

Planning

Growth & Development

Delegated officer report for planning application

Application no. 126703/FO/2020

Date registered valid: 29 April 2020

Proposal: Change of use from restaurant/cafe (Class A3) to a hot food takeaway (Class A5) and installation of fume extract system

Address: 21 Bowland Road, Manchester, M23 1JP

Ward(s): Baguley Ward

Applicant: Mr Anthony Lanz-Bergin Bergins Ltd 21 Bowland Road, Manchester, M23 1JP

Agent (if any): Mr Peter Littlewood Peter Littlewood Associates Ltd 1 Brock Drive, Cheadle Hulme, Stockport, SK8 6LP

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

Recommendation: Approve

Date of recommendation: 25 September 2020

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 17th August 2020

Standard consultations:

Printed: 7 May 2020 Expired: 28 May 2020

Neighbour notifications

Printed: 7 May 2020 Expired: 28 May 2020

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: Yes

Environmental Statement: Not required

Description of site/building

The application site relates to the ground floor of a mid-terraced three storey building within a parade of 7 commercial units. The commercial units are located at ground floor and residential units on the first and second floors.

The parade has a communal parking / servicing area to the front with a rear service road accessed either side of the ends of the parade.



Photograph 1 Application site is the unit to the far left next to the pharmacy sign.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is residential in nature comprising of a mixture of housing types ranging from two storey semi-detached dwellinghouses to terraces and single storey bungalows.

The area also contains both Baguley Hall Primary School and Sacred Heart Catholic Primary School.

Description of development

The applicant is seeking planning permission to change of use from restaurant/cafe (Class A3) to a hot food takeaway (Class A5) and installation of fume extract system.

Consultations & Notification Responses

Local residents/public opinion – One representation was received objecting to the application due to concerns with an increase in car parking demand and traffic.

Highway Services – No objection as the site is considered to be suitably accessible by sustainable modes and is in close proximity to a range of public transport facilities including bus and tram.

It is anticipated that the proposals are unlikely to generate a significant increase in the level of vehicular trips therefore they do not raise any network capacity concerns.

The amount of on-site parking is acceptable which is available on a first come first served basis.

It is recommended that some form of secure cycle storage is provided.

The proposed waste management arrangements are acceptable to Highways.

Pedestrian access is being retained to the front which is acceptable from a highway perspective.

Environmental Health – No objection, requested conditions regarding opening hours, refuse storage, fume and odour extraction and acoustically insulating any external equipment.

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
C1 – Centre Hierarchy
C10 ‘Leisure and the Evening Economy’

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

DC10 - ‘Food and Drink Uses’
DC26 - Development and Noise

Hot Food Takeaway Supplementary Planning Document March 2017

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.

Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which effectively balances economic, social and environmental factors.

In particular NPPF states that in terms of design:

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
And,

127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

The Principle – Extant UDP policy DC10.2 establishes the principles for and seeks to guide food and drink uses to the City Centre, industrial and commercial areas, in shopping centres, and at ground floor level in local shopping parades of more than eight shops or offices.

Bowland Road Parade is not considered to be a district centre or a local centre as defined by the Core Strategy (2012) under policy C1 nor is it located within a shopping parade of 8 or more units as it has 1 less unit.

There has only been one previous application at this address for a Certificate of Lawful Existing Use for the use of the premises as a hot food take-away (Class A5) under planning reference: 121074/LE/2018. The proposal was refused as, the applicant failed to demonstrate on the balance of probability, that the property has been solely used as a hot food take away within Use Class A5 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (As Amended) for a continuous period of 10 years (as set out in Section 171b of the Town and Country Planning Act 1990).

Core Strategy policy C10 states that there will be a presumption against hot food takeaways and night time uses where there is already a high concentration of such uses and that new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area. Factors taken into account include the existing number of similar establishments in the immediate area, the existence of vacant shop units, the function of the centre and the potential impact on the wider community.

Matters that will require consideration, in order to assess the acceptability of any proposal are impacts on residential amenity, hours of use, fume extraction, parking, servicing and refuse.

Vitality and Viability/Balance of Uses – It is recognised in the Core Strategy that a vibrant evening economy is important, however this needs to be balanced against the other functions of the centre/local parade and in particular the need to support the day time economy.

The proposed operating hours indicate that the hot food takeaway will be open from 11am until 10pm Monday to Fridays and then 2pm to 10pm on Saturday, Sundays and Bank Holidays.

