

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137157/JO/2023
Date registered valid: 7 June 2023
Proposal: Variation of condition no. 1 (hours of operation), attached to planning permission 049542/JO/SOUTH1/96, in order to allow the premises to open 24 hours a day
Address: Manor Park Self Service, Wilmslow Road, Manchester, M20 6RN
Ward(s): Didsbury East Ward

Applicant: Motor Fuel Group Ltd
Agent (if any): Mr Graham Adcock, Adcock Associates
Case officer: David Lawless
Tel: 0161 234 4543
Email: david.lawless@manchester.gov.uk
Recommendation: REFUSE
Date of recommendation: 9 September 2024

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Standard consultations:

Printed: 20 June 2023 Expired: 11 July 2023

Neighbour notifications

Printed: 20 June 2023 Expired: 11 July 2023

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/area

Manor Park Service Station is located to the south of the Grange Lane/Wilmslow Road junction and at the southern tip of the Didsbury District Centre. The service station consists of a single storey building which serves as a petrol filling station (operating under the Shell tradename) and convenience store (operating under the Londis tradename) and an associated canopy over the fuel pumps. Pedestrian and vehicular access to the site is obtained via Wilmslow Road. The site was comprehensively redeveloped under application 046346/FO/SOUTH1/94 in 1995 (Redevelopment of filling station to provide new sales building, canopy, air and water tanks, trash area and parking). The site is shown below and annotated by a red X.



To the north/northeast of the site, on the opposite side of Grange Lane, there is a row of commercial properties and a terrace of five dwellings. To the east and south of the site stands Viceroy Court, a three storey apartment complex believed to date from the first half of the 20th century. To the west of the site, on the opposite side of Wilmslow Road there is a terrace of commercial properties and Lansdowne House, the latter of which is 4 storeys high with commercial on the ground floor and apartments above.

Listed building: No
Conservation Area: No
Tree Preservation Order: No

Description of development

When the planning permission for the redevelopment of the filling station was approved in 1995 (ref. 046346/FO/SOUTH1/94) the following condition was attached to the consent:

6) No work or other activity shall take place on the site outside the following hours:-

- 7.00 am to 11.00 pm Mondays to Saturdays.

- 8.00 am to 10.00 pm Sundays and Bank Holidays

Reason – To safeguard the amenities of the occupiers of nearby residential accommodation once the development is completed.

Condition no. 6 was then amended in 1996, under application 049542/JO/SOUTH1/96, to read as follows:

6) Between the hours of 11.00 pm and 12 midnight Monday to Friday and 10.00 pm to 11.00 pm Sundays and Bank Holidays petrol and shop sales from the service station shall be restricted to a night pay counter only.

Reason – To protect the amenities of the occupiers of neighbouring residential properties.

In August 1997, an application to vary condition no. 6 (ref. 052302/JO/SOUTH1/97) to allow the premises to open between 5.00 am to 1.00am Mondays to Saturdays and 7.30 am to 12.00 midnight Sundays and Bank Holidays was refused for the following reason:

“The proposed extension in opening hours would lead to unacceptable levels of disturbance at unsocial hours affecting the amenities of the occupiers of neighbouring residential properties.”

The subsequent appeal was dismissed.

In May 2017, an application was submitted to remove the hours condition attached to planning permission 049542/JO/SOUTH1/96, for a temporary period of 12 months, in order to allow the petrol filling station to open 24 hours a day. That application was refused on 5 July 2017.

The applicants are now proposing to vary the hours condition attached to planning permission 049542/JO/SOUTH1/96, in order to allow the premises to open 24 hours a day.

Consultations & Notification Responses

Local Residents/Businesses – Three letters of objection have been received, the comments are summarised below:

- The petrol station is situated in close proximity to multiple homes and is opposite a communal seating and garden area known as the Millennium Gardens. The petrol station doesn't just sell petrol, it also sells food and alcohol which are purchased and consumed in the gardens. This is perfectly acceptable during the day but does lead to anti-social behaviour and disturbance in the neighbourhood during the evening.
- A 24 hour use would have a detrimental impact on residential amenity as the noise associated with customers coming and going late at night would cause a disturbance.
- Wilmslow Road is already a very busy thoroughfare and extra vehicle traffic would be generated throughout the night by this extension of opening hours, disturbing our families sleep and impacting on overall quality of life.
- More vehicles coming into the area immediately around our home would create more congestion and pollution.
- It is not unusual for gangs of youths to congregate on the paved area on the corner of Grange Lane and Wilmslow Road immediately opposite the petrol station (particularly during the summer months). It is our belief that an extension in opening hours at the garage would encourage and promote the use of this spot as a hang out....with all the associated problems this can cause. These have previously included damage to motor vehicles and residences as well as drug use, graffiti and petty acts of vandalism.

Didsbury Civic Society – The Didsbury Civic Society object to this proposal on the following basis:

- The Premises sits in a residential area which objected to the original proposal
- It is very close to the Viceroy Court housing development
- The area has seen an increase in the noise and ASB within the area.
- There will also be hidden inconvenience such as discarded litter and shopping debris and food wrappers at street level
- The Jubilee Gardens sees debris left from the purchases even though waste bins are available.
- Young people regularly congregate in Didsbury Park around the children's playground. Smashing the empty bottles (usually quarter vodka bottles) around the amenities which are a danger to young and older children alike
- Young people congregate around this particular area which is close to local house making excessive noise whilst drinking and clanging the swings etc.
- Whilst the franchisee will argue that there will be an increase in fuel sales these people will not be local residents. Rather private hire drivers who can use the sister Shell facility on Kingsway in Burnage which is literally minutes away.

Environmental Health – Following receipt of an additional report Environmental Health have confirmed that they have no objection to the proposal subject to the imposition of a condition limiting the use of the car washing, compressed air facilities and Tannoy system.

Policies

The National Planning Policy Framework (December 2023) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The Places for Everyone Plan – This plan was adopted on 21 March 2024, as such the Plan and its policies are now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance. The relevant policy is set out below:

Policy JP-Strat9 (Southern Areas) – This policy states that the economic competitiveness, distinctive local neighbourhood character and environmental attractiveness of the southern areas will be protected and enhanced. There will be a strong emphasis on making as much use as possible of suitable previously developed (brownfield) land and promoting the roles of the areas' town centres and its other key assets.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below:

Policy SP1, *Spatial Principles* – This sets out the key spatial principles which will guide the strategic development of Manchester to 2027, of relevance to this application are:

Core Development Principles, Development in all parts of the City should:-

- Make a positive contribution to neighbourhoods of choice including:-
 - i) Creating well designed places that enhance or create character.
 - ii) Making a positive contribution to the health, safety and wellbeing of residents
 - iii) Considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
 - iv) Protect and enhance the built and natural environment.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.
- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy DM1, *Development Management* – This policy states that all development should have regard to the following specific issues (of relevance to this application) for which more detailed guidance may be given within a supplementary planning document:-

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

Saved UDP Policy DC26, Development and Noise – This policy seeks to reduce the impact of noise generating development. It states that the Council will consider the effect of new development proposals and the implications of new development being exposed to existing noise sources. Developments likely to result in unacceptably high noise levels will not be permitted.

Issues

Residential Amenity – Whilst it is noted that Environmental Health colleagues were content with the updated acoustic report submitted by the applicant, it is still considered that the proposed 24 hour operation of the petrol filling station and associated shop would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of those dwellings nearest to the site, namely those at Viceroy Court and Lansdowne House and the dwellings on Grange Lane.

While the imposition of conditions would ensure that equipment such as the car wash and air compressor would not be used during unsociable hours, it is not believed that the use of planning condition(s) would mitigate against any disamenity arising from the comings and goings of vehicles and members of public to the site late at night and during the early hours of the morning. These trips and the noise and disturbance associated with them (e.g. from the use of the night pay hatch, fuel pumps, engines starting, doors slamming, raised voices, car radios etc.) would have an unduly detrimental impact upon the levels of residential amenity currently enjoyed by the nearby residents of Viceroy Court, Lansdowne House and the dwellings on Grange Lane.

Pedestrian and Highways Safety – It is not considered that the comings and goings associated with the proposal would have a detrimental impact upon the levels of pedestrian and highway safety enjoyed along this section of Wilmslow Road or Grange Lane.

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: REFUSE

Article 35 Declaration

The proposal was assessed against the policies within the Manchester Core Strategy Development Plan Document (2012) and the guidance contained within the National Planning Policy Framework (2023). The applicant was advised that the proposal would have a detrimental

impact upon the existing levels of residential amenity enjoyed within the vicinity of the site. As the nature of the proposal is considered to be unacceptable and the applicant has requested that the proposal be determined in its current format, a solution that was acceptable to both the Local Planning Authority and the applicant could not be reached.

Reasons for recommendation to refuse

1) The proposed development, due to its proximity to nearby residential properties, would have a detrimental impact upon the levels of residential amenity enjoyed by the occupiers of those dwellings at Viceroy Court, Grange Lane and Lansdowne House as a result of the comings and goings to the site and general activity associated with a 24 hour petrol filling station and associated convenience store. This is contrary to Policy DM1 in the Core Strategy Development Plan Document and saved UDP Policy DC26.

Appendix 1 – List of consultees & neighbours notified

Environmental Health

Didsbury Civic Society

784A Wilmslow Road, Manchester, M20 2DR

761 - 763 Wilmslow Road, Manchester, M20 6RN

812 Wilmslow Road, Manchester, M20 6UH

810 Wilmslow Road, Manchester, M20 6UH

804 Wilmslow Road, Manchester, M20 6UH

800 - 802 Wilmslow Road, Manchester, M20 6UH

792 Wilmslow Road, Manchester, M20 6UG

788A Wilmslow Road, Manchester, M20 2DR

757 - 759 Wilmslow Road, Manchester, M20 6RN

Ground Floor, 761 - 763 Wilmslow Road, Manchester, M20 0NR

794 - 796 Wilmslow Road, Manchester, M20 6UH

806 Wilmslow Road, Manchester, M20 6UH

784 - 788 Wilmslow Road, Manchester, M20 2DR

61 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

45 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

2 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

57 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

7 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

58 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

9 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

43 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

59 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

790 Wilmslow Road, Manchester, M20 2DR

53 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

4 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

3 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

49 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

60 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

12 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ

5 Grange Lane, Manchester, M20 6RW

3 Grange Lane, Manchester, M20 6RW

790A Wilmslow Road, Manchester, M20 2DR

Viceroy Court, Wilmslow Road, Manchester, M20 2RH

786A Wilmslow Road, Manchester, M20 2DR

51 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

47 Viceroy Court, Wilmslow Road, Manchester, M20 2RH

52 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
40 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
1 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
48 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
41 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
10 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
54 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
11 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
55 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
38 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
782 Wilmslow Road, Manchester, M20 2DR
46 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
5 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
56 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
44 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
50 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
39 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
8 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
9 Grange Lane, Manchester, M20 6RW
42 Viceroy Court, Wilmslow Road, Manchester, M20 2RH
6 Viceroy Court, Wilmslow Road, Manchester, M20 2RJ
First Floor, 761 - 763 Wilmslow Road, Manchester, M20 6RN
7 Grange Lane, Manchester, M20 6RW
1 Grange Lane, Manchester, M20 6RW
Second Floor, 761 - 763 Wilmslow Road, Manchester, M20 0NR

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

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH AREA