

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131718/LP/2021

Date registered valid: 7 October 2021

Proposal: Certificate of Lawful Development for use of premises as Class E cafe/restaurant

Address: 643 Stockport Road, Manchester, M12 4QA

Ward(s): Longsight Ward

Applicant: Mr A M Al-Tammimi 643 Stockport Road, Manchester, M12 4QA

Agent (if any): Mr V Alyas Architek 916 Stockport Road, Manchester, M19 3AB

Case officer: Carl Glennon
Tel: 0161 234 4530
Email: carl.glennon@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 15 November 2021

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: N/A

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 22 October 2021 Expired: 12 November 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

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description

This CLEUD application relates to a centrally positioned shop within a 16 unit retail and commercial parade situated on the east side of Stockport Road between its junction with Attwood Road and East Road.

The application seeks to demonstrate that:

- i. The existing ground floor use falls within Class E (Commercial, Business and Services);
- ii. The proposed café /restaurant would be a lawfully permitted use as it would remain within Class E.

Consultations & Notification Responses

Local residents – 3 emails of objection have been received that raised issues that are beyond the scope of the CLEUD application. The objectors have been advised accordingly. An informative has been included that advise the any external works including external plant and equipment and any extensions would require a separate planning permission.

Planning Compliance Team – Business Rate records confirms that retail use has been in place since 1955 and occupied by a single tenant. From September 2020 the property was occupied by Adamz Barbers, i.e., a Class E use.

Issues

Evidence – This CLUED application has been assessed with reference to Section 191 of the Town and Country Planning Act 1990 (TCPA 1990), which sets out the relevant to assessment criteria.

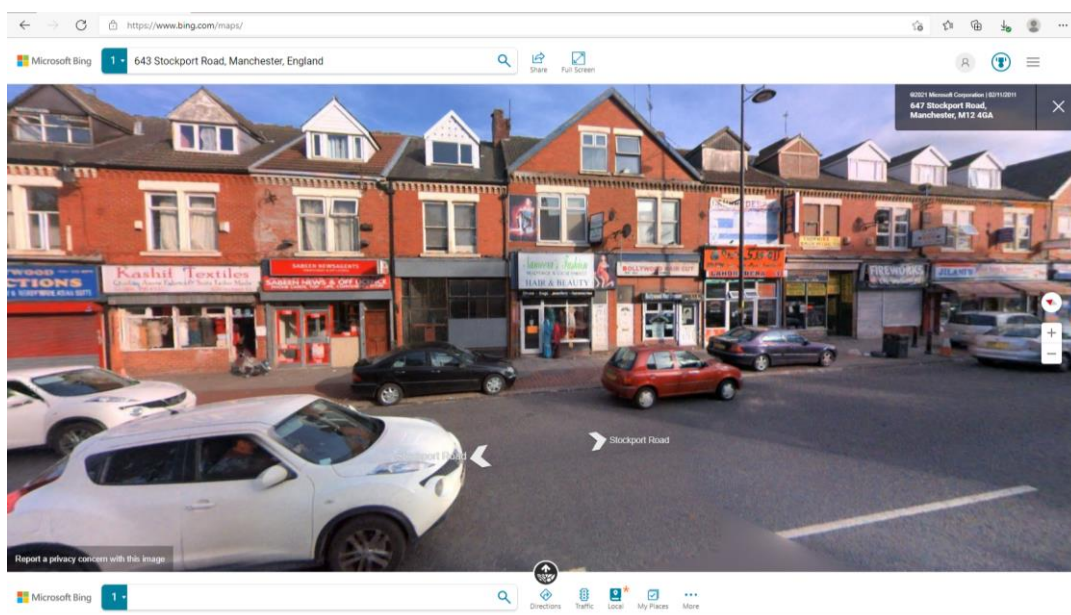
Case law relating to Section 191 TCPA 1990 states that the burden of proof lies with the applicant who is required show that on the balance of probabilities the use described in the application should be certified as lawful. The test of balance of probabilities, the local planning authority (LPA) would need to present its own evidence. if it wishes to contradict the evidence provided by an applicant. In the absence of contradictory information, the LPA is required to approve the certificate.

The evidence provide by the applicant is limited and comprised of:

