MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	141110/FO/2024
Date registered valid:	4 October 2024
Proposal:	Installation of external flue
Address:	100 York Avenue, Manchester, M16 0AG
Ward(s):	Whalley Range Ward
Applicant:	Mr Mohamed Amer, Geo Traders Ltd
Agent (if any):	Mr Talat Zeria, HSH Engineering Design Service Ltd
Case officer:	Jake Walther Tel: 0161 234 1632 Email: jake.walther@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	**26/11/2024**

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 07/11/2024

Standard consultations:
Printed: 10 October 2024 Expired: 31 October 2024

Neighbour notifications
Printed: 10 October 2024 Expired: 31 October 2024

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
The application relates to a pavement-fronted, mid-terrace ground floor shop unit (class E). The rear of the premises includes a small rear yard and an alleyway which links to York Avenue.



Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area
York Avenue is a primarily residential street, with a number of shops located on the southern end of the street and on the adjacent Clarendon Road, with Manley Park and Primary School located adjacent to the two-storey terraced properties.

Description of development
Planning permission is sought for the installation of an external flue to the rear elevation.

Consultations & Notification Responses
Environmental Health – No objection. Conditions are recommended with respect to the fume extraction and background noise.

Neighbouring residents, as per Appendix 1 – 1no. objection received in response objecting to the change of use from a shop to a hot food takeaway – however the application form indicates this business will remain Class E(b) and a change of use is not sought in this application.

Policy
The following policy and guidance is considered relevant to the consideration of this application:

- Saved policies DC10, DC26 of the Unitary Development Plan for the City of Manchester.
- Policies DM1, SP1, C10, EN14, EN16, EN19 of the Manchester Core Strategy;

- Places for Everyone Joint Development Plan;

- National Planning Policy Framework (NPPF).

Principle
The application property is currently unoccupied but is proposed to be used as a restaurant which would require an external flue. It is considered that due to the location of the premises within a small commercial parade of 5 or more units (with 7 additional units on the adjoining clarendon Road) the addition of a rear flue is considered satisfactory in principle.

The proposal is compliant with saved policy DC10 of the UDP and policies C10, DM1, SP1 and T2 of the Core Strategy.

Impact on Centres
The application premises is not situated within a defined centre, but rather in a linear parade of low-grade commercial uses that spans Clarendon Road and York Avenue.

With reference to Policy C10 of the Core Strategy, due to the detachment of the site from the nearest centres of the Chorlton, it is not considered that the proposed use would have an adverse impact upon the vitality and viability of the these centres as a consequence of the cumulative impact of similar uses in or on the edge of the district centre, nor would the proposed use affect the importance of the centre for local shopping. In this regard, the proposed use is considered acceptable.

Residential and Visual Amenity
The proposed flue would project back from the rear wall by 605mm, and have a total height of 4750mm, which is considered to be a standard scale for a proposal of this nature. The flue would not cause any significant overshadowing issues or cause an undue loss of daylight for any of the surrounding properties.

The proposed flue would be situated on the rear elevation, on the corner of the rear outrigger, it would measure 4750mm in height and 605mm in width. The flume would not be largely visible from the street scene, with the exception of a very narrow area on York Avenue when viewing down the alleyway, the flume will also be visible from the upper floor rear windows from 222 Clarendon Road and 9, 99 Cromwell Avenue.

Given a number of the rear yards in the vicinity are used by ground floor commercial units, it is not anticipated the introduction of a rear flue would have a significant impact on the visual amenity or character of the area. On that basis, the proposal is in accordance with saved UDP policies DC20 and DC26 and Core Strategy Policies SP1 and DM1.

Fume/Odours
A fume extraction flue is proposed to the rear roof elevation of the host building. It is believed that in the context of proposed location and the presence of similar flues to the rear of the parade, the visual impact of the pipe is limited. A condition has been imposed which requires the submission and approval further details with respect to maintenance in accordance with Defra guidelines.

Noise Impact
This type of development can generate noise through the plant and fume extraction equipment on site and from the activities of patrons. The former can be addressed through acoustic attenuation and an appropriate condition is proposed in this respect.

Other Legislative Requirements
Equality Act 2010
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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 to guide the application through all stages of the planning process and resolve any issues that arose in dealing with the planning application.

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:

   - Location Plan - received by the City Council as Local Planning Authority on 26 September 2024.
   - Site plan - received by the City Council as Local Planning Authority on 26 September 2024.
   - Elevations - received by the City Council as Local Planning Authority on 04 October 2024.
   - Floor plans - received by the City Council as Local Planning Authority on 04 October 2024.

   Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

3) Fume/odours

Notwithstanding details submitted, a more detailed scheme for the extraction of any fumes, vapours and odours from the premises hereby approved shall be submitted to and approved in writing by the City Council as Local Planning Authority. The approved scheme shall be implemented prior to occupancy and shall remain operational and maintained thereafter.

Reason - In the interests of the amenities of nearby occupiers in order to comply with saved policy DC10 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Manchester Core Strategy

4) External plant/equipment/servicing

Any externally mounted ancillary plant or equipment shall be selected and/or acoustically insulated in accordance with a scheme designed so as to achieve a rating noise level of 5dB (LAeq) below the existing background (LA90) at the nearest noise sensitive location. The scheme should 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 prior to installation of any plant. The approved scheme shall be fully implemented prior to first use and in accordance with the details agreed.

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

5) Colour treatment

Within one month of the grant of consent details of the proposed colour treatment for the proposed flue shall be submitted to and approved by the City Council as Local Planning Authority. The approved scheme shall be implemented in full prior to the use hereby approved commencing.

Reason - In the interests of residential amenity pursuant to policy DM1 of the Manchester Core Strategy

Appendix 1 – List of consultees & neighbours notified

Environmental Health

95B Cromwell Avenue, Manchester, M16 0BG
95A Cromwell Avenue, Manchester, M16 0BG
222 Clarendon Road, Manchester, M16 0AQ
Manley Park Play Centre, York Avenue, Manchester, M16 0AS
Flat Above, 98 York Avenue, Manchester, M16 0AG
216 Clarendon Road, Manchester, M16 0AQ
Flat 1, 222 Clarendon Road, Manchester, M16 0AQ
97 Cromwell Avenue, Manchester, M16 0BG
98 York Avenue, Manchester, M16 0AG
Flat 3, 222 Clarendon Road, Manchester, M16 0AQ
Flat 2, 222 Clarendon Road, Manchester, M16 0AQ
96 York Avenue, Manchester, M16 0AG
96A York Avenue, Manchester, M16 0AG
99 Cromwell Avenue, Manchester, M16 0BG
220 Clarendon Road, Manchester, M16 0AQ
218 Clarendon Road, Manchester, M16 0AQ

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA