



APPEAL BY:

Mr Hassan Hassan (Oasis Ice Cream)

AGAINST MANCHESTER CITY COUNCIL'S REFUSAL TO GRANT PLANNING PERMISSION FOR:

"Erection of a single storey front extension to create an additional seating area for existing ice cream parlour and installation of bifold doors to front of property."

AT

109A Manchester Road, Manchester, M21 9GA

Manchester City Council Reference: 139341/FO/2024

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

October 2024

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1. Introduction

1.1 This appeal is made on behalf of Mr Hassan Hassan (Oasis Ice Cream) in relation to development at 109A Manchester Road, Manchester, M21 9GA.

1.2 The planning application was submitted on 19 February 2024. It was given reference 139341/FO/2024 and sought permission for the erection of a single storey front extension to create an additional seating area for existing ice cream parlour and installation of bifold doors to front of property.

1.3 The development was refused on 17 April 2024 for the following reason:

1) The proposed front extension by reason of its scale, design and materials would form an over dominant and visually incongruous feature in the street scene to the detriment of the visual amenity of the area. The proposed development is therefore contrary to the provisions of Core Strategy policies SP1 and DM1, saved UDP policy DC 14.1 and guidance contained within the NPPF.

1.4 This Statement addresses this reason for refusal. It concludes that the appeal proposal would be acceptable in planning terms and accords with the Council's Development Plan. The scheme would not cause harm to the character and appearance of the area. It would therefore accord with the provisions of the National Planning Policy Framework (henceforth referred to as 'the Framework'). It is sustainable development for which the Framework advocates a presumption in favour.

2. The Site

2.1 The appeal site is located within Chorlton District Centre, on the western side of Manchester Road. It comprises a three-storey, gable fronted, building at the end of a row of five terraced properties. Each of these properties, including the appeal building, accommodates a ground floor commercial use. In the case of No. 109A Manchester Road, this is in the form of Oasis Ice Cream. This is shown at Figure 1 below.



Figure 1: Appeal building.

- 2.2 Similar to nearby properties, the appeal building is set back considerably from the carriageway, behind a deep pedestrian footway. Many nearby commercial uses have utilised the depth of this footway to provide outdoor seating. Indeed, the area to the front of Oasis Ice Cream is enclosed by boundary treatment to serve this purpose. In many instances, outdoor seating is covered by projecting canopies. Moreover, in some cases, including at No. 111 Manchester Road, outdoor seating is fully enclosed by permanent buildings. The covered seating area at No. 111 is show at Figure 2 below.



Figure 2: Fully enclosed seating area at No. 111 Manchester Road which faces the appeal site on another corner plot.

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- 2.3 While there are residential streets leading off Manchester Road, this carriageway is distinctly commercial in character, typical of a District Centre. Built form in the area varies in terms of architectural composition and materials palette. There are, however, examples of steel framed canopies with glass/Perspex roofing.

3. The Proposed Development

- 3.1 The appeal proposal is simple in that it is for the erection of a single storey front extension to create an additional seating area for existing ice cream parlour and installation of bifold doors to front of property.
- 3.2 The proposed extension is accurately described by the council. It would be approximately 2.9 metres high, with a depth of approximately 4.9 metres and a width of around 3.5m. The extension would be constructed of a steel/aluminium frame atop of the existing timber box planters, accommodating a glass panelled roof with adjustable tarpaulin screens. The walls of the extension would feature both plastic roller blinds (southern elevation) plastic sliding windows and doors (eastern and northern elevations). Existing and proposed elevations are shown at Figures 3 and 4 below for ease of reference.



Figure 3: Existing elevations.



Figure 4: Proposed elevations.

4. Relevant Planning Policy, Legislation and Law

- 4.1 To the extent that development plan policies are material to an application for planning permission, the decision must be taken in accordance with the plan unless there are material considerations that indicate otherwise as directed by Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.2 For the purposes of this appeal, the relevant parts of the Council's development plan are the Core Strategy Development Plan Document (2012) ('the CS') and saved policies of the Unitary Development Plan ('the UDP'). Other material planning policy considerations include the Framework and Planning Practice Guidance (PPG).
- 4.3 The policies referred to in the Council's decision notice, together with relevant national guidance is outlined below.

Core Strategy Development Plan Document

- 4.4 **Policy SP1: Spatial Principles** – Amongst other things, developments should create well designed places that enhance or create character.
- 4.5 **Policy DM1: Development Management** – Amongst other things, development should be appropriate in terms of siting, layout, scale, form, massing, materials and detail.

Unitary Development Plan

- 4.6 **Saved Policy DC14.1: Shop Fronts and Related Signs** - In determining applications relating to premises for shop fronts, security grilles, advertisement signs, canopies and awnings, the Council will seek to ensure that proposals are in keeping with the character of the building and adjoining buildings, of adjoining shopfronts, where appropriate, and of the area within which the premises are located.

Relevant National Planning Policy Framework

Approach to Sustainable Development

- 4.7 **Paragraph 7** of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 4.8 **Paragraph 8** states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

- 4.9 **Paragraph 9** states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 4.10 **Paragraph 10** states that, so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. This is then detailed at **Paragraph 11**.
- 4.11 **Paragraph 38** makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.

Design

- 4.12 **Paragraph 131** states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 4.13 **Paragraph 135** seeks to ensure that developments add to the overall quality of the area.

5. The Appellant's Case

- 5.1 This section of the Statement addresses the Council's reason for refusal. This will be done by consideration of one main issue which is the effect of the proposal on:
- The character and appearance of the host building and area.

1) Character and Appearance

- 5.2 As discussed, the appeal building is located at the end of a row of five terraced properties. Similar to other buildings on this side of the carriageway, this terrace accommodates ground floor commercial uses that differ in nature. These diverse commercial uses have differing external areas to their front. Some are enclosed by boundary treatments, others are not. Some have front canopies, others do not. All have differing branding and signage.

- 5.3 Consequently, there is no real sense of rhythm and uniformity from the visual appearance of ground floor commercial uses in this terrace or in the wider area (other than most have external seating areas of some sort). Despite projecting elements enclosing external areas (covered or otherwise) there is considerable space on the wide footway to allow for pedestrian movements.
- 5.4 Additionally, built form along both sides of this part of the carriageway differs in terms of construction. This is not a historic part of the city and development is typical of an urban District Centre. Built form, including ground floor facades, is of no real architectural merit and there is a mixed materials palette including steel framing, metal shutters and glass/plastic lean-to roofing.
- 5.5 In essence, this proposal seeks permission for a single storey front extension (a fixed outdoor seating structure). This would be constructed of steel/aluminium framing supporting a glass panelled roof. The framing would be supported by the existing box planters and the extension as a whole would not exceed the parameters of the existing low-level means of enclosure that wrap around the appeal building. As such, the development would not extend any further onto the wide footway, ensuring that there would still be sufficient space for pedestrian circulation.
- 5.6 Taking this into account, together with the development's set-back positioning from the carriageway and single storey scale, it cannot be said that the proposal would be visually intrusive or dominant in the streetscene. Neither would it result in a cramped form of development in relation to its size. Rather, the limited bulk and mass of the proposal, further reduced by its light-weight construction and appearance, would represent a proportionate and logical addition to this site. It would not appear unduly bulky or prominent and the eye would not be drawn to it in this commercial area which displays similar features to that proposed. This is so despite the appeal building being located on a corner plot.
- 5.7 As evidenced, the proposal's footprint would be restricted to that of the existing means of enclosure. Consequently, it would not project beyond adjacent boundary treatment that encloses external seating areas at this terrace of buildings. No building line would be broken in this regard.

- 5.8 Moreover, this is a commercial area that displays many examples of projecting features to the front of ground floor commercial uses. Indeed, there is a clear example of a comparable development facing the site across the junction of Manchester Road and Kensington Road. Regardless of how this was permitted, the lean-to enclosures at No. 111 form part of the streetscene and demonstrate the limited visual effect such development has. The proposal would somewhat mirror this enclosure across the junction, creating a sense of symmetry and balance as one enters Kensington Road.
- 5.8 For these reasons, although the proposed projection would be slightly more solid in appearance compared to other projections in this row of terraced units, the development would not disrupt the rhythm of this terrace. No sense of balance is readily identifiable here. Furthermore, the development would actually create a sense of balance between this row of terraced units and the row facing it across the adjacent junction. It follows that the proposal, while different to other external seating coverings in this row of terraced units, would not harm the rhythm of immediate built form or that in the wider area.
- 5.9 Turning to materials, it is not uncommon for coverings to external seating areas in commercial areas to be constructed of steel framing supporting glass roof panels. This would give the extension a lightweight appearance that did not appear oppressive in the streetscene or dominant at the host property. There are comparable examples of similar materials in the immediate area.
- 5.10 Overall, given the mixed materials palette in the area, and that it is entirely typical for commercial units to have covered seating areas constructed in the manner proposed, the proposed materials would not appear discordant in any way. Indeed, they would help to obscure harsher materials at the appeal building in the form of metal roller shutters. This reinforces the appellant's assertions that this proposal would integrate successfully into the area. In addition, should the Inspector raise concerns with proposed materials, a condition could simply be imposed requiring details of materials to be submitted and approved prior to construction. This would wholly alleviate the Council's concern in this regard.

- 5.11 It is acknowledged that the application property and adjoining single storey unit to the side have been subject to two previous refusals for front canopies (planning refs: 123267/FO/2019 & 121803/FO/2018), on the grounds of visual impacts. Nevertheless, each application must be determined on its own individual merits and in the light of current planning policy. The evidence supporting this appeal proposal clearly shows that this development would assimilate with the existing building and streetscene. Previous applications at the site or wider area, which are not directly comparable in terms of the evidence provided and were assessed at a time where the economy was in a stronger position, should have no bearing on the determination of this appeal.

Overall Conclusion – Character and Appearance

- 5.12 Taking everything together, the proposal would not appear as a dominant, unduly bulky, intrusive or discordant element at the appeal site. The rhythm of existing development in this terrace of ground floor commercial units would not be harmed and no sense of balance would be interrupted. Rather, a sense of balance would be created with a directly comparable development across the adjacent junction at No. 111 Manchester Road. Furthermore, the materials palette proposed would be entirely compatible with the surrounding urban area and, if necessary, can be managed conditionally.
- 5.13 For these reasons, the proposal would not cause harm to the character and appearance of the host property and wider area. This is in accordance with Policies SP1 and DM1 of the CS and saved Policy DC14.1 of the UDP.

Other Material Consideration

Economic Benefits

- 5.14 In addition to the support for economic growth within local policy, the Framework places significant emphasis on the need to build a strong competitive economy, with paragraph 85 attributing significant weight to the need to support economic growth and productivity.
- 5.15 Indeed, the former coalition Government stated shortly after the Framework was launched that “its number one priority is to get the economy moving again”

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(Ministerial statement 6th Sept 2012). This strategic ambition remains the case once more 12 years later, in a post-EU Exit and COVID economic environment. As a barometer to the wider economic outlook, the Governor of the Bank of England, Andrew Bailey, has recently announced at a Bank of England Monetary Policy Report Press Conference held on 4 August 2022, that GDP growth in the UK has slowed. The economy is now likely in recession and supporting it is now more important than ever.

- 5.16 Development is universally regarded as being a driver to growth and prosperity at the micro and macro level as well as serving a social role and allowing better movement of labour. The July 2020 White Paper carries the above sentiments forward and states that “Millions of jobs depend on the construction sector and in every economic recovery, it has played a crucial role.” In addition, the Royal Institute of Chartered Surveyors have recently highlighted that for every £1 spend on construction a further £2.84 is generated across the wider economy (Build Back Better May 2020, University of Birmingham Paper).
- 5.17 Although a small scale development, there would be short and medium term economic benefits associated with its construction both at local and regional levels. This is through factors such as the creation of a wide variety of jobs and apprenticeships.
- 5.18 Moreover, the business at the appeal site employs a number of individuals from the local area. Given the economic downturn, it is seeking to provide enhanced facilities in order to remain competitive and viable. Indeed, this proposal is essential to maintain operation during inclement weather conditions. In essence, the business is seeking to protect existing jobs and develop to be able to provide additional employment opportunities. This should not be discouraged in a District Centre. This proposal would therefore assist with these ambitions, in turn helping to increase local expenditure, supporting nearby services and those further afield.
- 5.19 As such, this scheme would support nearby services and would maintain the vitality of the community. These social and economic benefits should be afforded significant weight. This is particularly so given the Framework’s objectives of enhancing or

maintaining the vitality of communities (paragraph 83) and building a strong competitive economy (paragraph 85).

6. Conclusion

- 6.1 In conclusion, the proposal would not result in any harm to the character and appearance of the host property or wider area. No other planning harms are assessed. It is not clear why the Council are resisting such a limited development in a commercial area that would clearly have notable economic benefits. This is specifically contrary to the Framework's core objectives of providing sustainable development at paragraph 8 insofar as they seek to support strong, vibrant, communities and build a responsive and competitive economy.
- 6.2 As such, the proposal should be approved without delay as it is in accordance with the development plan as a whole and there are no other considerations which outweigh this finding. Indeed, there are material considerations in the form of social and economic benefits that should attract significant weight in favour of this proposal.

Overall Conclusion

- 6.3 It is concluded that the proposal would represent sustainable development for which the Framework advocates a presumption in favour. It is therefore respectfully requested that the appeal be allowed.