

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130874/JO/2021

Date registered valid: 28 June 2021

Proposal: Variation of condition number 7 (Opening hours) from planning approval reference 125731/FO/2019 to allow hours of opening from 0800hrs until 00:30 hrs seven days a week

Address: 203 Wilmslow Road, Manchester, M14 5AQ

Ward(s): Rusholme Ward

Applicant: Mr Afzal Hussain 112 Becketts Park Drive, Leeds, LS6 3PL

Agent (if any): Mr Darren Pomfret Manchester Building Design Ltd 8 Gas Street, Hollingworth, Hyde, SK14 8JD

Case officer: Melanie Tann
Tel: 0161 234 4538
Email: melanie.tann@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 21st October 2021

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Standard consultations:

Printed: 5 July 2021 Expired: 26 July 2021

Neighbour notifications

Printed: 5 July 2021 Expired: 26 July 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

The application site relates to the ground and basement floor of a mid-terrace property

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

Rusholme District Centre

Description of development

Variation of condition number 7 (Opening hours) from planning approval reference 125731/FO/2019 to allow hours of opening from 0800hrs until 00:30 hrs seven days a week

Consultations & Notification Responses

Local residents – no comments received.

Highways - no objection.

Environmental Health – requested additional information regarding acoustic attenuation measures, which was received and is considered to be satisfactory however, a post completion report should be done at the later opening hours.

Policies

National Planning Policy Framework

The National Planning Policy Framework 2021 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, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The Development Plan

Manchester's Core Strategy Development Plan Document now forms part of the development plan for Manchester and its policies provide the basis for planning decisions in the City. The Core Strategy replaces a large number of policies in the Unitary Development Plan; however, some of the UDP policies will remain extant until they are superseded by policies in a future Development Plan Document.

Policy SP1 sets out the key spatial principles which will guide the strategic development of Manchester to 2027, the policy states that all development in the City should:

- Make a positive contribution to neighbourhoods of choice including:-
 - creating well designed places that enhance or create character.
 - making a positive contribution to the health, safety and wellbeing of residents
 - considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
 - protect and enhance the built and natural environment.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.
- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy DM1 seeks to ensure that new development contributes to the overall aims of the Core Strategy. The issues which should be considered are those which will ensure that detailed aspects of new development complement the Council's broad regeneration priorities and particularly by contributing to neighbourhoods of choice. This policy also seeks to protect the amenity of an area from the adverse impacts of development.

Policy C10 states that new development, and redevelopment that supports the evening economy, contributing to the vitality of district centres and supporting a balanced and socially inclusive evening/night-time economy will be permitted, subject to impacts on residential amenity, any cumulative impact or concentration of hot food take-aways and bars, and maintaining a balance between day-time and night-time economies.

Unitary Development Plan for the City of Manchester adopted 1995 (Saved Policies)

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

DC10 'Food and Drink Uses'

Saved UDP Policies DC10.1 to DC10.4 sets out the considerations to be made when assessing proposals for food and drink uses.

Policy DC10.1 states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the Council will have regard to:

- a. the general location of the proposed development, including any reference to the area in other policies in the Plan;
- b. the effect on the amenity of neighbouring residents;
- c. the availability of safe and convenient arrangements for car parking and servicing;
- d. ease of access for all, including disabled people; and
- e. the storage and collection of refuse and litter.

Policy DC10.2 states that the Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

Policy DC10.3 states that development will not normally be permitted where:

- a. it is proposed outside the general locations mentioned above, or
- b. there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

Policy DC10.4 states that where, having regard to the preceding policies, the Council considers the proposed development to be acceptable in principle; conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and the collection of litter.

Policy DC26 'Development and Noise'

DC26.1 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:

the effect of new development proposals which are likely to be generators of noise; and the implications of new development being exposed to existing noise sources which are effectively outside planning control.

DC26.2 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.

DC26.3 Developments likely to result in unacceptably high levels of noises will not be permitted:

- in residential areas;
- near schools, hospitals, nursing homes and similar institutions;
- near open land used frequently for recreational purposes.

DC26.4 Where the Council believes that an existing noise source might result in an adverse impact upon a proposed new development, or where a new proposal might generate potentially unacceptable levels of noise, it will in either case require the applicant to provide an assessment of the likely impact and of the measures he proposes to deal satisfactorily with it. Such measures might include the following:

engineering solutions, including reduction of noise at source, improving sound insulation of sensitive buildings or screening by purpose-built barriers;

layout solutions, including consideration of the distance between the source of the noise and the buildings or land affected by it; and screening by natural barriers or other buildings or noncritical rooms within a building; and

administrative steps, including limiting the operating times of the noise source, restricting activities allowed on the site or specifying an acceptable noise limit. Any or all of these factors will be considered appropriate for inclusion in conditions on any planning permission.

