

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139098/FO/2024
Date registered valid: 26 February 2024
Proposal: Hot food takeaway with associated seating to the rear yard with timber cladding on timber supports and a profile sheet metal roof over
Address: 159 Princess Road, Manchester, M14 4RE
Ward(s): Moss Side Ward

Applicant: Mr Harold McKenzie
Agent (if any): Mr Colin Williams, Alpha Design
Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: REFUSE
Date of recommendation: 18.04.2024

Application details

Type of application: Full Application Consent

Development type: Minor Retail

Date of site visit: 15.03.2024

Standard consultations:

Printed: 6 March 2024 Expired: 27 March 2024

Neighbour notifications

Printed: 6 March 2024 Expired: 27 March 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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature to the north-east, east and south-east of the application property comprising terraced streets of two storey red brick late Victorian terraced properties. The application property forms part of the Princess Road/Claremont Road local centre with commercial properties in a range of uses addressing the main Princess Road frontage and turning onto Claremont Road to the south. To the east of Princess Road is a grassed strip separating the busy Princess Road radial route from further residential properties from the 1960/70s.

The application property comprises a two-storey double bay fronted red brick Victorian corner terrace property in use at ground floor as a convenience shop and off licence, and at first floor as a barber shop, beauty salon with staff room and changing room/bathroom. The front of the property forms part of a commercial parade that extends along Princess Road from its junction with Great Western Street to the north southwards along Princess Road to its junction with Claremont Road with a short continuation of commercial properties along Claremont Road. Prior to the works subject of this application having been carried out the rear yard appears from online resources to be an open area accessed via a side gate from Alison Street and enclosed by a boundary wall. Alison Street is in one way operation between Princess Road and its junction with Hartington Street to the east.

There are no schools within 400m of the application property.

Description of development

The proposals are in situ and in use according to the submitted application forms and are therefore retrospective in nature.

A single storey enclosure type building has been constructed within the rear yard of 159 Princess Road, the submitted plans indicate that the majority of the rear yard is given over to a decked seating area and access ramp, cooking area and bin store. Access to the use is proposed to be directly from the gated access on Alison Street, again the submitted forms indicate the intention to operate this element of the application site independently from the other existing ground and first floor uses. Opening hours are proposed to be from 0700 hrs closing at 2230 hrs daily. The submitted drawings indicate a single storey structure across the rear yard and the application forms indicate a pressed steel sheet as roof covering material, with walls being of a resin bonded plywood and vertically hung plastic panels as doors. Additional details have been provided to show the installation of a flue to the rear to serve the cooking area, this flue would project from the rear wall of the installation projecting approximately 1m in height over the rear alleyway.

The submitted waste management strategy indicates provision of a 1100 Litre euro style bin with lockable cover and 1 no. 24 litre food waste bin. Bins are to be brought to Alison Street for collection. The intention is for a private waste collection to serve both the proposed use and existing uses.

Consultations & Notification Responses

Neighbouring properties were notified of the proposals, no responses were received.

MCC Environmental Health – Indicate that the submitted fume extraction details are not acceptable. Raise concerns regarding the early and late times applied for in close proximity to sensitive receptors, and those details of recycling waste provision is required. They also indicate conditions to deal with matters relating to noise breakout from the premises and extraction and other external plant equipment, and air quality measures.

MCC Highway Services - 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 requested that a minimum of two secure and sheltered cycle spaces are made available.

Raise queries around the operation of delivery services from the site including parking areas for delivery vehicles/cycles.

GMP – Provided observations from patrolling the area including issues around anti-social behaviour, fly tipping and litter in the immediate vicinity and loitering in the vicinity of the site from known nominals.

Policy

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.

Those policies of the Core Strategy which are of particular relevance to the proposal are as follows:

Policy SP1 - Spatial Principles Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character, make a positive contribution to the health, safety and wellbeing of residents, and protect and enhance the built and natural environment.

Policy C1 – Centres Hierarchy – Identifies a hierarchy of centres of commercial and economic activity which support the resident population. This includes identifying 24 local centres including that on Princess Road/Claremont Road to meet local needs for small scale retail and services.

Policy C8 – Local Centres – Encourages the support and delivery of small scale retail facilities in local centres to cater for local every day needs. It identifies the need to carefully consider the impacts of new commercial development on residential amenity, particularly for food and drink uses.

Policy C10 – Leisure and the Evening Economy – Supports provision of proposals for the evening economy subject to consideration of a number of matters including: cumulative impact, residential amenity, and balance of uses.

Policy EN1 - Design Principles and Strategic Character Areas This policy states that all development in Manchester will be expected to follow the seven principles of urban design, as identified in national planning guidance and have regard to the strategic character area in which the development is located. Opportunities for good design to enhance the overall image of the City should be fully realised, particularly on major radial and orbital road and rail routes.

Policy DM1 - Development Management This policy states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Green Infrastructure including open space, both public and private.
- The use of alternatives to peat-based products in landscaping/gardens within development schemes.
- Flood risk and drainage.
- Existing or proposed hazardous installations.
- Subject to scheme viability, developers will be required to demonstrate that new development incorporates sustainable construction techniques.

A number of 'saved' Unitary Development Plan policies remain extant and relevant to consideration of the application proposals. These are:

Policy DC10 'Food and Drink uses' – In particular:

DC10.1 which sets out the Council will have regard to the following matters in the consideration of such proposals including:

- a. the general location of the proposed development, including any reference to the area in other policies in the Plan;
- b. the effect on the amenity of neighbouring residents;
- c. the availability of safe and convenient arrangements for car parking and servicing;
- d. ease of access for all, including disabled people; and
- e. the storage and collection of refuse and litter.

DC10.3 Development will not normally be permitted where:

- a. it is proposed outside the general locations mentioned in DC10.2 (City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices).
- b. there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

Policy DC26 'Development and Noise' – Set out the consideration of noise issues relating to proposed development and impacts on amongst other things residential areas.

Places for Everyone – GM Spatial Plan

The Inspectors' Report on the examination of the Places for Everyone plan was published on 15 February 2024. The Inspectors' Report sets out and justifies their recommendations in relation to the plan, and they have concluded that all legal requirements have been met and that with the recommended main modifications set out in the appendix to their report, the Places for Everyone plan is 'sound'.

The nine constituent local authorities have now adopted the Plan following consideration of the Inspectors' Report. There will be a period of six-week post adoption (i.e. from 21 March) when a judicial review challenge may be made. This will trigger a process of consideration by the Courts as to whether a JR is sufficient grounds to be heard (there is a one-step oral hearing appeal process if a Judge decides to reject the ground for a JR from the outset).

Given the stage the Plan has reached, the Plan and its policies is 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.

National Planning Policy Framework (2023) - The NPPF 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. Relevant sections of the NPPF in this instance are:

-Section 12. Achieving well-designed and beautiful places - Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Other material considerations

Hot Food Takeaway Supplementary Planning Document – Adopted March 2017

Sets out the way in which applications for Hot Food Takeaways will be considered by the Council. This includes policies relating to vitality and viability of centres, amenity and proximity to schools.

Issues

Principle – The principle of the provision of a stand-alone hot food takeaway use within the rear yard of an existing business is not considered to be acceptable in this instance. The location, relationship to residential properties together with the external appearance of the structure installed are not considered to provide a form of development that would create a well designed place or contribute positively to the local area. Further consideration of the proposals impacts on residential and visual amenity are considered below.

Residential Amenity - The location of the structure and use is separated from existing residential properties by a narrow alleyway, with its access via a gate on a one way street (Alison Street). As such the provision of a cooking and seating areas in close proximity to existing residential is considered to give rise to unacceptable impacts on those occupiers of residential properties.

The proposed hours of use would extend from 7am until 1030pm every day giving rise to impacts throughout the day from associated activity from the cooking and preparation of food together with the comings and goings associated with a hot food take away use. It is considered that given the close proximity to neighbouring residential properties together with the poor quality and insubstantial materials used in the construction of the installed structure would provide limited protection from the associated noise and activity from the use.

The limited seating area and type of use proposed is anticipated to generate comings and goings by customers, staff, delivery and serving operatives and their vehicles. This activity would be concentrated on the access onto Alison Road which is a one-way street accessed only via Princess Road at this point. This would concentrate vehicle movements from Princess Road onto Alison Road for those accessing by vehicles. Given the heavily parked neighbouring streets, customers accessing the premises would be required to pass through adjacent residential streets particularly if they were looking for parking spaces. The introduction of a commercial premises onto Alison Road and given the relationship of the site to the residential areas to the east it is likely that customers on foot would disperse eastwards towards those residential areas generating further potential disturbance to those residential areas early in the morning and late in the evening.

The application proposals include for the provision of an external flue to the rear of the installed structure which would serve the cooking area. Whilst the flue had not been installed at the time of the site visit it was noted that an opening within the rear elevation had been formed. The proposed flue would overhang the rear boundary wall into the public alleyway to the rear of the property. The submitted details are considered to be inappropriate by the Council's Environmental Health team and as such the proposals have not demonstrated that the relationship between the extraction system and residential properties a short distance away is acceptable and would not give rise to impacts from fumes and odours on occupiers of those residential properties.

Given the proposed use and its relationship to existing residential properties it is considered that the proposals would give rise to unacceptable impacts on the residential amenity of nearby residents and it is not considered that these impacts could be satisfactorily mitigated given the form of development installed.

Visual Amenity – The installed structure has been constructed using light weight materials and whilst there are also concerns about the ability of such materials to provide adequate protection from noise breakout or fumes and odours the corner location of the property means that the installation has some prominence when viewed from Alison Road. Whilst it is noted that there are a range of alterations to the rear of properties in this location undertaken over many years, a majority utilise a brick external finish to attempt to match the existing properties. The application proposals on the other hand has a finish which has a temporary appearance which given the materials listed on the submitted application form would be expected to have a short lifespan in the way in which they have been used in the construction of the installed structure. As such it is not considered that the proposals have been designed or implemented in a manner that is of good design that creates a well-designed place or creates or enhances the character of the area. As such given the above it is considered that the proposals are contrary to the adopted Development Plan and National Planning Policy Framework which amongst other things promote good and well-designed places that enhance an area.

Vitality and Viability – The Princess Road/Claremont Road local centre contains a variety of uses including food and drink uses, which add to its vitality and viability. There are a number of vacant units within the centre which may be capable of accommodating other food and drink uses given the changes to the use classes in 2020. In this instance the concerns with the proposals arise from the location of the use in relation to residential properties, the design of the structure and ability to accommodate waste storage on site.

Other Matters – It was noted at the time of the site visit that one waste bin associated with the property was stored within the alleyway to the rear of the property alongside other large bins used by residents. It is also set out within the application form that number 159 Princess Road comprises a range of uses across the ground and first floor. The application proposals would remove the rear yard where bins were capable of being stored for the property. A small area is shown on the submitted plans for the provision of a 'eurobin' but the submitted waste management strategy also identifies a 240-litre bin for food waste, it is not clear from the submitted drawings where this would be stored. In addition, MCC Environmental Health request details of storage for recycled materials. As such given the limited space at the property following the development together with the existing uses at the site there are concerns that bins associated with the use and the uses of the property as a whole would be stored outside of the site contributing to clutter and waste in the adjacent footpaths and alleyway. As such it is not considered that the proposals have mitigated the generation of waste by the use or from customers.

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 application has been determined within statutory timescales. In this instance the principle of the application proposals are contrary to the adopted development plan and are not considered to improve the economic, social or environmental conditions of the area. It is not considered, in this instance, that amendments could be made that would make them acceptable. The applicant's agent was informed of these concerns prior to the determination of the application.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) Due to the location of the proposal in the rear yard of the property separated from residential properties by a narrow alleyway, the proposed use would have an adverse impact upon the residential amenity of surrounding occupiers due to: its potential generation of an unacceptable level of pedestrian and vehicular activity; associated noise and disturbance; and, the congregation of people in and adjacent to the premises, which would thereby affect the amenity of neighbouring and local residents from early in the morning to late in the evening. The proposed use is therefore considered to be contrary to saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and policies SP1, C10 and DM1 of the Manchester Core Strategy and Hot Food Take Away SPD (March 2017).

2) The external appearance of the proposed enclosure is considered to be of a poor quality and would be detrimental to the visual amenities of the area contrary to policies DM1 and SP1 of the Core Strategy.

3) The flue on the rear elevation of the application proposals to deal with fumes and odours from the cooking area would be unacceptable as it would project into the rear alley at a height that would extract fumes and odours close to existing residential properties and their external areas. The submitted details fail to demonstrate that the proposed extraction equipment in this location would not give rise to nuisance by way of fumes and odours being extracted from earlier in the morning to late evening close to existing residential properties. The proposal is therefore considered to be contrary to saved policy DC10.1 and DC10.3 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Manchester Core Strategy and Policy 2 of the Hot Food Take Away SPD (March 2017).

4) The submitted information fails to demonstrate that there is adequate waste storage space at the property to serve the application proposals and the other uses contained within the site contrary to adopted Core Strategy Policy DM1 and saved Unitary Development plan policy DC10.1 and Policy 2 of the Hot Food Take Away SPD (March 2017).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Top Flat, 157B Princess Road, Manchester, M14 4RE
159B Princess Road, Manchester, M14 4RE
159A Princess Road, Manchester, M14 4RE
Flat 2, 157A Princess Road, Manchester, M14 4RE
157 - 159 Princess Road, Manchester, M14 4RE
86 Hartington Street, Manchester, M14 4RQ
82 Hartington Street, Manchester, M14 4RP
157B Princess Road, Manchester, M14 4RE
88 Hartington Street, Manchester, M14 4RQ
Flat 1, 157A Princess Road, Manchester, M14 4RE
157A Princess Road, Manchester, M14 4RE
161 Princess Road, Manchester, M14 4RL
80 Hartington Street, Manchester, M14 4RP
78 Hartington Street, Manchester, M14 4RP

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
Flood Zones Type 2 (low to medium risk) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA