MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	129440/FO/2021
Date registered valid:	9 March 2021
Proposal:	Erection of canopy for a temporary period of 12 months
Address:	111 Manchester Road, Manchester, M21 9PG
Ward(s):	Chorlton Ward
Applicant:	Miss Elli Peake Mary and Archie Chorton 111 Manchester Road, Manchester, M21 9PG
Agent (if any):	
Case officer:	Dave Morris Tel: 0161 600 7924 Email: dave.morris@manchester.gov.uk
Recommendation:	Temp. Approve
Date of recommendation:	**27.04.2021**

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: Site photos provided by applicant in this instance due to the covid 19 pandemic

Standard consultations:
Printed: 11 March 2021 Expired: 1 April 2021

Neighbour notifications
Printed: 11 March 2021 Expired: 1 April 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

This application relates to a two storey end of parade property at the junction of Manchester Road and Kensington Road. The property has a three storey outrigger attached to which is a single storey rear extension. There remains a small enclosed yard. There are forecourts to both Manchester Road and Kensington Road. The property has a café on the ground floor and there is residential accommodation above.

The original planning permission for the use reference 108608/FO/2015/S1 was granted in July 2015 and included a fully glazed conservatory on the Kensington Road front. The use of the Kensington Road frontage was required to cease at 9.00pm by condition to protect the amenity of residents.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The site is located at the northern end of Chorlton District Centre. Adjoining to the north is the remainder of the parade, which comprises commercial uses on the ground floor. To the south across Kensington Road is another parade of commercial units. To the west on Kensington Road, separated from the site by an alley is the gable elevation of a terrace of residential properties. Facing the site across Manchester Road are the former Chorlton Leisure centre buildings.

Description of development

This consent seeks to retain an unauthorised canopy erected at the side of the property for a temporary period of 12 months. Originally consent was sought for three years. The canopy is situated on the Kensington Road frontage of the building and it constructed of a painted timber frame with a polycarbonate sheet roof. The sides are not enclosed. The canopy projects 3.5 metres from the side of the property is 8.9 metres deep, 2.3 metres to the eaves and 3.2 metres to the highest part of the roof. The area beneath the canopy would be available for use between 8.00am and 9.00pm.

Consultations & Notification Responses

Local residents/businesses

Two letters have been received in respect of the application. The issues raised are summarised below.
-The canopy is at the end of a residential street and there is already a noise issue with the establishment concerned. The structure may worsen this noise issue.
-It is difficult to see why this should be approved when a similar, but much smaller, structure, was recently deemed inappropriate for the establishment opposite (Sushi Marvel).
-Three years seems an extended time period, three months, given current circumstances seems more appropriate, otherwise it is becoming a permanent rather than a temporary structure.
-The establishment has a poor record of asking people to leave when closing leading to prolonged late night noise which could worsen with a canopy offering protection.
-Do not object to the temporarily altered profile of the building and appreciate the need for Mary and Archie to find new ways of operating in a COVID secure manner. However, concern is expressed about how rules regarding late night drinking outside or under the canopy will be applied. Even with the previous arrangements that curtailed outdoor drinking after a certain time, neighbours opposite have been exposed to loud music and general noise from the bar late at night because the windows and doors have been flung wide open on the building to presumably ventilate it. This has also sometimes happened early on a Sunday morning when the building is being cleaned. Will this canopy be regarded as an indoor or outdoor space in terms of licencing?
-These premises were put forward as being changed to being used as a restaurant when this venue first opened. However, whilst there is a food offering, it appears that the focus is on all day and late in to the night "wet led" offerings which has very different noise implications for the residents of Kensington Road.
-Although the building fronts on to Manchester Road which is a busy main road, Kensington Road is a terraced residential street. Using this canopy in the wrong way could further impact the peace of the street that has already suffered considerable disruption caused by the way this building is being used.

Chorlton Voice
-Has no objection in principle to the erection of canopies on shop forecourts. However, we would not support the retention of this canopy on a permanent basis. The contrast in design and materials with the awning on the front elevation creates an unattractive, haphazard appearance on a prominent corner. Nevertheless, they are sympathetic to the needs of the business coping during lockdown and have no objections to its retention until normal trading can resume, although the proposed period of 3 years appears unduly pessimistic.

Environmental Health

Considers a 12 month consent that requires the use of the area to cease at 9.00pm is acceptable.

Highways

The covered shelter will be sited only within the curtilage of the site and on existing terraced area and will not impinge onto the adopted highway, as such a projection over license will not be required. A headroom clearance of 3.2m is shown on the plans, which is compliant with the 2.3m minimum. This is acceptable.

Policy

Core Strategy

The relevant Core Strategy policies are DM1 and C10

Policy DC1 seeks to protect the amenity of an area from the adverse impact of development.

Policy C10 relates to the evening and night-time economy. It too seeks to protect the amenity of an area.

Unitary Development Plan

The relevant saved UDP policies are DC10 and DC26

Policy DC10 sets down the criteria to be considered in respect of food and drink uses including the need to protect the amenity of residents.

Policy DC26 seeks to protect residents from the harmful impact of noise generating developments.

Issues

Principle

The original permission for the use of the premise as a café/restaurant included a timber framed conservatory on the side of the premises. The principle of constructing a structure on the side of the property is therefore considered acceptable.

Design

The design of the timber frame is very similar to the previously approved conservatory. The use of substantial timbers gives it a sense of presence, it is however, let down by the flimsy nature of the roof covering. On balance as a temporary structure the design is considered acceptable.

Scale

The scale of the proposed canopy is the same as for the previously approved conservatory and is therefore considered to be acceptable.

