

Planning

Growth & Development

Delegated officer report for planning application

Application no. 129401/FO/2021

Date registered valid: 15 February 2021

Proposal: Use of frontage as outdoor seating area and associated alterations to front elevation.

Address: 99 Lapwing Lane, Manchester, M20 6UR

Ward(s): Didsbury West Ward

Applicant: Ms Jemma O'Brien, C/o Agent

Agent (if any): Kath Ludlam, Ludlam Associates, The Bank, 99 Palatine Road, M20 3JQ

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 24 June 2021

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 6 April 2021

Standard consultations:

Printed: 17 February 2021 Expired: 10 March 2021

Neighbour notifications

Printed: 17 February 2021 Expired: 10 March 2021

Site notice

Posted: 25 February 2021 Expired: 18 March 2021

Press advert

Published: 23 February 2021 Expired: 16 March 2021

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

The application site relates to the post office within a parade of nine mixed units that includes, a bar, cafés and a pharmacy. In addition to the Edwardian parade there is also a Pizza Express restaurant and a vacant bank which fronts the corner of Palatine Road and Lapwing Lane. The property fronts Lapwing Lane, where there are eighteen car parking spaces, a bus stop and West Didsbury Metrolink Stop.

At the rear the property is an alleyway which provides access to the rear of the yard and existing stairwells to the first floor apartments.



Photograph 1 Application site (photograph provided by the applicant)

Listed building: Not applicable

Conservation area: Ballbrook Conservation Area 1992

Tree Preservation Order: No

Description of area

The application site forms part of the Ballbrook Conservation Area with the surrounding area comprising of residential streets consisting of Edwardian housing built between 1910 and 1914, mostly by developers Booth & Britten, who employed the architect George Westcott. The same team also created the terrace of shops with a cast-iron and glass canopy on Lapwing Lane in 1913.

Description of development

The applicant is seeking planning permission to use of frontage of the post office as outdoor seating area and associated alterations to front elevation.

Consultations & Notification Responses

Local Residents/Public Opinion – One representation was received objecting to the proposal. The concerns raised related to how would the kiosk operate at the same time as the post office in terms of manging table and chairs and secondly the object was concerned with there being no toilet facilities available

Highway Services – No objection, whilst a 2 metre clear footway is preferred Highways do recognise that the proposal is located on an unadopted forecourt.

Highways recommend that all furniture is to be stored internally within the premises outside of operational hours.

The applicant should note that:

- You must not affix the table/chair/divider/ planter to the highway, they must be removable.
- Any A Boards, if used, must be kept within the area of the License.
- Government guidance on social distancing must be followed.

Environmental Health – No objection, recommended operating hours in line with the other planning permissions within the parade and sought clarity over waste arrangements.

West Didsbury Residents Association (WDRA)– WDRA wish to object to the planning proposal on the following grounds:

- Proposed pavement bar or cafe is impractical and unsafe due to absence of appropriate internal facilities,
- We have serious concerns as to the apparent lack of hygiene arrangements for customers and staff,
- How the outdoor furniture would be stored overnight and whenever the Post Office was open requires further clarification,
- Proposals appear to compromise present queueing practice for socially distanced and financially secure access to ATM, and Post Office, and may impede passing pedestrians.

- Proposed opening times are out of line with permitted times for forecourt use at most nearby bars and restaurants.

If Council are minded to approve the application WDRA have the following recommendations:

- Demonstrated agreement to proposal by both property freeholder and Post Office Tenant,
- Amended times of opening Sun-Thu 11:00 to 22:00, Fri- Sat 11:00 to 22:30.
- Inclusion of arrangements for toilet, hand washing and food preparation hygiene acceptable to Environmental Health Officer,
- Arrangements for indoor storage of all pavement furniture to the satisfaction of Planning Officers,
- Revised external furniture layout to accommodate socially distanced queueing and access to both Post Office and external ATM to the satisfaction of Planning Officers,
- Required refurbishment to front elevation of 99 Lapwing Lane to prevent recurrence of falling masonry so as to assure safety of customers and staff,
- Arrangements and times for deliveries of consumable goods to the satisfaction of Planning Officers,
- Arrangements for safe storage of waste food, bottles cans and packaging together with collection times to the satisfaction of Planning Officers,
- Adequate proposals for collection of litter from an area of Lapwing Lane that included both bus stops (neither of which presently has a rubbish bin).
- Prominent display beside kiosk of notice reminding customers of their duty to dispose hygienically and environmentally of cups,
- Clarification of access arrangements to two upper floor flats .

Ballbrook Conservation Area Group - The Group neither supports nor objects to this proposal, the group do raise a number of observations listed below for the consideration of Planning Officers.

- It is imperative that community access to the post office during its opening hours is maintained (including the need currently for social distancing) and confidential access to the ATM within the post office frontage should be maintained at all times.
- The group are supportive of the elevational changes.
- Neighbouring restaurants/café/bars within the arcade are subject to strict requirements as to hours of operation - similar requirements should be applied to this business.
- Whilst The Kiosk falls within Class E, the group have concerns about the health and safety of the operation. What are the hand-washing and toilet facilities for staff and customers? How will food hygiene be maintained? What are the waste disposal facilities?
- Whilst the group would hope that the proposed development assists a bounce back for arcade traders as we go forward during and post COVID-19 restrictions, it is essential to confirm that its method of operation is legal, safe and hygienic.

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
EN3 Heritage

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

DC10 – Food and Drink Uses
DC 18 – Conservation Areas

The Guide to Development in Manchester SPD

National Policy

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.

The Principle – Planning permission was granted in 2014 (104892/FO/2014/S2) for elevational alterations to shop front to create new entrance to first floor flat and new post office entrance. This application is of particular relevance for this application as the side door which is now intended to be used as kiosk for this application was to be used the front entrance for the flats. However during a visit to the site it is clear that the entrance was never implemented and that the flats are continued to be accessed at the rear of the site.

In addition to the above, since 1st September 2020, an amendment to the Use Classes Order 1987 (The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) came into force which has meant that Classes A1 (Shops/retail), A2 (Financial and professional services) and A3 (Cafe/Restaurants) now come under the same use class now known as Class E (Commercial, Business and Service uses) and to change between the former uses no longer requires planning permission.

The legislations now identify that Class E(b) is for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises. Therefore, a planning application would not be required as the use class is now considered to be same.

Therefore, matters that will require consideration, in order to assess the acceptability of the proposal are siting, design and appearance.

Further consideration will be given as to whether the proposal has any impact on surrounding residential amenity in particular the effect upon the amenity of neighbouring occupiers.

In this instance it is also necessary to consider the proposal in the context of its appearance within a conservation area.

Siting – The proposed tables, chairs and planters will be placed immediately outside of the front of the restaurant under the existing Victorian canopy.

In total there will be five tables and ten chairs

The forecourt measures 3070mm by 6120mm, the drawings indicate that there will be a clearance zone of 1000mm between the table and chairs and the footpath whilst Highways have raised no objection to the proposal and noted that it is a private forecourt and would recommend 2 metre clearance. That said the applicant has clarified that the two table and chairs will not be positioned outside of the post office during the post office opening hours (as indicated on the drawings). This results in a clearance of over 2 metres and therefore this should be sufficient to allow post office customers and the atm users sufficient space to access both without the hinderance of table and chairs during the post office opening hours. This was a concern to both WDRA and Ballbrook Residents Association.

The siting is considered appropriate and should not restrict movement or accessibility in and around the canopy or footpath.

Design and Appearance – The elevational changes are relative minor in nature and will retain the aluminium door and include the repositioning of the post office sign.

There are no concerns with the changes.

Impact on the Conservation Area – Policy DC 18 requires that the Council will seek to preserve or enhance the character of its designated Conservation Areas by considering the following issues the effect of major changes to the appearance of existing buildings. Furthermore EN3 Council will encourage development that complements and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods.

The parade and canopy provide an attractive frontage to the conservation area and together form a non-designated heritage assets. In the case the proposal is relatively minor, however there could be some impact on the setting of the conservation which will have to be assessed.

The siting at the front of the kiosk unit within the forecourt under the canopy is acceptable and there are no concerns regarding the appearance. In addition to this proposal is it noted that a number of the other units within the parade have some form of seating and tables at the front. It is therefore considered that the impact of the proposal will be neutral on the setting of the conservation area and will help to preserve the character of the parade which has changed from a predominantly retail function to one that incorporates more food and drink uses.

Residential Amenity – It is recommended that the hours are restricted to the following to protect the amenity of the neighbouring residents in the area:

Monday - Thursday 09:00 - 22:00hrs

Friday and Saturday 09:00 - 22:30hrs

Sunday 10:00 - 22:00 hrs

The applicant has agreed to these hours and this will ensure that there is a consistent approach within the parade as to when seating and tables can be used.

Furthermore to protect amenity and minimise the impact on residents, the condition should also require that outside of these hours, no chairs, tables or barriers shall remain in the forecourt area and they shall be stored inside the premises.

Refuse – Although Environmental Health have requested further information in regard to waste collection and the applicant has provided further information to address these matters. It should be noted that the application is not for a change of use and simply just the placement of tables and chair together with elevation alterations as the use class is acceptable as discussed above in the principle section of this report.

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 and agent in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. In this instance the applicant sought pre-application advice prior to the submission of the application and concerns raised have been addressed in amended drawings.

The scheme is considered to be in accordance with the guidance contained within saved policies of the Unitary Development Plan for the City of Manchester 1995 and the Core Strategy Development Plan Document 2012.

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:

364 SK 0002 b stamped as received by the City Council as Local Planning Authority, on the 13.04.2021

364 SK 0003 stamped as received by the City Council as Local Planning Authority, on the 15.02.2021

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 outdoor seating area must not be used for drinking and dining outside of the following hours:

Monday - Thursday 09:00 - 22:00hrs

Friday and Saturday 09:00 - 22:30hrs

Sunday 10:00 - 22:00 hrs

Outside of these hours, no chairs, tables or barriers shall remain in the forecourt area and they shall be stored inside the premises.

Reason - To safeguard the amenities of the occupiers of nearby residential properties, pursuant to policies SP1, and DM1 of the Core Strategy and policy DC10 of the Unitary Development Plan for the City of Manchester.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
West Didsbury Residents Association
Ballbrook Conservation Area Group

Flat 2, 99 Lapwing Lane, Manchester, M20 6UR
Flat 1, 99 Lapwing Lane, Manchester, M20 6UR
West Didsbury Post Office, 99 Lapwing Lane, Manchester, M20 6UT
101A Lapwing Lane, Manchester, M20 6UR
101 Lapwing Lane, Manchester, M20 6UR
97 Lapwing Lane, Manchester, M20 6UR

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 - Ballbrook Conservation Area 1992
Area Team Boundary - Name: SOUTH