DC26.5 The Council will control noise levels by requiring, where necessary, high levels of noise insulation in new development as well as noise barriers where this is appropriate.

DC26.6 Exceptions to the general policy will be considered on their merits. The Council accept, as an example, that the occasional use of outdoor facilities such as sports stadia for concerts can be acceptable in certain circumstances. Any such proposal will be considered in the light of consultation with local residents and others, and the practicability of appropriate conditions on any approval.

Issues

Principle – As the application site is within a district centre that contains a variety of commercial uses the principle of the use of the premises as a hot food take-away is considered to be acceptable.

Policy C10 of the Core Strategy requires that new development, and redevelopment that supports the evening economy, contributing to the vitality of district centres and supporting a balanced and socially inclusive evening/night-time economy will be permitted, subject to impacts on residential amenity, any cumulative impact or concentration of hot food take-aways and bars, and maintaining a balance between day-time and night-time economies.

Matters that will require consideration, in order to assess the acceptability of any proposal are impacts on residential amenity, hours of use, fume extraction, parking, servicing and refuse.

Use - The applicant seeks to change the use of the currently vacant premises (Class A1) into a hot food take-away (Class A5). As with any proposal that results in the loss of a retail unit in a shopping parade consideration has to be given to its impact on the vitality and viability of the parade. Both policy C10 and saved policy DC10 seek to protect, support and promote the role of existing shopping parade. In particular to achieve a balance of retail and non-retail uses on the parade. This is further reinforced by the NPPF which requires that decisions should be taken to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs;

In considering applications policy C10 advises that on balance, new uses in centres should support both the day time and evening/night-time economies whilst not undermining the role of the primary shopping area. In this instance the hours applied for are across the day as well as evening and would see a vacant unit brought back in to use.

Balance of uses – It is not considered that this proposal would have a detrimental impact upon the vitality and viability of this part of the Rusholme District Centre, as the surrounding properties in this instance are still predominantly in Class A1/3 use, with restaurants, clothes shops, barbers and a book shop. In addition properties on the opposite side of Wilmslow Road feature a supermarket, clothes shop, and hot food take-away.

Furthermore, the applicant is proposing to open throughout the day which would provide daytime activity.

Therefore the principle is considered to be in general accordance with the criteria set out in Policy C10 and would support the vitality and viability of Rusholme District Centre.

Parking – There is no designated off-road parking, however, Highways have indicated their satisfaction with the proposal as it is in a highly sustainable location.

Residential amenity – The parade of shops that include the application property are located within the heart of the district centre which is commercial by its nature. However, there are a number of residential properties to the rear of the parade on Park Crescent, but the relationship with these properties gives a significant amount of separation distance.

It is not considered that the proposed hot food takeaway would give rise to greater impacts than other similar existing uses within the district centre. Furthermore, the variation of the opening hours for the premises to allow increased hours of operation from 8am until 12:30am seven days a week would still be in line with the existing food and drink uses within the centre.

The property has a rear yard for the storage of bins and a condition has been added relating to waste management.

Environmental Health, whilst not objecting to the proposals in terms of noise impacts, have requested that a number of conditions be attached to any approval including to acoustically insulate the premises prior to first use and any associated external equipment. They have

expressed their satisfaction with the details the applicant has submitted and request post completion reports.

Activity associated with the use would generally be limited to the front of the property with customers coming and going from the front entrance located on the Wilmslow Road frontage. Given the relationship to properties on Park Crescent to the rear it is recommended that conditions be attached to any approval to ensure that installed extraction systems do not give rise to unacceptable noise levels.

It is therefore considered that the proposed development subject to the recommended conditions accords with Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policies DC10 and DC26.

Hours of Use – The proposed hours of use are as follows:

8am to 12:30am - Seven days a week.

The hours proposed are considered to be acceptable for a district centre location and area similar to other Class A3/5 uses within the district centre. As such the proposed use is not considered to give rise to significant adverse impact on the character of the area or residential amenity. In addition the proposals have been assessed by the Council's Environmental Health officers who raise no objection to these proposed hours of use. It is therefore considered that the use accords with Core Strategy Policies C10 and DM1 and Saved Unitary Development Plan policies DC10 and DC26.

Fume Extraction – Environmental Health have expressed their satisfaction with the proposed fume extraction and a condition is recommended to ensure compliance with the submitted details.

Appearance – The proposal includes the installation of windows and a door to the rear and a flue. It is proposed to store the bins to the rear of the property. The proposed elevational alterations and flue will not be readily visible within the street scene.

Servicing/Refuse – The applicant has submitted a waste management strategy but following comments from Environmental Health further details will be required regarding recycling as well as general waste. A condition has been added to require this.

Conclusion – It is considered that on balance the proposed change of use would not give rise to unacceptable impacts to warrant refusal of the application. The use would introduce additional activity to this parade within the district centre, and would bring a currently vacant unit back in to use, leading to employment opportunities. It is not considered that the proposed use would give rise to unacceptable impacts in terms of residential amenity either by way of noise, odours or an increase in comings and goings within a commercial parade. The scheme is considered to be in accordance with the guidance contained within saved policies DC10, DC26 and Core Strategy policies DM1, C10 and SP1

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 based on seeking solutions to 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 and documents:

Proposed ground-floor plan PL_002, received by email 21st April 2020;

Proposed basement floor plan PL_003, received by email 21st April 2020;

Proposed side elevations PL_004, received by email 21st April 2020;

Proposed rear elevation PL_005, received by email 21st April 2020;

Proposed bin collection route PL_006, received by email 21st April 2020.

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) The materials to be used on the external surfaces of the development hereby permitted shall match those of the existing building in type, size, colour and texture.

Reason - In order to ensure a satisfactory appearance in the interests of visual amenity in accordance with saved policies DC1 of the Unitary Development Plan for the City of Manchester and policy DM1 of the Manchester Core Strategy, and the requirements of the National Planning Policy Framework.

4) Prior to first occupation, the premises shall be acoustically insulated and treated to limit the break out of noise in accordance with the acoustic report by Y Acoustics YA149.P1V2 dated April 2020 as approved by the City Council as local planning authority.

Upon completion of the development and prior to the first use of the property hereby permitted 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 report. The report shall also undertake post completion testing to confirm that the noise criteria has 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, pursuant to policies SP1 and DM1 of the Core Strategy.

5) External mounted ancillary plant equipment and servicing shall be fitted in line with the guidance contained within the acoustic report written by Y Acoustics YA149.P1V2 dated April 2020. A post completion report shall be submitted to the City Council as the local planning authority that confirms the performance of the ancillary plant equipment in accordance with the approved acoustic report.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to policies SP1 and DM1 of the Core Strategy.

6) The development shall be carried out in accordance with the submitted scheme for the storage (including segregated waste recycling) and disposal of refuse as detailed in the email and drawing PL006 received by email 21st April 2020, 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.

Reason - In the interests of public health and residential amenity pursuant to policy DM1 of the Core Strategy.

7) The premises shall not be open outside the following hours:-
As applied for:
0800hrs until 00:30 seven days a week.

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.

8) 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 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.

9) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with the submitted scheme by Air Spectrum Environmental Limited, dated Feb 2020, ref: JL 20952, and shall be implemented before first occupation of the premises and maintained in place as long as the use is in operation. The scheme shall be maintained in accordance with the manufacturer's specification.

Reason - In the interests of the amenities of occupiers of nearby property pursuant to Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policy DC10.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Rusholme Business Association
Rusholme, Fallowfield & Moss Side Civic Society

126 - 128 Wilmslow Road, Manchester, M14 5AH
552B Claremont Road, Manchester, M14 5XL
552A Claremont Road, Manchester, M14 5XL
Flat 7, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 6, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 5, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 4, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 3, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 2, 203A Wilmslow Road, Manchester, M14 5AQ
Flat 1, 203A Wilmslow Road, Manchester, M14 5AQ
205 Wilmslow Road, Manchester, M14 5AQ
554 Claremont Road, Manchester, M14 5XL
114 Wilmslow Road, Manchester, M14 5AJ
116 Wilmslow Road, Manchester, M14 5AJ
Flat At, Huntsman Inn, 130 Wilmslow Road, Manchester, M14 5AH
Flat At, Antwerp House, Kent Road West, Manchester, M14 5RF
197A Wilmslow Road, Manchester, M14 5AQ
195A Wilmslow Road, Manchester, M14 5AQ
209 Wilmslow Road, Manchester, M14 5AG
209A Wilmslow Road, Manchester, M14 5AG
195 - 197 Wilmslow Road, Manchester, M14 5AQ
124 Wilmslow Road, Manchester, M14 5AH
122 Wilmslow Road, Manchester, M14 5AH
118 Wilmslow Road, Manchester, M14 5AJ
120A Wilmslow Road, Manchester, M14 5AJ
199 - 201 Wilmslow Road, Manchester, M14 5AQ
205B Wilmslow Road, Manchester, M14 5AQ
120B Wilmslow Road, Manchester, M14 5AJ
207 Wilmslow Road, Manchester, M14 5AQ
Antwerp House, Kent Road West, Manchester, M14 5RF
550 Claremont Road, Manchester, M14 5XL
552 Claremont Road, Manchester, M14 5XL
Huntsman Inn, 130 Wilmslow Road, Manchester, M14 5AH
548 Claremont Road, Manchester, M14 5XL
Victoria Park Hotel, 4 Park Crescent, Manchester, M14 5RE
2 Park Crescent, Manchester, M14 5RE

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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: SOUTH