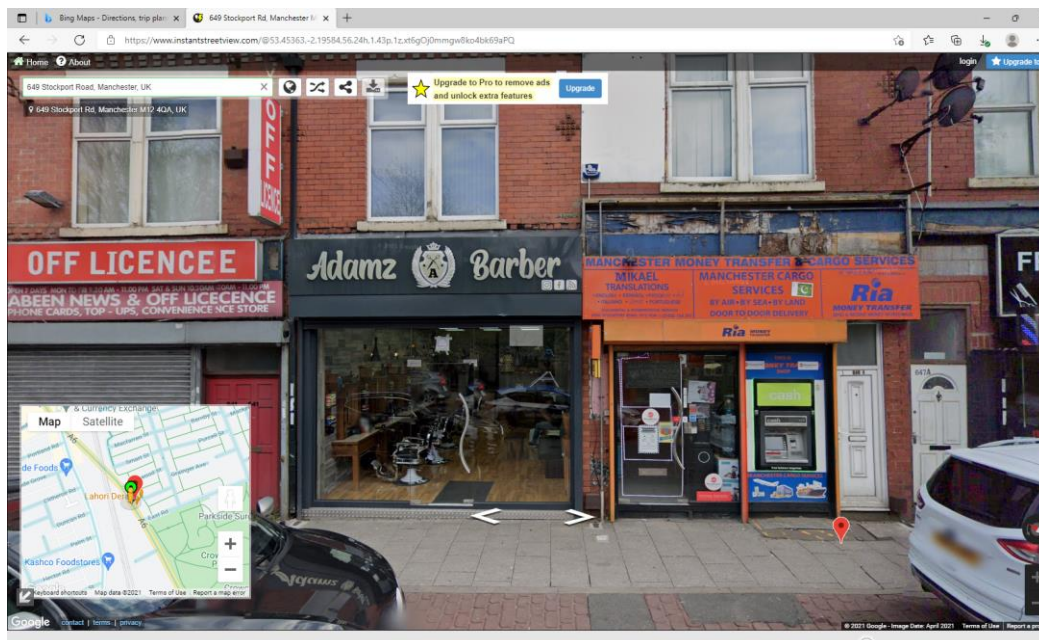
- i. Details of a lease contract between the applicant and the property owner that does not specify the use of the ground floor of the application property.
- ii. Company registration relating to the occupation of the ground floor of the property dated 24 July 2020, i.e., Adamz Barbers;
- iii. A Street view extract showing Adamz Barbers in situ in April 2020.

The Council has sourced its own evidence with regard to the previous use of the premises:

- i. Details from Business Rates that conforms continues use consistent with Class E occupation and operation;
- ii. The following internet images relating to the use of the premises in 2011 and 2021:



Bing image dated 2 November 2011



Streetview image dated April 2021

The evidence obtained by the LPA demonstrates that a use permissible through Class E uses has been continually since at least 1995 and the proposed operation of the premises as a café / restaurant can therefore be lawfully undertaken.

An informative has been included confirming that:

- i. The prior to its installation, external mounted equipment, including extraction flues and air conditioning units, would require planning permission;
- ii. The display of fascia signage would require advertisement consent prior to its installation.

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

N/A

Condition(s) to be attached to decision for approval

From the evidence and information available and the planning law applicable to the property, Manchester City Council is satisfied that in relation to the property referred to in the Second Schedule hereto, the use of the ground floor of the premises at 643 Stockport Road Manchester M12 4QA as a café / restaurant within Class E of the Town and Country Planning (Use Classes) Order (as amended), described in the First Schedule, is lawful as a Class E use has operated continuously at the ground floor of the premises for a period exceeding 10 years.

Informative

- 1) Certificate of Lawful Development, hereby authorised, relates to the use of premises as Class E cafe/restaurant. For the avoidance of doubt the use of the ground floor of 643 Stockport Road as a hot food take-away and the installation of external flues and equipment would require planning permission. The erection of extensions may also require planning permission.
- 2) The CLEUD hereby granted does not confer consent for the display of advertisement signage.

1 – List of consultees & neighbours notified

1A Sullivan Street, Manchester, M12 4WS
4 Sullivan Street, Manchester, M12 4WS
3 Sullivan Street, Manchester, M12 4WS
2 Sullivan Street, Manchester, M12 4WS
4 Attwood Street, Manchester, M12 4NS
633A Stockport Road, Manchester, M12 4QA
631A Stockport Road, Manchester, M12 4QA
633 - 635 Stockport Road, Manchester, M12 4QA
First Floor, 1 Sullivan Street, Manchester, M12 4WS
Ground Floor, 1 Sullivan Street, Manchester, M12 4WS
651A Stockport Road, Manchester, M12 4QA
Ground Floor, 647 Stockport Road, Manchester, M12 4QA
Flat Above, 641 Stockport Road, Manchester, M12 4QA
651 Stockport Road, Manchester, M12 4QA
639A Stockport Road, Manchester, M12 4QA
Flat 1, 645A Stockport Road, Manchester, M12 4QA
645A Stockport Road, Manchester, M12 4QA
Flat 2, 637 Stockport Road, Manchester, M12 4QA
647 Stockport Road, Manchester, M12 4QA
Flat 1, 637 Stockport Road, Manchester, M12 4QA
Flat 3, 635 Stockport Road, Manchester, M12 4QA
Flat 2, 635 Stockport Road, Manchester, M12 4QA
Flat 1, 635 Stockport Road, Manchester, M12 4QA
Flat 1, 631B Stockport Road, Manchester, M12 4QA
645 Stockport Road, Manchester, M12 4QA
639 Stockport Road, Manchester, M12 4QA

647A Stockport Road, Manchester, M12 4QA
631B Stockport Road, Manchester, M12 4QA
Flat 3, 631B Stockport Road, Manchester, M12 4QA
Flat 2, 631B Stockport Road, Manchester, M12 4QA
2 Attwood Street, Manchester, M12 4NS
644 Stockport Road, Manchester, M12 4GA
631 Stockport Road, Manchester, M12 4QA
1 Sullivan Street, Manchester, M12 4WS
649 Stockport Road, Manchester, M12 4QA
641 Stockport Road, Manchester, M12 4QA
637 Stockport Road, Manchester, M12 4QA

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
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: NORTH2