

## Planning

## Growth & Development

### Delegated officer report for planning application

**Application no.** 140616/FO/2024  
**Date registered valid:** 22 August 2024  
**Proposal:** Change of use of ground floor of retail shop (Class E) to hot food takeaway (sui generis) with fume extraction flue to the rear  
**Address:** 47 Bury New Road, Manchester, M8 8EF  
**Ward(s):** Cheetham Ward  
  
**Applicant:** Mr A Mohammed  
**Agent (if any):** David Ormesher, Holborow & Ormersher  
**Case officer:** Steven McCoombe  
Tel: 0161 234 4607  
Email: [steven.mccoombe@manchester.gov.uk](mailto:steven.mccoombe@manchester.gov.uk)  
  
**Recommendation:** Approve  
**Date of recommendation:** 30 September 2024

## Application details

**Type of application:** Full Application Consent

**Development type:** Minor Other

**Date of site visit:** 20 September 2024

### Standard consultations:

Printed: 22 August 2024 Expired: 13 September 2024

### Neighbour notifications

Printed: 22 August 2024 Expired: 13 September 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 site relates to a pavement-fronted, mid-terrace, vacant, ground floor shop unit (Class E). The rear of the premises includes a small rear road and an alleyway which links the rear to Harris Street.



View from Bury New Road

The premises is situated within a commercial frontage comprising of various small-scale retail, wholesale, retail and food and drink units which extend to both sides of Bury New Road.

**Listed building:** Not applicable

**Conservation area:** No

**Tree Preservation Order:** No

### **Description of area**

The site is adjacent to a busy, north/south arterial situated in an area defined by The Strangeways Local plan (2009) as 'The Workshop Village'. This is located on each side of Bury New Road and contains a mixture of large and small premises occupied by wholesalers, small-scale retail and distributors involved predominantly in textile, clothing, information communications and technology.

The area also includes a number of hot food takeaways and small-scale retail uses. HMP Manchester is situated a short distance to the east to the opposite side of Bury New Road.

### **Description of development**

Planning permission is sought to change the use of the ground floor from retail (Class E) to a hot food takeaway (sui generis) involving the installation of a fume extraction flue to the rear. No other external changes to the property frontage are proposed as part of this application.

The proposed operating hours of operation are 11am until 11pm Sunday to Thursday (including bank holidays) and 11am to midnight on Fridays and Saturdays.

### **Planning History**

#### **111963/FO/2016/N1**

Change of use of ground floor of retail shop (Class A1) to hot food takeaway (Class A5) with fume extraction flue to the rear. *Approved 8 August 2016.*

#### **100447/FU/2012/N1**

Change of use of ground floor from shop (Use Class A1) to hot food takeaway (Use Class A5) with associated elevational alterations, including new external flue. *Approved 8 November 2012.*

#### **030072**

Alterations to shop front. *Approved 7 October 1987.*

#### **028768**

Three storey extension at rear of retail and storage warehouse. *Approved 23 April 1987.*

### **Policy**

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

-Saved policies DC10, DC26 and CC10 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;
- Hot Food Take-Away Supplementary Planning Document (SPD);
- Strangeways Local Plan;
- National Planning Policy Framework (NPPF).

## **Consultations & Notification Responses**

Local Residents/Occupiers –No representations received.

Highway Services – In comparison to the former use, the level of trips generated are not anticipated to be dissimilar and as such, no highways concerns are expected.

There is no on-site car parking associated with the development and as such, all vehicular demands associated with the site are anticipated to contribute to the level of vehicles parked on-street. It is noted that a Limited Waiting Bay is in place adjacent to the site.

Given the central location, the car-free approach is considered appropriate for the scale and nature of the development proposed.

A refuse storage area is noted within the site. This is considered to be appropriate in ensuring no obstruction on the adjacent highway. Cycle storage is recommended.

Environmental Health – No objection. Conditions are recommended with respect to the proposed hours of use, servicing hours, fume extraction, external equipment and waste management.

## **Issues**

### **Principle**

Planning permission has previously been granted in 2012 and 2016 for the same proposal, but these permissions have since lapsed, hence the resubmission.

It is considered that due to the location of the premises within a busy commercial frontage of 8 or more units (interrupted by side roads of Bury New Rd) and due to the presence of other similar uses nearby, including the immediately adjoining premises, the principle of the proposed use is considered satisfactory.

