

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138656/FO/2023
Date registered valid: 27 November 2023
Proposal: Retrospective change of use of property to Hot Food Takeaway (Sui Generis)
Address: Ground Floor, 440 Wilmslow Road, Manchester, M20 3BW
Ward(s): Old Moat Ward

Applicant: Mr M Imran
Agent (if any): Mr R Anwar RA Design & Project Management Ltd
Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Refuse
Date of recommendation: 17.01.2024

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 18 December 2023

Standard consultations:

Printed: 6 December 2023 Expired: 27 December 2023

Neighbour notifications

Printed: 6 December 2023 Expired: 27 December 2023

Site notice

Posted: 18 December 2023 Expired: 11 January 2024

Press advert

Published: 12 December 2023 Expired: 26 December 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: Withington Conservation Area 1983

Tree Preservation Order: Not applicable

Description of area

The application property is a ground floor commercial unit located on the corner of Wilmslow Road and Queen Street West within Withington District Centre. The property is located within the Withington Conservation Area is of two storeys in height and is of brick construction. The property is located within a Victorian terrace of properties, which have a regular building line at ground floor but a variation of building line at first floor with the adjacent property having a set back at first floor to the application property. St Pauls Primary School lies approximately 220m to the south east of the application property.

Withington District Centre comprises a range of commercial uses and other services including library at its northern end, a Methodist Church, bank, and, local convenience store at its southern end. The centre comprises a number of food and drink premises as well as hot food takeaway outlets. Wilmslow Road bisects the centre and is a major radial route serving residential areas in south Manchester and the city centre to the north. The road as it runs through the District Centre is visually narrowed by virtue of the back of pavement commercial buildings that line the road.

Description of development

The proposals seek the retention of the use of the ground floor as a Hot Food Takeaway, an accompanying application for advertisement consent (reference 138657/AO/2023) is subject to

a separate report and consideration. The property is served by a front entrance door for customers and staff with an ordering and waiting area located in the front third of the ground floor with kitchen area and associated space to the rear two thirds. The submitted plans indicate w/c facilities for staff to the rear. There are no details provided of the waste storage or management facilities for the property on either the supporting documents or on submitted plans which do not indicate any external space or yard area for the storage of waste receptacles.

The previous lawful use of the property is as a Class E café use as approved under planning application 104105/FO/2013/S1 .

Planning History

078487/FO/2006/S1 - Change of use of building from mixed use comprising laundrette (Class A1) on ground floor and office (Class A2) on first floor to office (Class A2) and retail (Class A1) on ground floor and one flat on first floor – Approved 13.04.2006

104105/FO/2013/S1 - Retrospective application for change of use from (Class A1) Dry Cleaners to (Class A3) café – Approved 19.12.2013

135663/JO/2022 - Variation of condition 1 attached to planning permission 104105/FO/2013/S1 to allow increase in opening hours to 11.00 to 03.00 hrs daily – Refused 16.05.2023

Consultations & Notification Responses

The application was subject of notification of nearby properties together with site notice posted at the site and advertisement in the Manchester Evening News by virtue of the site being located in a Conservation Area. One response was received as a result of this notification with other consultees also providing comments, these are set out below:

Councillor Gavin White - I would like to object to this application - we have an oversupply of hot food take-aways in Withington Village, and this application is only being submitted as enforcement action has been commenced against the change of use that was done from the previous use as a cafe, without planning permission.

This use and shop contributes to noise, waste, litter and a has a negative and detrimental impact on the resident area of Old Moat and Withington and doesn't contribute positively to the high street or conservation area at all.

MCC Highway Services - It would also be useful to identify where service vehicles will park up at the site and also the frequency of deliveries. The applicant should confirm whether a delivery service will be operational in conjunction with the take-away or whether it will solely operate for pick-up. Should a delivery service be proposed, the applicant should confirm where delivery vehicles will be expected to park/ load.

MCC Environmental Health – Recommend conditions be attached to any approval relating to: scheme for the extraction of fumes, vapours and odours; hours of opening; delivery hours; acoustic treatment of external plant and equipment; and waste management.

Policy

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th July 2012 and replaces a large number of policies in Manchester's Unitary Development 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:

DM1 - Development Management 1

C1 - Centre Hierarchy

C2 - District Centres

C6 – South Manchester Centres

C10 - Leisure and Evening Economy

The relevant UDP policies for this application are:

DC10 Food and Drink Uses

Hot Food Take Away SPD (adopted March 2017)

National Policy

National Planning Policy Framework (NPPF) - 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.

Sections 7 'Ensuring the vitality of town centres', 8 'Promoting Healthy and safe Communities', and 16 'conserving and enhancing the historic environment' are of relevance to the application proposals.

Issues

The Principle - The NPPF defines hot food takeaways as town centre uses and Manchester Core Strategy policy C10, Leisure and the Evening Economy, identifies centres as appropriate locations for hot food takeaways in principle. This is further supported by saved UDP policy DC10.2 which seeks to guide food and drink uses to the City Centre, industrial and commercial areas, in shopping centres, and at ground floor level in local shopping parades of more than eight shops or offices.

Withington is identified as one of 17 District centres in Manchester by the Core Strategy (2012) under policy C1. Core Strategy policy C10 states that there will be a presumption against hot food takeaways and night time uses where there is already a high concentration of such uses and that new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area. Factors taken into account include the existing number of similar establishments in the immediate area, the existence of vacant shop units, the function of the centre and the potential impact on the wider community.

Matters that require consideration are the impacts of approving a hot food take away within the District Centre, together with impacts on residential amenity including waste and noise.

Vitality and Viability/Balance of Uses - It is recognised in the Core Strategy that a vibrant evening economy is important, however this needs to be balanced against the other functions of the centre and in particular the need to support the day time economy.

District centres perform an important role by ensuring that residents have convenient access to day-to-day shopping needs, and are especially important to those who have limited mobility. In accordance with policy C10 of the Core Strategy and policy 1 of the adopted Hot Food Take Away Supplementary Planning Document, Hot food takeaways will not be supported in district and local centres where the cumulative impact of introducing the facility would be detrimental to the vitality and viability of a centre and would affect the balance between the day time and night time economy and the health of the population.

In accordance with policy 1, a proposal will be considered to be harmful to the vitality and viability of a centre if it:

- o Increases the concentration of hot food takeaway ground floor frontages in a centre to more than 10% of all non-residential ground floor frontages. In centres where the proportion of hot food takeaway ground floor frontages is approaching 10%, consideration will also be given to the impact of the proposal on the character of the area surrounding the application site.

Applications will not normally be permitted if the proposal would lead to the proportion of hot food takeaway frontages being more than 10% of non-residential ground floor frontages in a particular part of the centre concerned.

- o Creates a cluster of more than two hot food takeaways together.

- o Reduces the number of units between hot food takeaway clusters to less than two non-A5 uses.

In this case, the most recent Centre survey undertaken by the Council was in March 2022. The survey shows that there are 110 business units within the centre, of which 51 units are shops and would have been classified by the former A1 use class (46%). 7% of the units were observed to be vacant and there are 13 hot food take away which results in a percentage of 11.8%. This unit count includes the application property which at the time of the survey does appear to have been classed as a hot food takeaway. Removing the application property from the calculation would result in a position of 12 units being used as Hot Food Takeaways and a percentage of 10.9%. As such the proposals if granted would take the proportion of units within the centre beyond 10% set out within the HFTA SPD.

Therefore, the number of existing hot food take aways is currently in line with the SPD policy 1 but approving the current change of use would exceed 10% of units being within a HFTA use. As such the proposal is considered to be contrary to C10 and SPD policy 1 as it would further harm the vitality and viability of the local centre.

Whilst the proposals would lead to a marginal exceedance of SPD policy 1, the change to the use class order in 2020 allows greater flexibility between commercial uses without the requirement for planning permission. It is considered that the flexibility within Class E would allow the application property to positively contribute to the vitality and viability of Withington District Centre in a variety of ways that would be less harmful than the application proposals.

Residential Amenity – It is not considered that the proposals would give rise to unacceptable impacts on residential amenity. The property is located within a district centre where residents would expect and experience differing levels of activity, comings, and goings etc to residential areas. The applicant has indicated opening hours of between 1100 and 2300 hrs which are not considered to be excessive given the location of the property. Other matters such as noise from external equipment and fumes and odours could be controlled via appropriately worded conditions as recommended by Environmental Health officers.

Impact on the Conservation Area – It is not considered that the use of the property would give rise to harm to the special character or significance of the Withington conservation area. An accompanying advertisement consent application has been submitted for the installed fascia sign to the property and consideration of this is set out in the report for that application.

Highway and pedestrian safety - Withington District Centre has limited opportunities for parking with double yellow line restrictions along Wilmslow Road. As such servicing and deliveries are likely to take place on Queen Street West, adjacent to the property. It is noted that this road is a narrow dead-end road with double yellow line restrictions on either side. Uses to the end of the road are related to servicing and MOTs and clearly generate a number of demands for car parking and access. As such the servicing and deliveries to the application property would be limited and constrained. However, it is noted no objections have been received from the Council's Highway Services and the property is in close proximity to a public car park to the south of the application property (to the rear of the western side of the commercial properties on Wilmslow Road) given the other restrictions in place on Wilmslow Road and Queen Street West.

Waste – If the proposals were considered to be acceptable in principle, further details would be required with regards to the arrangements for the disposal, storage and collection of waste from the use. It is noted that the property does not appear from the submitted details to have ready access to external areas for the storage of commercial waste bins.

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 in a positive and proactive manner. In this instance the principle of the proposal has been found to be unacceptable and no amendments to the proposals are capable to overcome this, a decision has been issued within statutory timescales.

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

1) The addition of a further hot food takeaway (sui generis) would undermine the aim of achieving an appropriate balance of uses in Withington District Centre and further erode the retail and daytime function of the parade. The cumulative impact of a further hot food takeaway would in turn be detrimental to the vitality and viability of the centre. The proposed use is therefore contrary to the provisions of Policies C1, C2, C6, and C10 of the Manchester Core Strategy, saved policy DC10 of the Unitary Development Plan for the City of Manchester and policy 1 of the Hot Food Take Away Supplementary Planning Document.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Flat At, Victoria Hotel, 438 Wilmslow Road, Manchester, M20 3BW
444 Wilmslow Road, Manchester, M20 3BW
444A Wilmslow Road, Manchester, M20 3BW
Withington Contact Centre, Withington Methodist Church, 439 Wilmslow Road, Manchester, M20 4AN
Assist Care, Withington Methodist Church, 439 Wilmslow Road, Manchester, M20 4AN
436 Wilmslow Road, Manchester, M20 3BW
440 Wilmslow Road, Manchester, M20 3BW
442 Wilmslow Road, Manchester, M20 3BW
Victoria Hotel, 438 Wilmslow Road, Manchester, M20 3BW
437 Wilmslow Road, Manchester, M20 4AN
446 Wilmslow Road, Manchester, M20 3BW
First Floor, 440 Wilmslow Road, Manchester, M20 3BW
Flat 13, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 12, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 10, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 11, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 9, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 8, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 2, 441 Wilmslow Road, Manchester, M20 4AN
Flat 4, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 3, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 2, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 1, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 7, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 6, 4 Swinbourne Grove, Manchester, M20 4DA
Flat 5, 4 Swinbourne Grove, Manchester, M20 4DA
Withington Methodist Church, 439 Wilmslow Road, Manchester, M20 4AN
1 Queen Street West, Manchester, M20 3BQ
Flat 1, 441 Wilmslow Road, Manchester, M20 4AN
441 Wilmslow Road, Manchester, M20 4AN
3 Queen Street West, Manchester, M20 3BQ

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
Conservation Area - Withington Conservation Area 1983
Area Team Boundary - Name: SOUTH AREA