

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130464/FO/2021

Date registered valid: 12 August 2021

Proposal: Installation of kitchen extraction system including external flue to rear of premises (Class E)

Address: Bisque And Beyond , 745 Wilmslow Road, Manchester, M20 6RN

Ward(s): Didsbury East Ward

Applicant: Mr Kolawole Ajomole 2nakhon Bisque And Beyond, 745 Wilmslow Road, Manchester, M20 6RN

Agent (if any):

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

Recommendation: Approve

Date of recommendation: 14 October 2021

Application details

Type of application: Full Application Consent
Development type: Minor Retail
Date of site visit: None
Standard consultations: Printed: 17 August 2021 Expired: 7 September 2021
Neighbour notifications Printed: 17 August 2021 Expired: 7 September 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
Listed building: Not applicable
Conservation Area: Not applicable
Tree Preservation Order: Not applicable

Description of site

The application site is the ground floor of a single mid-terraced commercial unit situated on the eastern side of Wilmslow Road in the Didsbury District Centre. The unit, which is in a parade of 13 (some combined to create 8 overall), comprises 126sqm of floorspace and was formerly occupied by a florists for many years then an 'art-café' approved in 2017 (118083/FO/2017).

There are two floors of residential space above the unit which the applicant has confirmed are in his ownership. The unit is accessed off Wilmslow Road with a separate access into the rear yard for communal bin storage that is shared with the other units in the terrace. The yard is accessed off Elm Road where an open alleyway runs along the rears of commercial premises.

There is a pedestrian crossing immediately in front of the unit with on street parking only available further north east and west along Wilmslow Road. The highway at the pedestrian crossing is otherwise managed by zig-zag white lines and double yellow Traffic Regulation Orders.

Description of area

Within the terrace there are various cafes, estate agents, restaurants and a bank. The Didsbury District Centre provides a range of amenities including a library, Post Office, Solicitors' offices, convenience food stores, further cafes, pubs, restaurants and estate agents. The wider hinterland has a high-density residential land use, the remaining areas infilled with parks.

Description of development

The application proposes the installation of a kitchen extraction system including external flue to rear of premises (Class E).

As noted above, the site received consent for a change of use of the premises from an A1 retail unit to a shop and ancillary A3 café (sui generis) with a new shop front (Ref: 118083/FO/2017). The consented hours of use for the shop and café were approved as: Monday to Friday: 10am to 5.30pm, Saturday: 10am to 6pm and Sunday: 11am to 6pm. These hours were then modified by a variation of the consented hours (Ref: 119526/JO/2018) so that the current permitted opening hours are:

Monday to Friday 9.30am to 9.30pm
Saturdays 9:00am to 7.00pm
Sundays 10.00am to 6.00pm

The present application states that the opening hours will be:

Monday to Friday 11.30am to 23.00pm
Saturday 11.30am to 23.30pm
Sundays and Bank Holidays 11.30am to 23.00pm

An application to discharge conditions of the 2017 application (Ref: CDN/18/0293) received a split decision with condition nos. 4 (waste) and 6 (acoustic insulation) discharged, and conditions 5 (fume extraction) and 7 (external acoustic insulation) of this application not discharged.

Historically, consents has been granted for a loft conversion with formation of separate rear entrance with staircase and roof terrace above a single storey rear extension to form floor storage area connected to existing ground floor retail use (Class A1); installation of new shopfront and air conditioning units to rear (Ref: 081079/FO/2006/S2) and for the installation of rear external staircase and associated elevational alterations to rear (Ref: 086545/FO/2008/S2).

Consultations & Notification Responses

Neighbour notifications – No comments received.

Environmental Health – Conditions and comments:

Fumes

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 shall be submitted for the approval of the City Council as local planning authority that the approved scheme has been implemented.

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.

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.

Noise – external equipment insulation

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 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 minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site.

The readings in the report are over three years old and the noise report only took background noise measurements over a 3-hour period during the day. No readings were taken later in the evening when the traffic levels will have dropped, and the background noise level may be lower. No readings were taken on a Sunday when the traffic levels are quieter. This is when noise from the extraction system could cause disamenity to the resident above.