However, Policy 3 of the Hot Food Take Away SPD requires that where a hot food take away is proposed within 400 metre radius of a primary or secondary school, and proposal meets planning

policy in other respects, planning permission will only be permitted subject to the condition that opening hours are restricted to the following:

- A primary school: the hot food takeaway is not open to the public between 3pm to 5.30pm on weekdays.
- A secondary school: the hot food takeaway is not open to the public before 5.30pm on weekdays.

The proposal is located within 400 metres of both Baguley Hall Primary School and Sacred Heart Catholic Primary School (shown in photograph 2 as starts with the application site indicated by a red dot) and therefore policy 3 would require the restriction of opening hours on week days to close between 3pm to 5.30pm.

The existing site was previously a catering business, it is acknowledged that a vacant unit does not contribute to vitality or viability of the shopping parade and following a request by officers the applicant provide a letter from a local estate agent/surveyor stating that the demand for small commercial units have diminished due to large competitors within Wythenshawe Town Centre.

Therefore if approved the proposal would return a vacant unit into use and improve the viability and vitality of the parade which has only 6/7 units.



Photograph 2 Aerial image of the application site in proximity to Primary Schools; Source: Google Earth Accessed 24th September 2020.

Therefore the principle is considered to be in general accordance with the criteria set out in Policy C10 of the Core Strategy, saved policy DC10 of the UDP and Take Away Policies 1 and 3 of the Take Away SPD.

Appearance – There are no changes proposed to the front or rear of the building other than extract points for the flue.

Taking into consideration the changes to the building at the rear changes are considered to be acceptable in accordance with SP1 and DM1 of the Core Strategy.

Residential Amenity – Concerns raised by a resident related to car parking and this will be addressed under Parking/Traffic section of this report.

There is a residential property located at first floor, Environmental Health, whilst not objecting to the proposals in terms of noise impacts, have requested that a number of conditions be attached to any approval including to acoustically insulate any associated external equipment.

This will ensure that the impact of the development will be mitigated in terms of noise. Further discussion on the flue and odour is detailed below.

Flue Extraction – Environmental Health initially request a flue and odour control condition however following a further a review of the odour impact assessment by Redmore which concluded the new occupier needed very high odour control. They have stated the proposed mitigation in Section 4.2.2 of the report (they have baffle (grease) filter, fine filter (HEPA) and then carbon filters) which is sufficient and therefore a condition is requested to ensure that the development is carried out in accordance with the report and section 4.2.2. The measures are detail in the condition for the avoidance of doubt.

A suitably worded condition the proposal would comply with policy 2 of the Hot Food Takeaway SPD, DM1, C10 and saved policy DC10 of the UDP.

Car Parking/Traffic Implications – Concerns have been raised regarding car parking and in particular obstructing access to driveways. Highway Services have not raised any concerns and there are a number of car parking spaces at the front the property. Given that customers using the parade would be on a relatively short in terms of time, the proposal is not considered to give rise to any car parking or highway safety issues that would warrant the removal

Refuse Storage – The proposed drawings show that the refuse would be stored within the rear yard and upon request by environmental health a contract was provided to show how waste would be collected. It is therefore recommended that this condition is attached to ensure the development is carried out in accordance with the approved details.

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/agent in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Appropriate conditions have been attached to the end of this report and the scheme is considered to be in accordance with the guidance contained within saved policy DC10 of the Manchester Unitary Development Plan and to policies SP1 and DM1 of the Core Strategy.

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:

Drawing 245/01 REV B stamped as received by the City Council as Local Planning Authority, on the 10.09.2020

Odour Impact Assessment prepared by Redmore Environmental reference: 3655r1 Dated: 30th April 2020 stamped as received by the City Council as Local Planning Authority, on the 30.04.2020

Waste Management Proforma stamped as received by the City Council as Local Planning Authority, on the 17.04.2020

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) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with the submitted scheme and mitigation measures in Section 4.2.2 of the report. For the avoidance of doubt these are:

- Grease filtration system - Baffle filters will be installed to provide grease filtration and remove heavy grease loads;
- Fine dust filter - A bag or High-Efficiency Particulate Arrestance (HEPA) filter;
- Gaseous phase - A metal cased, extra duty activated carbon 'discarb' filter will be installed for the treatment of odour. Reference should be made to Appendix 1 for a technical specification for the unit; and,
- Dispersion - Emissions will be released downwards into the courtyard to limit dispersion towards residential receptors above.

These measures shall be implemented before first occupation of the premises and maintained in place as long as the use is in operation. The scheme shall be maintained in accordance with the manufacturer's specification.

Reason - In the interests of the amenities of occupiers of nearby property pursuant to Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policy DC10.

4) The premises shall not be open outside the following hours:-

Monday To Friday

Start Time: 11:00 - End Time:15:00

Start Time 17:30 - End Time: 22:00

Saturday, Sunday and Bank Holidays

Start Time: 14:00 End Time: 22:00

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester, policies SP1 and DM1 of the Core Strategy and policy 3 of the Hot Food Takeaway Supplementary Planning Document March 2017

5) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

Reason - In order to protect the amenity of local residents and in accordance with policies SP1 and DM1 of the Core Strategy.

6) The development shall be carried out in accordance with the submitted scheme for the storage (including segregated waste recycling) and disposal of refuse as detailed in the Waste Management Proforma, and drawing 245/01 REV B stamped as received by the City Council as Local Planning Authority, on the 10.09.2020.

The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

7) Before first occupation of the development the building, 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 sensitive location.

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. The approved scheme shall be completed before the premises is occupied. Upon completion of the development a verification report will be required 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 has been met. Any instances of nonconformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

2 Maltby Road, Manchester, M23 1EN
11 Calcot Walk, Manchester, M23 1HY
10 Bardon Road, Manchester, M23 1HX
26 Bowland Road, Manchester, M23 1JQ
16 Bowland Road, Manchester, M23 1JQ
8 Bardon Road, Manchester, M23 1HX
30 Dunkeld Road, Manchester, M23 1HU
22 Dunkeld Road, Manchester, M23 1HU
21A Bowland Road, Manchester, M23 1JP
31 Bowland Road, Manchester, M23 1LF
24 Bowland Road, Manchester, M23 1JQ
18 Bowland Road, Manchester, M23 1JQ
7 Bowland Road, Manchester, M23 1JP
15 Bowland Road, Manchester, M23 1JP
2 Bardon Road, Manchester, M23 1HX
14 Bardon Road, Manchester, M23 1HX
32 Dunkeld Road, Manchester, M23 1HU
26 Dunkeld Road, Manchester, M23 1HU
20 Dunkeld Road, Manchester, M23 1HU
16 Dunkeld Road, Manchester, M23 1HU
27 - 29 Bowland Road, Manchester, M23 1JP
23 Bowland Road, Manchester, M23 1JP
19 Bowland Road, Manchester, M23 1JP
17 Bowland Road, Manchester, M23 1JP
27A Bowland Road, Manchester, M23 1JP
25A Bowland Road, Manchester, M23 1JP
23A Bowland Road, Manchester, M23 1JP
19A Bowland Road, Manchester, M23 1JP
17A Bowland Road, Manchester, M23 1JP
33 Bowland Road, Manchester, M23 1LF
22 Bowland Road, Manchester, M23 1JQ
20 Bowland Road, Manchester, M23 1JQ
14 Bowland Road, Manchester, M23 1JQ
9 Bowland Road, Manchester, M23 1JP
13 Bowland Road, Manchester, M23 1JP
11 Bowland Road, Manchester, M23 1JP
28 Bowland Road, Manchester, M23 1JG
9 Calcot Walk, Manchester, M23 1HY
7 Calcot Walk, Manchester, M23 1HY
5 Calcot Walk, Manchester, M23 1HY
3 Calcot Walk, Manchester, M23 1HY
13 Calcot Walk, Manchester, M23 1HY
1 Calcot Walk, Manchester, M23 1HY
6 Bardon Road, Manchester, M23 1HX
4 Bardon Road, Manchester, M23 1HX
16 Bardon Road, Manchester, M23 1HX
12 Bardon Road, Manchester, M23 1HX
8 Dunkeld Road, Manchester, M23 1HU
40 Dunkeld Road, Manchester, M23 1HU

38 Dunkeld Road, Manchester, M23 1HU
36 Dunkeld Road, Manchester, M23 1HU
34 Dunkeld Road, Manchester, M23 1HU
28 Dunkeld Road, Manchester, M23 1HU
24 Dunkeld Road, Manchester, M23 1HU
18 Dunkeld Road, Manchester, M23 1HU
14 Dunkeld Road, Manchester, M23 1HU
12 Dunkeld Road, Manchester, M23 1HU
10 Dunkeld Road, Manchester, M23 1HU
1 Roundthorn Road, Manchester, M23 1FJ
1 Maltby Road, Manchester, M23 1EW

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 45M
Area Team Boundary - Name: SOUTH