

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131040/FO/2021

Date registered valid: 9 August 2021

Proposal: Creation of external seating areas

Address: Dog And Partridge , 667 Wilmslow Road, Manchester, M20 6RA

Ward(s): Didsbury East Ward

Applicant: Mr Lee Montgomery ShopWired Suite 3, 17 Wrens Court, Sutton Coldfield, B72 1RT

Agent (if any): Miss Elizabeth Mullett 5 Newsham Road, Stockport, SK3 8GN

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

Recommendation: Refuse

Date of recommendation: **4th October 2021**

Application details

Type of application: Full Application Consent

Development type: Minor Other

Standard consultations:

Printed: 16 August 2021 Expired: 6 September 2021

Neighbour notifications

Printed: 16 August 2021 Expired: 6 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

Description of site/building

The property is a pub located on the corner of Wilmslow Road and Warburton Street within the Didsbury District Centre

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is largely commercial in character with residential properties to the side and rear

Description of development

Creation of external seating areas to Wilmslow Road and Warburton Street frontages

Planning History

Planning permission was refused in 2018 for similar proposals under reference 118977/FO/2018 for the following reasons:

- 1) The proposed outdoor seating area on Wilmslow Road would, result in the reduction of available footpath and increased pedestrian activity that would be detrimental to highway safety. The Wilmslow Road seating area would be contrary to saved policies DC10 of the Unitary Development Plan for the City of Manchester and policies SP1, C10 and DM1 of the Core Strategy for the City of Manchester.
- 2) The proposed outdoor seating area on Warburton Street would, have a detrimental impact on the amenity levels of the occupiers of nearby residential accommodation by

reason of increased noise levels from the general activities associated with the use of the seating area namely, increased comings and goings, and raised voices; which would have an unacceptable detrimental impact on the residential amenity of local residents, particularly the residents of Warburton Street. The proposal for outdoor seating on Warburton Street would 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 Core Strategy for the City of Manchester.

Consultations & Notification Responses

Local residents – One letter of objection has been received. The main comments are as follows:

- The proposal would be five feet away from the window of neighbouring residential properties.
- The noise from parties occupying the tables and smoke from smoking will affect neighbouring occupiers meaning they will be unable to have windows open.
- As a keen gardener my garden is my pride and joy. However, in the past the drinkers have used my garden for a toilet and I can see that this would happen again.
- I would point out that a similar application was made by the same public house in 2019 and it was refused.
- I strongly feel that the above application be refused again on the grounds that I have stated above.

CLlr Simcock - The above reference number relates to a planning application by The Dog & Partridge pub on Wilmslow Road in Didsbury. This is for external seating areas.

I am a little confused here as I have already commented on a licensing application for what I thought was the same thing. This application has just been declined.

Assuming that this application as quoted is for a similar use of the pavement please can I object on the grounds that the pavement is not wide enough for this to be carried out safely and because of the proximity of neighbouring residential properties.

Highways - In response to licensing refusal and further information. Although, the submitted plans do take into account the existing tree and lighting column and leave 2.0m of footway remaining Highways do have concerns that the seating area will impinge on pedestrian movements on the adopted highway. The seating area would act as a pinch point on Wilmslow Road/Warburton Road and create conflict on the adopted highway between pedestrians/cyclists and other road users. Additionally, Highways are concerned that patrons would overspill out of the outdoor seating area onto the adopted highway and cause further conflict between users. Therefore, Highways do not support this application.

Issues

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

C2 – District Centres

C6 – South Manchester District Centres

C10 – Leisure and Evening Economy

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

DC10 Food and Drink Uses

DC26 Development and Noise

The Guide to Development in Manchester SPD

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.

Issues

The Principle – There are examples of outdoor seating within the Didsbury District Centre, therefore, the principle of outdoor seating is generally acceptable. The existing building is a long-established public house and the applicant is seeking to create two outdoor seating areas to the Wilmslow Road and Warburton Street frontages.

Therefore, the use of the site, the proposal siting, scale and appearance will require consideration as will impacts on residential amenity given the relationship to adjacent residential properties on Warburton Street. As the proposal is located next to the public highway, consideration will also be given to any impact highway safety.

Furthermore, as there are residential properties on Warburton Street consideration will be given to residential amenity.

The Use – Policy C10 states that new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy will be permitted. As the site will continue as an A4 use it is considered that the proposal is in accordance with policies C2, C6 and C10 of the Core Strategy.

Siting – The proposed drawings indicate that the footpath in front of the public house on the Wilmslow Road elevation, would have a footway of 3.6 metres wide and the seating area would have a width of 1.3 metres, therefore retaining a 2 metre clearance for the footway. The applicant is proposing that there would be 2no. movable picnic style benches in this location.

Highway Services have raised concerns that if the application was approved the tree and lighting column would act as pinch points and thus hinder pedestrian movement and creating conflict on the adopted highway whereby passing pedestrians or ambulant users would need to give way to each other to pass by. Highways are also concerned that the area would attract more patrons to congregate outside of the public house and overspill onto the adopted highway to the detriment of highway safety. Residents and a local ward member have also raised similar concerns regarding this issue.

The Warburton Street seating area would contain 3no. tables with 12no. chairs and jumbrellas. Highway Services have not raised concerns with highway safety on Warburton Street as it is unlikely to have high footfalls of pedestrian movements or vehicle flows and thus a lesser conflict with patrons who may overspill on to the highway.

However, the road is used by vehicles and also the road signage does not prevent access when used for loading. The concerns regarding proximity to residential properties will be discussed in the residential amenity section of the report as there are concerns with the siting of the tables and chairs in such close proximity to residential dwellings on Warburton Street.

Scale and Appearance – The proposal would be quite basic and simplistic in style and therefore, there are no concerns with the appearance.

Hours of use – The proposed hours of use are:

Monday to Friday - 12:00 - 20:30

Saturday - 12:00 - 21:30

Sunday and Bank Holidays - 12:00 - 21:30

Environmental Health have stated that: having looked at the proposal have no objection to the area at the front of the pub being used as an external seating area. However, do not think that the external seating area adjacent to 1 Warburton Street is suitable for use as a 'beer garden' as it is within 5 metres of nearby residential properties and noise from patrons will cause disamenity to the adjacent resident. Therefore, think this part of the application site should be refused.

Residential Amenity – Concerns have been raised by the local ward councillor and a resident regarding the seating proposed for Warburton Street. Concerns have been raised that this area would be used by smokers and that the tables are likely to attract a greater number to use this area. Public urination by patrons of the public house was also raised as a concern.

Furthermore, given the concerns raised by Environmental Health it is considered that the addition of seating and tables in this location would have a detrimental impact on the residents of Warburton Street. No acoustic assessment on the impact was provided therefore it cannot be demonstrated that there will be no impact on the residents concerned.

Overall the policy is considered to be contrary to saved policies DC10 and DC26 and DM1 and C10 of the Core Strategy.

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.

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

1) The proposed outdoor seating area on Wilmslow Road would, result in the reduction of available footpath and increased pedestrian activity that would be detrimental to highway safety. The Wilmslow Road seating area would be contrary to saved policies DC10 of the Unitary Development Plan for the City of Manchester and policies SP1, C10 and DM1 of the Core Strategy for the City of Manchester.

2) The proposed outdoor seating area on Warburton Street would have a detrimental impact on the amenity levels of the occupiers of nearby residential accommodation by reason of increased noise levels from the general activities associated with the use of the seating area namely,

increased comings and goings, and raised voices; which would have an unacceptable detrimental impact on the residential amenity of local residents, particularly the residents of Warburton Street. The proposal for outdoor seating on Warburton Street would 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 Core Strategy for the City of Manchester.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Didsbury Civic Society

Orchard Interiors, 2 Warburton Street, Didsbury, Manchester, M20 6WA
Flat At, Dog And Partridge, 667 Wilmslow Road, Manchester, M20 0RA
Flat 4, 700 Wilmslow Road, Manchester, M20 2DN
Flat 3, 700 Wilmslow Road, Manchester, M20 2DN
Flat 2, 700 Wilmslow Road, Manchester, M20 2DN
Flat 1, 700 Wilmslow Road, Manchester, M20 2DN
698 Wilmslow Road, Manchester, M20 2DN
696 Wilmslow Road, Manchester, M20 2DN
663 Wilmslow Road, Manchester, M20 6RA
661 Wilmslow Road, Manchester, M20 6RA
700 Wilmslow Road, Manchester, M20 2DN
5 Warburton Street, Didsbury, Manchester, M20 6WA
3 Warburton Street, Didsbury, Manchester, M20 6WA
1 Warburton Street, Didsbury, Manchester, M20 6WA
663A Wilmslow Road, Manchester, M20 6RA
671 Wilmslow Road, Manchester, M20 6RA
661A Wilmslow Road, Manchester, M20 6RA
669 Wilmslow Road, Manchester, M20 6RA

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