Noise

The proposed canopy due to its open sides will perform poorly in acoustic terms, unlike the original conservatory which had double glazed units. However, the area has been used for

outside seating for some time and whilst there were complaints to Environmental Health these have not been investigated due to lockdown. The applicant has indicated that it is their long term aim to erect the approved conservatory which will reduce noise, and in the interim Environmental Health have indicated that they would accept a temporary consent with an hours condition which would enable the Council to reappraise the situation in a years time. A condition prohibiting amplified music or speech beneath the canopy will assist in keeping noise levels low.

Hours

The hours condition attached to the original application for the use of the premises as a café referred to outside seating rather than seating within the conservatory in limiting the hours to 9.00pm seven days a week. It is therefore considered that to allow the area beneath the canopy to be used until 9.00pm seven days a week would be consistent. Environmental Health have no concern with this.

Concern has been expressed that the canopy will operate the same hours as the inside of the building. Planning and Licensing are different regimes and consider different issues. Thus if Planning or Licensing impose a more restrictive closing time then it is that time which should be adhered to. Should consent be granted it is proposed to limit the time the area beneath the canopy can be used.

Residential amenity

The flats above the use would expect a different level of amenity to people living in a suburb and it is not considered that the proposed use would significantly alter the current position, beyond it being possible to sit outside in poor weather. The nearest houses and 13 and 18 metres away and again as they adjoin a district centre they would not expect the same level of amenity as residents in a suburb, however, it is considered that with the proposed conditions the impact of the use would not be significant and in the event that it is the permission can be revisited in 12 months.

Temporary Consent

The structure the subject of this application is not of sufficiently high quality to be considered acceptable as a permanent structure, similarly the poor acoustic qualities need to be assessed. The granting of a temporary consent would therefore seem appropriate. The applicant originally applied for three years, however, it is considered that 12 months would be sufficient to assess its impact at which point a further period could be granted, although the long term objective would be to see the original conservatory, for which the consent remains extant, constructed.

Refuse

The existing approved refuse storage arrangements are not affected by this proposal.

Use

The consent granted for the premises listed the proposed use as Class A3, now Class E. Thus whilst drinks can be served it should be to diners. The operation of the premises as a Bar would be a sui generis use for which planning permission is required. This application is determined on the basis of the authorised use of the premises.

Conclusion.

On balance it is considered that a precautionary approach is the best way forward as this will enable the Council to fully assess the impact of the development.

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 polices 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 issues arising from the consideration of this application.

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

1) The permission hereby granted is for a limited period only, expiring on 30 April 2022 and the buildings, works and use comprising the development for which permission is hereby granted are required to be respectively removed and discontinued. The land shall be reinstated within 3 months in accordance with a scheme previously approved, which shall include a timetable of implementation to be submitted to and approved in writing by the City Council local planning authority before this permission expires.

Reason - The materials used in the construction of the canopy are temporary in their nature and the design is of poor acoustic quality. The grating of a temporary consent will enable the Council to assess the impact of development pursuant to Core Strategy policies DM1 and C10 and saved Unitary Development Plan policies DC10 and DC26.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:
MAC_BR002 received 17 February 2021
MAC_BR005 received 9 March 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 area beneath the canopy hereby approve shall only be available for use between the following hours.

08:00 - 21:00hrs Sunday to Saturday.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with 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.

4) No live or amplified music or speech shall be played on the Kensington Road frontage of the property.

Reason - to protect residents from the harmful impact of noise pursuant to Core Strategy policy DM1 and saved Unitary Development Plan policy DC26

Appendix 1 – List of consultees & neighbours notified

Chorlton Voice
Highway Services
Environmental Health

11 Kensington Road, Manchester, M21 9GH
15 Kensington Road, Manchester, M21 9GH
Flat Above, 107 Manchester Road, Chorlton, Manchester, M21 9GA
109B Manchester Road, Chorlton, Manchester, M21 9GA
111B Manchester Road, Chorlton, Manchester, M21 9PG
Chorlton Baths, Manchester Road, Chorlton, Manchester, M21 9PQ
109A Manchester Road, Chorlton, Manchester, M21 9GA
Flat Above, 117 Manchester Road, Chorlton, Manchester, M21 9PG
Flat Above, 115 Manchester Road, Chorlton, Manchester, M21 9PG
111A Manchester Road, Chorlton, Manchester, M21 9PG
Flat A, 8 Kensington Road, Manchester, M21 9QJ
Flat 2, 119 Manchester Road, Chorlton, Manchester, M21 9PG
Flat 1, 119 Manchester Road, Chorlton, Manchester, M21 9PG
Flat B, 8 Kensington Road, Manchester, M21 9QJ
115 - 117 Manchester Road, Chorlton, Manchester, M21 9PG
5 Kensington Road, Manchester, M21 9GH
109 Manchester Road, Chorlton, Manchester, M21 9GA
4 Kensington Road, Manchester, M21 9QJ
113 Manchester Road, Chorlton, Manchester, M21 9PG
9 Kensington Road, Manchester, M21 9GH
7 Kensington Road, Manchester, M21 9GH
3 Kensington Road, Manchester, M21 9GH
13 Kensington Road, Manchester, M21 9GH
1 Kensington Road, Manchester, M21 9GH
107 Manchester Road, Chorlton, Manchester, M21 9GA
6 Kensington Road, Manchester, M21 9QJ
2 Kensington Road, Manchester, M21 9QJ
12 Kensington Road, Manchester, M21 9QJ
10 Kensington Road, Manchester, M21 9QJ
119 Manchester Road, Chorlton, Manchester, M21 9PG

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
Area Team Boundary - Name: SOUTH