MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

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| **Application no.** | 138971/FO/2024 |
| **Date registered valid:** | 28 February 2024 |
| **Proposal:** | Installation of fume extraction system to the rear of the property., |
| **Address:** | 4 Kingsway Buildings, Kingsway, Manchester, M19 1PH |
| **Ward(s):** | Burnage Ward |
| **Applicant:** | Mr U Shaukat |
| **Agent (if any):** | Mr N Khan, NK Architectural |
| **Case officer:** | Ellie Knowles<br>Tel: 0161 219 6633<br>Email: ellie.knowles@manchester.gov.uk |
| **Recommendation:** | Approve |
| **Date of recommendation:** | 23 April 2024 |

## Application details

**Type of application:** Full Application Consent

**Development type:** Minor Other

**Date of site visit:** 15 March 2024

**Standard consultations:**
Printed: 9 April 2024 Expired: 19 April 2024

**Neighbour notifications**
Printed: 11 March 2024 Expired: 3 April 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/area

4 Kingsway Buildings is a mid-terraced mixed-use property in Burnage, comprising a restaurant at ground floor and residential at first floor. The property is sited within a parade of 6 units facing the junction of Kingsway and Green End Road. The adjoining properties are in various commercial uses, some of which have ancillary accommodation or residential above. To the front of the parade is a large forecourt used for off street parking and to the rear enclosed yards, which are accessed via a shared service road. To the front of the property is an informal external seating area and to the rear of the application property is a single storey extension and outbuilding within the fenced service yard.

Residential properties are sited circa 30m to the north east of the application property and an ALDI supermarket is sited due south.

**Listed building:** Not applicable
**Conservation area:** Not applicable
**Tree Preservation Order:** Not applicable

## Description of development

The applicant is proposing to install a fume extraction system to the rear, in connection with the future use of the property as a restaurant, a change of use which doesn't require planning permission.

## Consultations & Notification Responses

*Local responses*

None received.

*Consultee responses*

Environmental Health - Suggest the imposition of fume extraction and noise insulation conditions.

**Relevant Planning History**

At the application site –
**056473/FO/SOUTH1/99** – Conversion of loft area of 1st floor flat into a self-contained flat. Approved 22.07.1999.

**History of negotiations**

The planning officer notified the agent that Environmental Health would require pre-commencement conditions relating to odour and noise impact assessments and mitigation measures. The agent submitted reports on 5/4/24 and EH were reconsulted, providing comments 22/4/24. Whilst the reports were deemed acceptable, EH considered that the reports had not addressed all matters, therefore requested the initial conditions were still applied to any future permission.

**Local Planning Policies**

Places for Everyone (2022-2039) – Places for Everyone is a long-term plan of nine Greater Manchester districts for jobs, new homes, and sustainable growth. It has been published by the GMCA on behalf of the nine districts and took effect and became part of the statutory development plan on March 21, 2024.

Manchester Core Strategy Development Plan Document (2012-2027) - The Core Strategy was adopted on the 11 July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan. Parts of the policies have been superseded by the Places for Everyone Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant **Core Strategy** policies for this application are as follows:

SP1 – Spatial Principles
DM1 – Development Management

The relevant saved **UDP** policies for this application are:

DC 26 – Development and noise

**National Planning Policy Framework**

The NPPF sets out broad national policies on themes such as housing, historic environment, town centres, design, climate change and the Green Belt. Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which

effectively balances economic, social and environmental factors. The Local Planning Authority consider the following sections relevant to this proposal.

- Section 4 – Decision-making
- Section 8 – Promoting healthy and safe communities
- Section 12 – Achieving well-designed places

**Issues**

Principle of development:

There is no objection in principle to the scheme which would mitigate noise and odour impacts from the fume extraction system proposed, however, consideration should be made upon the potential impact upon existing levels of residential and visual amenity.

Impact on visual amenity and the streetscene:

The proposed flue would be sited to the rear of the property, therefore would be screened from public vantage points. The proposed flue is of a typical vertical design and colouration seen on food and drink uses adjacent to the application site. Given the proposed siting and design, it is not considered that the proposal would have a detrimental impact upon the levels of visual amenity enjoyed within the vicinity of the site.

Impact on residential amenity:

The proposed extraction flue would terminate approx. 1.13m, above the eaves level of the existing property, as shown on the proposed rear elevation (plan ref: A101 A). Therefore, it is not considered that the proposed works would have a detrimental impact upon existing levels of residential amenity. Notwithstanding this the comments from Environmental Health (dated 22/4/24) have requested the imposition of pre-commencement conditions and further details to be submitted in relation to noise and odour impacts, to minimise and control the impact of the development on adjacent residential units.

Highways:

The proposal would not have a detrimental impact upon the existing levels of pedestrian and highway safety enjoyed within the vicinity of the site.

**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 polices 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 agent in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. In this instance, no negotiations were necessary but appropriate conditions have been attached to the end of this report. The scheme is considered to be in accordance with the guidance contained within saved policy DC26 of the Manchester Unitary Development Plan and to policies SP and DM1 of the Core Strategy.

**Condition(s) to be attached to decision for approval**

1. 3 Year Time Limit
   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. Specified drawings
   The development hereby approved shall be carried out in accordance with the documents labelled:

   - 'Site location plan', numbered 'A105 REV B', stamped as received by the City Council as Local Planning Authority on the 09/01/2024.
   - 'Existing & Proposed GF plan', numbered 'A100 REV A', stamped as received by the City Council as Local Planning Authority on the 28/02/2024.
   - 'Existing & Proposed rear elevations', numbered 'A101 REV A', stamped as received by the City Council as Local Planning Authority on the 28/02/2024. Notwithstanding the rain resistant terminal shown.
   - Odor Impact Assessment (ref: NALPRO270324.01a.) as received 05/04/2024.
   - Noise Impact Assessment (ref: NALPRO270324.01b.) as received 05/04/2024.

   Reason - To ensure the development is carried out in accordance with the approved plans, pursuant to Policies SP1 and DM1 of the Core Strategy.

3. Fume/odours

a) The extract flue hereby approved shall be implemented in accordance with the mitigation measures, and maintenance programme in the Odour Impact Assessment ref: NALPRO270324.01a.
b) Notwithstanding the submitted details, prior to the installation of the flue, a plan showing the finalised specifications of the extract system (including material, location of filters, silencers etc), together with elevational detail of the flue to demonstrate that when installed the extract flue would terminate not less than 1m above the eaves and be fitted with a high velocity rain resistant terminal, shall be submitted to and approved in writing by the City Council as local planning authority;
c) Prior to the flue being operational in association with use of the premises, a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved odour impact assessment report.

Reason - To secure a reduction in noise from the fume extraction system in order to protect future residents from noise disturbance and to reduce the potential for overheating, pursuant to policies SP1 and DM1 of the Manchester Core Strategy (2012) and saved UDP policy DC26.

4. NSE6 - External plant/equipment/servicing
a) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed, so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. Prior to commencement of the use hereby approved the scheme shall 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. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as local planning authority.

b) Prior to the operation of the scheme a verification report shall be submitted to and approved in writing by the City Council as local planning authority to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic report. The report shall also undertake post completion testing to confirm that the noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to policies SP1 and DM1 of the Manchester Core Strategy (2012) and saved UDP policy DC26.

## Appendix 1 – List of consultees & neighbours notified

Environmental Health

Flat 1, Kingsway Buildings, 6A Kingsway, Manchester, M19 1PH
Flat 2, Kingsway Buildings, 6A Kingsway, Manchester, M19 1PH
Flat 3, Kingsway Buildings, 6A Kingsway, Manchester, M19 1PH
Kingsway Buildings, 6A Kingsway, Manchester, M19 1PH
4 Oasis Close, Manchester, M19 1TR
2 Oasis Close, Manchester, M19 1TR
8 Oasis Close, Manchester, M19 1TR
6 Oasis Close, Manchester, M19 1TR
Top Flat, 3 Green End Road, Manchester, M19 1SQ
Flat 3, 2A Kingsway Buildings, Kingsway, Manchester, M19 1PH
Flat 2, 2A Kingsway Buildings, Kingsway, Manchester, M19 1PH
Flat 1, 2A Kingsway Buildings, Kingsway, Manchester, M19 1PH
2A Kingsway Buildings, Kingsway, Manchester, M19 1PH
1 - 2 Kingsway Buildings, Kingsway, Manchester, M19 1PH
5 Kingsway Buildings, Kingsway, Manchester, M19 1PH
4A Kingsway Buildings, Kingsway, Manchester, M19 1PH
3 Kingsway Buildings, Kingsway, Manchester, M19 1PH
6 Kingsway Buildings, Kingsway, Manchester, M19 1PH
3A Kingsway Buildings, Kingsway, Manchester, M19 1PH
3 Green End Road, Manchester, M19 1SQ
5A Kingsway Buildings, Kingsway, Manchester, M19 1PH

## 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
Area Team Boundary - Name: SOUTH AREA