

**Planning**

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Application for Removal or Variation of a Condition following Grant of Planning Permission or Listed Building Consent

Town and Country Planning Act 1990 (as amended); Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number	26
Suffix	
Property Name	
Address Line 1	Bury New Road
Address Line 2	
Address Line 3	Manchester
Town/city	Manchester
Postcode	M8 8EL

Description of site location must be completed if postcode is not known:

Easting (x)	Northing (y)
383551	399641

Description

Applicant Details

Name/Company

Title

Mrs

First name

Sanam

Surname

Rafiq

Company Name

Address

Address line 1

26 Bury New Road

Address line 2

Address line 3

Town/City

Manchester

County

Manchester

Country

Postcode

M8 8EL

Are you an agent acting on behalf of the applicant?

- ☒ Yes
- ☐ No

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

***** REDACTED *****

Agent Details

Name/Company

Title

Mr

First name

Darren

Surname

Pomfret

Company Name

Manchester Building Design Ltd

Address

Address line 1

8 Gas Street

Address line 2

Hollingworth

Address line 3

Town/City

Hyde

County

Country

United Kingdom

Postcode

SK14 8JD

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

***** REDACTED *****

Description of the Proposal

Please provide a description of the approved development as shown on the decision letter

Change of use of the operation of the existing cafe (use class E(b)) to a hybrid use comprising a cafe (use class E(b)) and the operation of a 'commercial kitchen' preparing food only for collection by online delivery companies (sui generis) between the hours of 22.00 and 04.00 hrs

Reference number

135897/FO/2023

Date of decision (date must be pre-application submission)

29/03/2023

Please state the condition number(s) to which this application relates

Condition number(s)

3

Has the development already started?

- ☒ Yes
☐ No

If Yes, please state when the development was started (date must be pre-application submission)

30/03/2023

Has the development been completed?

- ☒ Yes
☐ No

If Yes, please state when the development was completed (date must be pre-application submission)

30/03/2023

Condition(s) - Variation/Removal

Please state why you wish the condition(s) to be removed or changed

Part of the premises have already been approved to operate till 4.00am and the applicants wish to provide hot and cold food to customers from the restaurant section as their day time trade has been virtually eradicated following the dramatic changes in footfall in the area over the past 18 months.

The applicants are already employing kitchen staff to work to the hours that are being applied for and these same staff will be able to serve customers in the adjacent restaurant area.

It is envisaged that the proposed changes in opening hours will result in the equivalent of 2 extra members of staff being employed, which will offset the 2 members of staff that had to be laid off who served the daytime trade following the collapse in footfall.

In pre-application discussions the Council advised that they had concerns about the impact of the proposal on nearby "potential residential uses".

The appellants note that the permissions granted under the Prior Approval process for conversion of the upper floors of the properties above No.3-11 Bury New Road have stringent requirements for acoustic insulation.

These acoustic conditions are far in excess of those that would be required under the Building Regulations, and as such, particularly given the designated commercial use of the area and the nature of Bury New Road (which is a primary route into and out of the city center with significant traffic flows at all hours of the day) that it would be unreasonable to assert that this proposal would have a significant adverse effect on the amenity of those properties were they ever to be developed.

The acoustic insulation of the external fabric of those aforementioned units is identical to that which the Council impose on residential units in the heart of the city center, with its expansive vibrant night time economy and therefor the applicants consider that to assert that "similarly" acoustically insulated properties on the opposite side of Bury New Road would be grounds to refuse this variation in opening hours would be inconsistent decision making.

The appellants also note that the Council have seen fit to approve other late night / early hours operating in the immediate area that have significantly more potential for noise and disturbance such as the 700 seater banqueting hall directly opposite that the Council are content to allow to operate till 1.00am and must therefor comply with the Councils adopted policies.

Please note that any operation selling hot food to customers after 11.00am would be subject to the provisions of the Licensing Act 2003 and the applicants will ensure that all the provisions of this legislation will be complied with.

If you wish the existing condition to be changed, please state how you wish the condition to be varied

Variation of the opening hours of the restaurant use (Class E) to 12:00 to 04:00 hrs daily.

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

- ☒ Yes
☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- ☒ The agent
☐ The applicant
☐ Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

☒ Yes

☐ No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title

***** REDACTED *****

First Name

***** REDACTED *****

Surname

***** REDACTED *****

Reference

26 Bury New Road

Date (must be pre-application submission)

16/07/2024

Details of the pre-application advice received

Advised that the Council were unlikely to support the application due to the potential impact on residential uses that have been granted under the Prior Approval process for properties above No.s 3 to 11 Bury New Road.

A further email was provided on the 27th August 2024 where the case officer advised that no other formal validation documents would be required to validate the application and that we should submit a supporting statement (included in the reasons for variation of condition section of the application form).

Ownership Certificates and Agricultural Land Declaration

Certificates under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Please answer the following questions to determine which Certificate of Ownership you need to complete: A, B, C or D.

Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?

☐ Yes

☒ No

Can you give appropriate notice to all the other owners/agricultural tenants? (Select 'Yes' if there are no other owners/agricultural tenants)

☒ Yes

☐ No

Certificate Of Ownership - Certificate B

I certify/ The applicant certifies that:

☒ I have/The applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land or building to which this application relates; or

☐ The applicant is the sole owner of all the land or buildings to which this application relates and there are no other owners* and/or agricultural tenants**.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

Owner/Agricultural Tenant

Name of Owner/Agricultural Tenant: ***** REDACTED *****
House name:
Number: 27
Suffix:
Address line 1: Fairhaven Ave
Address Line 2:
Town/City: Whitefield
Postcode: M457QG
Date notice served (DD/MM/YYYY): 09/10/2024
Person Family Name:

Person Role

- ☒ The Applicant
☐ The Agent

Title

Mrs

First Name

Sanam

Surname

Rafiq

Declaration Date

09/10/2024

☒ Declaration made

Declaration

I/We hereby apply for Removal/Variation of a condition as described in the questions answered, details provided, and the accompanying plans/drawings and additional information. I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them. I/We also accept that, in accordance with the Planning Portal's terms and conditions: - Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website; - Our system will automatically generate and send you emails in regard to the submission of this application.

☒ I / We agree to the outlined declaration

Signed

Darren Pomfret

Date

09/10/2024

Amendments Summary

Notice No 1 added and certificate of ownership changed to B