It is expected that lighting will be angled so as not to adversely impact vehicles and pedestrians on the adopted highway.

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).

Environmental Health - I write in response to your memorandum of the 23 November 2021 and email of 13 January 2022 regarding the above application and to inform you that I have considered the application and recommend that the application is refused.

The supporting information does not include sufficient information on the additional noise that will be generated from the roof terrace. Given the proposed capacity of 40 diners and the hours of operation the proposed development is likely to cause disamenity to nearby residents especially those on Acres Road due to noise.

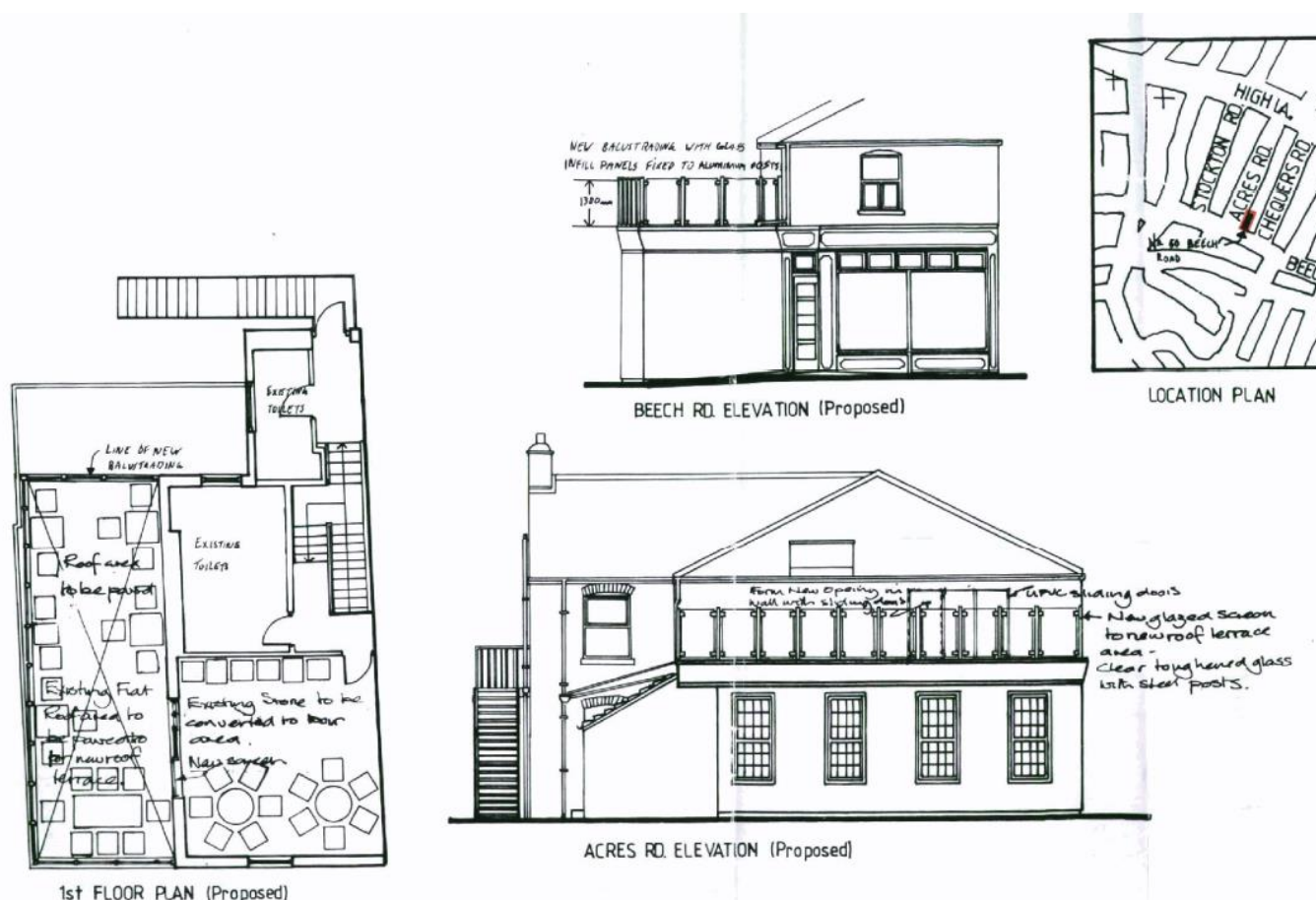
I have also noticed that the proposed hours for the premises are not inline with the approved planning hours on a Friday and Saturday as they only have planning permission to operate until midnight. That being said I do not think the proposed hours are suitable for the rooftop terrace and the applicant should consider amending hours to reduce the noise impact on nearby residents.

History

As referred to by one of the objectors an application (reference 063397/FO/SOUTH1/01) for a change of use of first floor office and roof terrace to form additional cafe/bar area and erection of glazed screen to roof terrace and external alterations was refused in December 2001 for the following reasons:

The conversion of the first floor office accommodation to additional A3 Food and Drink floorspace would have a detrimental affect on the amenity of the occupiers of the first floor living accommodation at 58 Beech Road by reason of increased noise. The proposed development is therefore contrary to the provisions of policy Dc10 Food and drink of the Unitary Development Plan for the City of Manchester.

The creation of a roof top patio would have a detrimental affect on the amenity of the occupiers of residential property on Acres road by reason of increased noise and a loss of privacy. The proposed development is therefore contrary to the provisions of policy DC10 Food and Drink of the Unitary Development Plan for the City of Manchester.



Policies

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

EN3 – Heritage

The relevant UDP policies for this application are:

DC 18.1 – Conservation Areas

DC 26 – Development and Noise

National Planning Policy Framework (NPPF) - The NPPF sets out broad national policies on themes such as housing, historic environment, town centres, design, climate change and the Green Belt.

Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which effectively balances economic, social and environmental factors. In particular NPPF states that in terms of design:

126. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

130. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

134. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design⁵², taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Issues

The Principle – The principle of the use of the flat roof for a terrace has previously been refused for the impacts it would have upon the residential amenity of neighbouring property, whilst there is a greater degree of enclosure of the structure proposed with this application, the principle remains the same. This development would lead to the commercial use of space which turns the corner from the local shopping centre into the residential road, providing space for a further 40 covers. This would lead to an increase in noise disturbance and overlooking to neighbouring residential property, as such it is considered that the development is contrary to policy SP1 and DM1 of the Core Strategy and saved policy DC26 of the Unitary Development Plan for the City of Manchester.

Design, Scale, Massing and Location and the impact on the Conservation Area –



It is considered that the design, scale and massing of the proposed glazed retractable awning structure to the flat roof to create an outdoor terrace area would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Wilbraham Road/Edge Lane (Extension) Conservation Area.

The structure would be constructed utilising a substantial powder coated aluminium metal frame with motorised parapet glass and a retractable fabric canopy, the rear wall would be a timber clad wall, as the agent stated they wished for there to be mitigation for noise disturbance in this location.

The existing single storey extension approved protrudes into the street scene of Acres Road at the junction with Beech Road. This encloses the space at the junction and partially obscures

views from Acres Road into Beech Road. It is considered that the construction of a structure at first floor level further encloses views into Beech Road, which is considered to be overdominant and obtrusive and to cause less than substantial harm to the character of Wilbraham Road/ Edge Lane (Extension) Conservation Area.

Residential Amenity – The structure proposed is deliberately designed to be opening to benefit the patrons of the commercial premises as extended by an additional 40 covers. It is considered that regardless of the presence of one element of timber cladding, and the offer to close the retractable roof and windows during certain hours that the noise disturbance created at all times of the year in this location as a result of the development proposed would be detrimental to the residential amenities of properties on Acres Road and Beech Road, contrary to policy DM1 of the Core Strategy and DC26 of the Unitary Development Plan for the City of Manchester.

The structure by virtue of its' design would enable first floor occupation nearer to neighbouring residential property with views through large areas of translucent glass with views towards neighbouring residential property. There are currently only two small scale windows set further away. This would lead to overlooking to neighbouring residential property to the detriment of their residential amenity contrary to policy DM1.

Conclusion - It might be the case a scheme to make the proposed structure into lightweight glazed box could be designed, an architectural gem that would be mechanically ventilated with no noise outbreak, however, the issue of principle of development in this location and the impact that this has on views within the Conservation Area and the prominence of the structure and overlooking from it could not be overcome through negotiation.

NOTE – The hours of use permitted for the premises are Sunday to Thursday 08.00 to 11.30pm and Fridays and Saturdays 08.00 to midnight. The agent confirmed that the applicant was operating beyond these hours and they were advised this would require planning permission. The applicant states that they will now abide by the hours set by the consent for the site and will apply to vary the hours.

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

The proposal would not improve the social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There are no conditions which could reasonably have been imposed, which would have made the development acceptable and it is therefore not possible to approve the application.

Reasons for recommendation to refuse

1) The proposed glazed retractable awning structure by reason of its scale, bulk, massing, size, design would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Wilbraham Road/Edge Lane (Extension) Conservation Area, which would also have an overbearing appearance to neighbouring occupiers to the detriment of visual amenity and as such is contrary to saved policy DC18 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 and DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.

2) It is considered that the hours of operation proposed and the design of the structure proposed would lead to an increase in noise and activity and a loss of privacy which would have an adverse impact on the residential amenity of the occupiers of the neighbouring property, contrary to Policies SP1 and DM1 of the Core Strategy and Saved Policies DC26 the Unitary Development Plan.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Urban Design & Conservation
Chorlton Voice
Beech Road Traders

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 - Wilbraham Road/Edge Lane (Extension) Conservation Area 2007
Area Team Boundary - Name: SOUTH