The proposed use would enliven the frontage which has recently seen an increase in the vacancy rate due to the closure of many businesses following Police operations and would not in this case, result in an over proliferation of similar uses, as only one other food and drink use exists within the host parade. Whilst other similar uses extend along this section of Bury New Road, the percentage of food and drink uses in comparison to other uses is low. As such, there is unlikely to be any negative impact as a result of cumulative impact.

There is also unlikely to be any impact upon residential amenity as the site is situated within a busy frontage in a highly commercialised area on the fringes of the city centre where residential occupancy is low and those occupiers that do exist, would have a lower expectation of living conditions, given the existing environmental context.

In light of the above, the proposal broadly compliant with the principal, overarching policy. Namely, saved policy DC10 of the UDP and policies C10, DM1, SP1 and T2 of the Core Strategy.

In addition to the above, account should be taken of the 'Hot Food Takeaway Supplementary Planning Document' (SPD).

Whilst the proposed use complies with much of the SPD as many of the provisions reinforce development plan policy, Policy 3 states that:

'Where a hot food takeaway is proposed within a 400 metres radius of a primary or secondary school, and proposal meets planning policy in other respects, planning permission will only be permitted subject to a condition that opening hours are restricted to the following:

- A primary school: - not open between 3pm to 5.30pm on weekdays.
- A secondary school: not open before 5.30pm on weekdays'.

The reasoning for the policy is to prevent childhood obesity.

In this case, the proposal site lies approximately 200 metres to the south-west of Cheetwood Primary School.

Due to the location of the site along a main radial frontage and its likely primary function to serve the warehouse district, together with context of the site and its relative detachment from the primary school on the other side of Bury New Road, the impact upon school pupils is likely to be low. On this basis, it is not felt necessary to rigidly apply the guidance and restrict hours of opening to hours outside of peak school closing hours.

### 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 northwards from the northern fringe of the city centre. The immediate area is dominated by wholesale uses and warehousing.

With reference to Policy C10 of the Core Strategy, due to the detachment of the site from the nearest centres of the Cheetham Hill and the City Centre, it is not considered that the proposed use would have an adverse impact upon the vitality and viability of 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 Amenity

Due to the existing commercial context of the area, the similarity of other neighbouring operations, existing background noise levels and the position of the premises along the major north/south arterial route of Bury New Road, it is not believed that there would be any significant or material impact in terms of background noise levels and levels of activity.

It is further believed that any impact can be limited by a restriction to the opening proposed. In this instance the opening hours of premises are limited to between the hours of 11.00am and 11pm Sunday to Thursday and between 11.00am and midnight on Fridays and Saturdays.

On balance, given that the premises is situated within a commercial parade in a busy part of Cheetham Hill, it is considered that the amenity of residents would not be so adversely affected so as to justify refusing permission.

### Highway Impact

In comparison to the other units within the host parade, the application does not contain any car parking within the curtilage of the property and would rely on on-street parking in the locality for any parking demand. This is typical of other businesses in the area.

The site does however lie immediately adjacent to the parking bays which allows for 2 hours, no return parking during the week and is unrestricted at the weekend. It is considered that on-street provision can adequately cater for any parking demand and as noted by Highway Services, a high proportion of visitors would be as a result of linked trips and pass-by trips or customers, many of whom will walk. It is further believed that the proposed use would attract little in the way of additional traffic parking demands of a greater volume than the existing retail use.

In essence, it is not considered that occupation of the unit for use as a hot food takeaway would result in a material different or detectable impact in terms of coming and goings and vehicle movement. Highway Services who were consulted during the processing of the application are satisfied that the proposed change of use would not result in any significant adverse effects to the highway.

### Waste Management

The submitted proposal indicates space within the rear yard for the storage of refuse and moved from the premises at times of collection along a rear alleyway.

The refuse storage arrangements allow for the storage of segregated waste and the submitted Waste Management Strategy indicates that a private waste contractor would be appointed to provide an effective waste disposal service.

On this basis, subject to effective implementation, the refuse storage/collection arrangement is considered satisfactory, although further details are required in relation to the number of recycling receptacles and the frequency of collection. An appropriate condition has been included.

### 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.

The activities of patrons is more difficult to control. In such cases, the solution is to restrict the hours of opening. The opening hours on this occasion are relatively modest and lesser than

other similar uses in the area. A restrictive hours of operation condition has been inserted as a safeguard.

## **BNG**

There are no ecological concerns. The proposed development is also exempt from legislative bio-diversity net gain requirements.

## **Climate Change**

As the proposal relates to a change of use from retail, it is not considered that within the context of a busy commercial area, adjacent to a main radial route, that there would be any material impact to air quality.

## **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 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 / 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, Proposed Site Plan and drawing referenced 2347/24/02, received by the City Council as Local Planning Authority on 23 July 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) The ground floor premises shall not be open outside the following hours:-

11.00 to 23.00 hrs Sunday to Thursday (including bank holidays).

11.00 to 00.00 (midnight) Fridays and 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 Manchester Core Strategy

4) Deliveries, servicing and collections, including waste collections shall not take place outside of the following hours:

07.30 to 20.00 hrs Monday to Saturday;

10.00 to 18.00 hrs on Sundays and Bank Holidays.

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

5) Notwithstanding details submitted, the use hereby approved shall not commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse has been submitted to and approved in writing by the City Council as Local Planning Authority. 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.

Reason - In the interests of residential and visual amenity, pursuant to saved policy DC10 of the Unitary Development Plan for the City of Manchester and policies DM1 and SP1 of the Manchester Core Strategy.

The submitted waste proforma submitted just states that 2 x Eurobins will be provided which is insufficient. There will need to be separate containers for general, mixed recycling, cardboard and food waste containers and details provided relating to collection frequency.

6) 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.

7) 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.

The strategy should include risk assessments for odour and noise and be based on appropriate guidance such as that published by EMAQ titled 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' dated September 2018. Details should also be provided in relation to replacement air.

## **Appendix 1 – List of consultees & neighbours notified**

Highway Services  
Environmental Health

14 Harris Street, Manchester, M8 8EG  
Unit 3, 28 Bury New Road, Manchester, M8 8EL  
Unit 2, 28 Bury New Road, Manchester, M8 8EL  
Unit 1, 28 Bury New Road, Manchester, M8 8EL  
47A Bury New Road, Manchester, M8 8EF  
1 Harris Street, Manchester, M8 8EG  
49A Bury New Road, Manchester, M8 8EF  
14A Lockett Street, Manchester, M8 8EE  
Second Floor, 16 Lockett Street, Manchester, M8 8EG  
First Floor, 16 Lockett Street, Manchester, M8 8EG  
28 Bury New Road, Manchester, M8 8EL  
18 Harris Street, Manchester, M8 8EG  
14 Lockett Street, Manchester, M8 8EE  
16 Harris Street, Manchester, M8 8EG  
12 Harris Street, Manchester, M8 8EG  
12 Lockett Street, Manchester, M8 8EE  
5 Harris Street, Manchester, M8 8EG  
7 Harris Street, Manchester, M8 8EG  
3 Harris Street, Manchester, M8 8EG  
9 Harris Street, Manchester, M8 8EG  
39 Bury New Road, Manchester, M8 8EQ  
First Floor, 51 Bury New Road, Manchester, M8 8EF  
16 Lockett Street, Manchester, M8 8EG  
First Floor, 45 Bury New Road, Manchester, M8 8EF  
Basement, 45 Bury New Road, Manchester, M8 8EF  
Ground Floor, 45 Bury New Road, Manchester, M8 8EF  
49 Bury New Road, Manchester, M8 8EF  
41 Bury New Road, Manchester, M8 8EF  
51 Bury New Road, Manchester, M8 8EF  
43 Bury New Road, Manchester, M8 8EF

## **Appendix 2 – Planning constraints**

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3  
Article 4 Direction - City Centre PD Restriction - Class B1(c) To C3  
Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4  
Coal Authority - Development Low Risk - Name: DEVELOPMENT\_LOW\_RISK\_AREA  
Flood Zones Type 2 (low to medium risk) -  
Flood Zones Type 3 (high risk) -  
Benefitting From Flood Defences -  
Historic Landfill Site 250m Buffer -  
Susceptible to Surf Water Flood (Less) -  
Area Team Boundary - Name: NORTH AREA