Also, the hours of operation in the noise report did not tally with the hours of operation on the application form, which were much later.

The report has said that no additional plant is being added, but as the flue is being installed externally, a full assessment is needed to comply with part (a) of the condition as acoustic treatment of the system may be needed.

Policy

Following changes to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and further amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015, in effect from the 1 August 2021, Schedule 3, Part 2, Class E of the regulations permits the use of the property for the sale of food and drink which is mostly consumed on the premises as set out below. The only element of the proposal which is not covered by the Permitted Development regulations is the installation of the kitchen extraction system.

Class E

Commercial, Business and Service

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

- a) Shop other than for the sale of hot food
- b) Food and drink which is mostly consumed on the premises
- c) the following kinds of services principally to visiting members of the
 - i. financial services
 - ii. professional services (other than medical services)
 - iii. any other services which it is appropriate to provide in a commercial, business or service locality
- d) Indoor sport and recreation (not swimming pools, ice rinks or motorised vehicles or firearms)
- e) Medical services not attached to the residence of the practitioner
- f) Non-residential creche, day centre or nursery
- g) i) office ii) the research and development of products or processes or iii) any industrial process, (which can be carried out in any residential area without causing detriment to the amenity of the area)

The application is also subject to assessment under the following policies within the development plan:

Unitary Development Plan

The following saved policies from the Unitary Development Plan are also considered to be relevant.

Policy DC26 – Noise

Policy DC26.1 - Has been related to the actual and potential contribution of the use on the local noise environment, its impact on residential character and amenities of the area.

Policy DC26.4 - Requires that where 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, consideration is given to measures to deal with it satisfactorily. The proposal in this application is considered to be a potential noise source based on the nature of the age groups it seeks to accommodate.

DC10.1 - Food and Drink

In determining planning applications for developments involving the sale of food and 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

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

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

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, and the storage of refuse and collection of litter.

Issues

Principle

The proposal represents a conforming use within a vibrant District Centre and will re-introduce an active frontage in a currently vacant business unit on a key radial route. As such, the proposal is acceptable in principle subject to satisfactory impacts on residential amenity which is the main material consideration. This arises from the installation of the kitchen equipment and the potential noise and odours which could have impacts on any current or future occupiers of the flat above the commercial unit.

Noise

Assessment of the proposal requires further details to be submitted of the acoustic properties of any external equipment for the kitchen extraction system, and post-installation assessment that confirms that the works conform to the appropriate industry standard. The EHO has noted that the submitted Noise Impact Assessment carried out by Nova Acoustics, relate to 2018 and the previous business which operated as a family art café which is materially different from the proposed use. A new acoustic assessment is therefore required to ensure that any installation will not incur any loss of amenity. The applicant agreed to the condition in writing during negotiations.

Hours

In relation to the above, the EHO has noted that the hours in the application are not the same as the current consented hours. As the applicant has not stipulated in the description of development that he seeks to vary the present hours, but confirmed during negotiations that this was his intention, the Council advised that the current consented hours are the only permitted hours, and an application to vary the hours must be submitted if different opening hours are desired. The applicant has confirmed in writing that he will apply to vary the hours. The requirement is set out in the condition below for the avoidance of doubt.

Odours

The submitted floorplan and kitchen equipment drawing shows a fryer, oven and grill with ventilation system including external flue that rises 380mm above a flat roof parapet in the rear yard. This is some distance from first-floor habitable room windows. Nonetheless, full details of the kitchen extraction equipment are required to be submitted and to show the relationship between the flue and any openable windows at the rear of the property to ensure that there will be no loss of amenity as a result of any installation of the extraction system. A condition to this effect is appended in the interests of residential amenity and has been agreed in writing by the applicant.

Visual amenity

As noted above, the external kitchen equipment will sit 380mm above a flat roof parapet which is largely screened by timber fencing from within the rear alleyway.

Elevational drawings and the submitted supporting information indicate that the flue will comprise of galvanised steel ducting that terminates in an accelerate cone. A small section of this may be visible from Elm Road looking into the alleyway but as this property is 4 units away from the Elm Road footpath with the rears of other commercial units and their stairs and flues intervening, there will be limited views from within the public realm.

Notwithstanding this, development is typical of the associated plant for commercial kitchens found at the rears of similar premises. Lastly, the rear of the site faces the blank and high brick wall forming the curtilage of the Didsbury C of E Primary School, thus having no impact on the rear of the site.

On the basis of the above and subject to the conditions as recommended, the proposal is acceptable in accordance with saved UDP policies DC10 and DC26 and with Core Strategy policies SP1 and DM1.

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 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

The local planning authority in making its decision has had due regard to paragraph 47 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has approved the application for the reasons outlined in the delegated report. The application received no objections on notification but is subject to the conditions specified below in the interests of residential amenity.

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 received on the 18th of May 2021, or as specified:

Application Form

Drawing - Existing	Ground Floor Plan and Location Plan
Drawing - Existing	Basement Drawing
Drawing - Existing	23 Jul 2021 Basement Plan
Drawing - Existing	23 Jul 2021 0002 Layout, Extract Flue to Rear
Drawing - Existing	23 Jul 2021 2121.1 Rev A Ground Floor Plan
Drawing - Proposed	Basement Plan
Drawing - Proposed	Ground Floor Plan
Drawing - Proposed	Kitchen Ventilation Layouts
Drawing - Proposed	Waste Drawing
Drawing - Proposed	Rev C Sketch Plan
Drawing - Proposed	20 May 2021 Rev A Ground Floor Plan
Drawing - Proposed	23 Jul 2021 Basement Plan
Drawing - Proposed	23 Jul 2021 General Arrangement Plans
Drawing - Proposed	23 Jul 2021 Ground Floor Plan
Drawing - Proposed	23 Jul 2021 0001 Extraction Plans and Elevations
Drawing - Proposed	23 Jul 2021 0003 Front Elevation Signage
Supporting Information	25 May 2021 Air Handling Unit
Supporting Information	25 May 2021 Kitchen Extract Air Handling Unit
Supporting Information	23 Jul 2021 Mechanical Ventilation System
Noise Impact Assessment provided by Nova Acoustics (Dated: 26/03/2018)	

Photos

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) Notwithstanding the submitted information:

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 shall be submitted for the approval of the City Council as local planning authority that the approved scheme has been implemented.

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.

Reason - In the interests of the amenities of occupiers of nearby properties pursuant to saved UDP policies DC10 and DC26 and Core Strategy policies SP1 and DM1.

4) Notwithstanding the submitted details, including the Nova Acoustics Noise Impact Assessment (Dated 26/03/2018):

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 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 minimise the impact of the development on neighbouring occupiers and to prevent a general increase in pre-existing background noise levels around the site, pursuant to saved UDP policies DC10 and DC26 and Core Strategy policies SP1 and DM1.

5) For the avoidance of doubt, the development hereby approved shall operate in accordance with the opening hours as granted planning consent under application reference 119526/JO/2018.

Reason – In the interests of residential amenity, pursuant to saved UDP policies DC10 and DC26 and Core Strategy policies SP1 and DM1.

Informatives

Information for Developers guidance documents can be downloaded using the following link:

http://www.manchester.gov.uk/info/500207/planning_and_regeneration/1962/additional_planning_guidance/3

Notwithstanding the submitted drawings, and for the avoidance of doubt, this permission does not grant or confer planning permission for any advertisements or signage, including fascia signs and hanging / projecting signage to the elevations of the building for which a separate grant of planning consent will be required.

A Projection Over Licence will be required for any signage that overhangs the footway. A Licence can be obtained through Environment on Call. Telephone: 0161 234 5004.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

747B Wilmslow Road, Manchester, M20 6RN
747A Wilmslow Road, Manchester, M20 6RN
Flat 1, 747 Wilmslow Road, Manchester, M20 6RN
Flat 2, 747 Wilmslow Road, Manchester, M20 6RN
747 Wilmslow Road, Manchester, M20 6RN
743A Wilmslow Road, Manchester, M20 6RN
743 Wilmslow Road, Manchester, M20 6RN
745A Wilmslow Road, Manchester, M20 6RN

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
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH