

Planning

Growth & Development

Delegated officer report for planning application

Application no. 127337/P3CPA/2020

Date registered valid: 8 July 2020

Proposal: Prior Approval for the change of use of A2 offices to A3 cafe together with installation of extraction flue to the rear

Address: 151 Dickenson Road, Manchester, M14 5HZ

Ward(s): Rusholme Ward

Applicant: Hayder Rathi 151 Dickenson Road, Manchester, M14 5HZ

Agent (if any): Barry Cullen Flat 27 Brookside Court, 101 Slade Lane, Manchester, M19 2AH

Case officer: Dave Morris
Tel: 0161 600 7924
Email: d.morris@manchester.gov.uk

Recommendation: APPROVE

Date of recommendation: 27 August 2020

Application details

Type of application: Prior approval - A1, A2, sui gen to A3

Development type: Notifications

Date of site visit: None undertaken due to Covid 19 pandemic

Standard consultations:

Printed: 10 July 2020 Expired: 31 July 2020

Neighbour notifications

Printed: 10 July 2020 Expired: 31 July 2020

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 mid parade [property formerly used as offices, class A2, class E as of 1 September 2020, in connection with the adjoining property. The office use occupied both floors. There is a deep forecourt to the property and a yard at the rear.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The application site is located with a parade of shop forming a small local centre. The centre comprises 27 properties in two parades either side of Anson Road on the north Side of Dickenson Road. To the rear of the site and set in its own grounds is a detached three storey block of 18 self contained flats. Facing the site across Dickenson Road is Birchfields Park.

The parade comprises 9 Units of which one a double unit appears to be in use as a restaurant.

Description of development

Prior approval is sought for the change of use of the ground floor of the premises from Financial and Professional Offices class A2 to a café/restaurant Class A3. It should be noted that as of 1 September 2020 both these uses will fall within Class E of the Use Classes Order 2020 and prior approval would no longer be required.

The proposed café will open from 12.00pm (noon) until 12.00am (midnight) Sunday to Friday and from 12.00pm (noon) to 1.00am Sundays.

Refuse would be stored in the rear yard.

A new flue would be installed on the rear elevation.

Consultations & Notification Responses

Local Residents/Businesses

Seven letters have been received objecting to the proposed development. The issues raised are summarised below.

- Photographs have been provided showing the problems with parking in the area.
- The lease to the property prohibits its use for anything other than a shop.
- There are other cafes and take aways in the immediate area.
- There are issues with refuse in the area and the proposed use will make this worse.
- Visitors to the parade park on the forecourts of properties they are not visiting.
- Concern is expressed that work has already commenced on site.
- Concern is expressed about the impact of fumes odours and noise on the adjoining businesses.
- The proposed development will adversely impact on the amenity of residents living above businesses in the parade

Environmental Health

The acoustic report is satisfactory and a validation report will be required. The opening hours are acceptable, deliveries should be limited to 7.20am to 8.00pm Monday to Saturday with none on Sundays and bank holidays. A fume extraction condition is required and additional information required about refuse storage.

Highways

In comparison to the former office use, the proposed conversion into a café unit is unlikely to generate any significant intensification of trip levels. The sustainable location offers visitors and staff good levels of accessibility on the local public transport system. It is also acknowledged that some trips will be made in conjunction with surrounding uses.

The lack of on-site car parking is not ideally preferred, however it is accepted that any vehicles associated with the premises that require parking can do so on-street, with no significant highway impact.

The waste management and collection arrangements are accepted in principle.

Policy

As this is an application for prior approval development plan policies are not relevant.

Legislation

**The Town and Country Planning (General Permitted Development) (England) Order 2015
Schedule 2 Part 3 Changes of use
Class C – Retail, betting office or pay day loan shop or casino to restaurant or cafe**

Allows development consisting of a change of use of a building from a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order to a use falling within Class A3 (restaurants and cafes) of the Schedule, and building or other operations for the provision of facilities for ventilation and extraction (including the provision of an external flue), and the storage of rubbish, reasonably necessary to convert the building to a use falling within Class A3 (restaurants and cafes) of that Schedule.

Development is not permitted by Class C if—

- (a) the cumulative floor space of the existing building changing use under Class C exceeds 150 square metres;
- (b) the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use under Class C;
- (c) the land or the site on which the building is located is or forms part of—
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area; or
 - (iii) a military explosives storage area;
- (d) the site is, or contains, a scheduled monument; or
- (e) the land or building is a listed building or is within the curtilage of a listed building.

Issues

Legislative.

As of 1st September 2020 changes to the use classes order come into effect. As a result Class A2 falls within Class E and Class A3 also falls with Class E and prior approval will no longer be required for a change of use.

Prior Approval

The legislation requires consideration of the following Issues.

Details of siting and design – The proposed development is located with a local centre containing 27 commercial properties on balance it is considered that the centre can therefore satisfactorily accommodate a café/restaurant use, without significant impact on the amenity of the surrounding area. Within the parade itself there is only one other food and drink use. There are no design issues arising from the development.

Noise impacts – There is no residential above the property and the acoustic report received with the application is considered acceptable. On balance it is considered that as a café restaurant, as opposed to a take away there should be no substantive noise issues. Environmental Health consider the proposed opening hours acceptable.

Odour impacts- A flue is proposed on the rear elevation which is satisfactory. Environmental Health have requested additional information relating to the flue and an appropriate condition has been agreed to by the applicant. The issues with the flue are resolvable.

Waste

Whilst environmental Health have requested additional information regarding waste, there is a yard at the rear of the property and a condition is proposed requiring the refuse to be stored in the yard and only put out on the day of collection.

Transport and highways impacts of the development

This is a local centre with good access by public transport and within easy walking distance of a large number of residential properties. Highways have raised no issues with the transport aspects of the development.

Businesses are concerned about inconsiderate parking in the area, however, this is not something the planning system can take into account, if people are parking on forecourts belonging to other businesses then it is for the owner of that property to take appropriate action.

Impact on the shopping centre – This is a local centre with a 27 commercial units, the centre is therefore above the threshold at which the Council's policies consider that a centre can accommodate food and drink uses. Further it is considered that a vacant unit would have a more harmful impact on the centre than the proposed café/restaurant.

Conclusion

With the imminent changes to the Use Classes order consent would not be required for the change of use only the flue. All other matters would be outside of the Council's Control.

On balance it is therefore considered that prior approval should be granted.

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 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 City Council is satisfied that there would be no odour impacts, impacts on the adequate provision of services, impacts on the sustainability of the shopping area, waste management impacts, hours of opening impacts, and transport and highway impacts arising from the

proposal. Under the provisions of paragraph W of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 prior approval is granted for the development subject to the conditions set out in this decision letter.

2) 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.

3) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Site location plan received 30 June 2020

Existing and Proposed Plans reference 1207 received 20 June 2020

Ventilation and extraction Statement by Canopy UK Direct Ltd received 30 June 2020

Noise Assessment Report by RS Acoustic Engineering reference RSA315/2020 dated 1 August 2020 received 3 August 2020

Waste Management Strategy received 30 June 2020

Transport Statement received 16 July 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.

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

12.00pm (Noon) to 12.00am (Midnight) Sunday to Friday

12.00pm (Noon) to 1.00am Saturdays

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 and policies SP1 and DM1 of the Core Strategy.

5) 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 non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site pursuant to policies SP1 and DM1 of the Core Strategy.

6) Before the development hereby approved commences the building shall be insulated in according with the recommendations of the Noise Assessment Report by RS Acoustic Engineering reference RSA315/2020 sated 1 August 2020 and received 3 August 2020.

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 consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria has been met. Any instances of non-conformity 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 the building and occupiers of nearby properties pursuant to policies SP1 and DM1 of the Core Strategy.

7) No deliveries, loading or unloading shall be carried out on the site outside the hours of 7.30am to 8.00pm Monday to Saturday with none on Sundays or Bank Holidays.

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

8) All refuse for the proposed development will be stored within the curtilage until it is to be collected. Refuse bins shall be returned to the site immediately after emptying.

Reason - To ensure that there are satisfactory arrangements for the disposal of refuse pursuant to Core Strategy policies DM1 and C10 and saved Unitary Development Plan policy DC10

9) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences; any works approved shall be implemented before the use opens to the public.

Mixed use schemes shall ensure provision for internal ducting in risers that terminate at roof level. Schemes that are outside the scope of such developments shall ensure that flues terminate at least 1m above the eave level and/or any openable windows/ventilation intakes of nearby properties.

Reason - In the interests of the amenities of occupiers of nearby properties pursuant to Core Strategy Policies DM1 and C10 and saved Unitary Development Plan policy DC10.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Highway Services

149 Dickenson Road, Manchester, M14 5HZ
Flat 19, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 16, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 14, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 12, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 8, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 6, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 3, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 1, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 20, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 18, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 17, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 15, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 13, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 11, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 10, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 9, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 7, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 5, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 4, David Navin Court, 32 Anson Road, Manchester, M14 5BP
Flat 2, David Navin Court, 32 Anson Road, Manchester, M14 5BP
155 Dickenson Road, Manchester, M14 5HZ
155A Dickenson Road, Manchester, M14 5HZ
153A Dickenson Road, Manchester, M14 5HZ
153 Dickenson Road, Manchester, M14 5HZ

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
Area Team Boundary - Name: SOUTH