

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138840/FO/2023

Date registered valid: 14 February 2024

Proposal: Change of use from dwellinghouse (Class C3) to Podiatry Clinic (Class E(e)).

Address: 35 Circular Road, Manchester, M20 3LB

Ward(s): Didsbury West Ward

Applicant: Mr & Mrs Bhatt

Agent (if any): Ms Sarah Bolsover, Smashbox Architecture

Case officer: Janet Lawless
Tel: 0161 234 4535
Email: janet.lawless@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 10 April 2024

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 09.04.24

Standard consultations:

Printed: 23 February 2024 Expired: 15 March 2024

Neighbour notifications

Printed: 23 February 2024 Expired: 15 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

The property that is the subject of this application is a brick built semi-detached property with white board cladding. There is a driveway and part paved part lawned garden area to the frontage. A single storey attached garage has previously been converted to additional living accommodation. There is garden area to the rear of the property. There is provision for limited off road parking.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature, with a mix of modern apartments and semi-detached properties and Victorian villa properties on Circular Road and the Palatine Road frontage.

Description of development

The proposal is for the change of use of the previously converted single storey attached garage (C3) into a Podiatry Clinic (Class E(e)). The accommodation would comprise of seating area, clinic, WC and tea point.

Consultations & Notification Responses

Local Residents- have been informed 4 representations have been received. A summary of the comments are as follows:

The area is already very busy with vehicles due to the existing businesses and the Christie hospital, making it difficult for residents to park. Circular Road is a residential street with families and children, and it should remain residential not turn into an area for a commercial business.

The occupants of the property already have three cars parked on the driveway, with no capacity for space to offer to customers of the business.

There will be additional noise and vehicle movements coming from the property with the additional comings and goings of clients.

Highway Services -The following comments are made:

Three off-street car parking spaces will be provided on-site. These will be accessed from Circular Road via the existing dropped crossing. It is requested that the applicant provides swept path analysis for vehicles manoeuvring into and out of all proposed car parking spaces to ensure this can be done safely. Information should be provided to confirm that all pedestrians can safely manoeuvre around the driveway when cars are occupying the parking spaces.

Clarification is sought regarding the allocation of parking on-site, for both the dwelling, and the podiatry clinic, and how this will be managed.

The applicant should verify that the length of the driveway is sufficient so that vehicles do not overhang on the footway, each driveway space should provide a minimum of 3.0m x 6.0m in line with MCCs standard minimum dimensions.

It is recommended that secure and sheltered cycle storage is made available.

No boundary treatments are noted in the application. The applicant should be advised that all boundary treatments with frontage to the adopted highway should retain appropriate visibility from a height of 600mm upwards in order to protect sight lines. All gating which is accessed from the highway must be ensured to be inwardly opening, in order to prevent obstruction to passing footway users.

A refuse storage area is noted within the site. This is considered to be appropriate in ensuring no obstruction on the adjacent highway. However, it should be confirmed that there is adequate space for the waste bins to be taken from the storage point to the collection point when cars are parked in the driveway.

Relevant Planning History

F05080-Conversion of integral garage into a living-room with extension above to form 2 new bedrooms. Approved 13.08.1976.

Only the garage conversion was implemented, the first -floor extension to create 2 bedrooms above was not implemented.

Policy

Local Development Framework

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 - 2027.

'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.

Core Strategy policies

Policy SP1 (Spatial Principle) - refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well-being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 (Development Management) - states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Place for Everyone (Joint Development Plan) - The Places for Everyone Plan is a strategic plan for nine of the 10 boroughs in Greater Manchester and forms part of the city's development plan.

The Guide to Development in Manchester (SPD)

This document contains core principles to guide developers. The document offers design advice and sets out the City Council's aspirations and vision for future development and contains core principles to guide developers to produce high quality and inclusive design. The principles that development should seek to achieve include, character and context, continuity, and enclosure, ease of movement, quality of the public realm, diversity, legibility and adaptability.

Paragraph 8.6 states:

'Developments should have recognisable uses or internal arrangements which help to foster stewardship, minimise the risk and fear of crime and accommodate the public without compromising amenity and the safety of users. Developments that contain internal spaces or communal areas with no clear sense of 'ownership' will be discouraged'.

National Planning Policy Framework

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role.

Section 4 'Decision Making' provides guidance on the decision-making process and mirrors legislation in stating that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Section 12 refers to 'Achieving Well Design and Beautiful Places'.

Paragraph 135 states:

'Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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.

Issues

Principle

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise.

The NPPF at paragraphs 2 and 47 reinforces this requirement and at paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

In the case of this application, the principle of the proposed development is not considered acceptable and is in conflict with the aforementioned development plan policy and associated guidance.

It is considered that the proposed use whilst eroding the residential function of the extension, would undermine the living conditions of existing residential occupiers, whilst jeopardising their security, contrary to the aforementioned policy and guidance. These specific issues are set out further below:

Residential Amenity

The proposal site is a residential semi-detached property which has previously benefited from a garage conversion to create additional living accommodation. The residential property will be retained, with the section that was the garage conversion now being proposed for a stand-alone podiatry clinic.

The existing single storey element is set well back from the front of the property. The proposed use would draw non-residents (staff and visitors) to the podiatry clinic into what should be the private defensible space of the residential property and down the driveway alongside the house.

The applicant had initially stated within their submission that the proposal would involve the employment of local staff such as a receptionist, however that has now been revised to say that it would only be the podiatrist working at the premises who would deal with the client from entrance to the clinic to their exit. They have also stated in their supporting information that the appointments would mean that only one person would be visiting the premises at a time

(sometimes with a carer or companion), however there is a waiting room provided enabling multiple people to visit the property at any one time. Whilst it is acknowledged that activity levels would be modest, the proposed use would nevertheless introduce further activity above and beyond expected levels of activity within a residential property. This would present itself in pedestrian movements, talking, manoeuvring of vehicles, closing of doors and general activity etc, all of which would be considered to be detrimental to the enjoyment of the attached residential property by its occupants.

Policies DM1 and SP1 of the Core Strategy indicate that consideration should be given to the effects of development upon the amenity, living conditions and the well-being of residents.

Saved policy DC26 states further that consideration will be given to the effect of new development proposals which are likely to be generators of noise.

Paragraph 135(f) of the NPPF states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

In the case of this application, the City Council are concerned that the adjoining occupants of number 35 Circular Road would be unduly impacted from activities associated with the proposed clinic use by way of increased noise and disturbance. On this basis, the proposed use would have an unacceptable impact upon the living conditions of adjacent and nearby residential occupiers.

Crime and Security

The proposed clinic use would allow members of the public and non-residents into the centre of a residential site. It would provide an opportunity for perpetrators of criminal activity to use the proposal as a reason for being within the property curtilage.

Policy DM1 of the Manchester Core Strategy underlines that community safety and crime prevention is a specific issue that all development should have regard to, whilst policy SP1 states within the 'core development principles' section that development within all parts of the city should make a positive contribution to neighbourhoods of choice. This includes development that makes a positive contribution to the health, 'safety' and well-being of residents.

Similarly, Paragraph 8.6 of the Guide to Development in Manchester (SPD) states:

'Developments should have recognisable uses or internal arrangements which help to foster stewardship, minimise the risk and fear of crime and accommodate the public without compromising amenity and the safety of users. Developments that contain internal spaces or communal areas with no clear sense of 'ownership' will be discouraged'

Paragraph 135(f) of the NPPF states further that development should:

'Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.

Despite the applicant's assurances that visitors would be on a one at a time basis with only one podiatrist working within the property, it is considered that access arrangements would create a vulnerable environment for residential occupiers.

New development and uses should aim to design out crime, but in this case, the proposal would only serve to undermine the safety and security of occupiers. On this basis, the proposal is considered contrary to Development Plan policy and guidance.

Waste Management

Given that the business is to operate from what was previously the converted garage of the residential property there will be a requirement for two sets of bins, both sets are proposed to be located on the front of the respective elements of the property. This is not considered

acceptable as the cumulative impact of the bins would result in visual clutter within a residential area.

Parking

Whilst the proposal states that there is capacity for three in curtilage parking spaces, this has not been proven. During the site visit there were three vehicles present at the property, this prior to any business becoming operational. It would not have been possible to exit the spaces without the other vehicle first moving. This would potentially mean that any client parking would be decanted onto the highway. There are already existing pressures for parking within the area due to the close proximity to The Christie Hospital. As a result of this there are TRO's, H bars to the driveways of existing properties, and permit holder parking schemes in place. It is not considered that the proposal has provided for safe and secure parking by visitors to the premises and for the occupants of the attached residential property.

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

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

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

1) The proposed residential (Class C3) conversion to Podiatry clinic (Class E (e)) involves introducing a commercial use into a residential area to the detriment of the amenity of adjoining and neighbouring residents. It would result in increased levels of activity and associated noise and disturbance, within the confines of a residential building. The resultant levels of activity would be harmful to the living conditions of existing residential occupiers, contrary to saved policy DC26 of the Unitary Development Plan for the City of Manchester, policies DM1 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

2) The Application fails to demonstrate that appropriate provision has been made for the safe parking of vehicles associated with the two uses that would share the site. Even though the property is in a location where there is a frequent bus service, on-street parking and servicing is constrained due to partial TRO's, time restricted parking, permit holder parking and the existing demand for parking spaces. The proposed use is therefore considered to cause harm in terms of highway and pedestrian safety within the vicinity of the site. This is contrary to policies T1, SP1 and DM1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

Appendix 1 – List of consultees & neighbours notified

Highway Services

73A Palatine Road, Manchester, M20 3LJ
40 Circular Road, Manchester, M20 3LP
27A Circular Road, Manchester, M20 3LB
Flat 10, 73 Palatine Road, Manchester, M20 3LJ
Flat 2, 73 Palatine Road, Manchester, M20 3LJ
Ground Floor Flat, 81 Palatine Road, Manchester, M20 3LJ
First Floor Flat, 81 Palatine Road, Manchester, M20 3LJ
The Cottage Rear Of, 79 Palatine Road, Manchester, M20 3LJ
75B Palatine Road, Manchester, M20 3LJ
Flat 10, 77 Palatine Road, Manchester, M20 3LJ
Flat 2, 77 Palatine Road, Manchester, M20 3LJ
Flat 6, 79 Palatine Road, Manchester, M20 3LJ
Flat 3, 79 Palatine Road, Manchester, M20 3LJ
Flat 9, 77 Palatine Road, Manchester, M20 3LJ
Flat 6, 77 Palatine Road, Manchester, M20 3LJ
Flat 4, 77 Palatine Road, Manchester, M20 3LJ
Flat 7, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 5, Princess Court, 38 Circular Road, Manchester, M20 3LP
31 Circular Road, Manchester, M20 3LB
Flat 2, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 6, 75 Palatine Road, Manchester, M20 3LJ
Flat 5, 75 Palatine Road, Manchester, M20 3LJ
Flat 3, 73 Palatine Road, Manchester, M20 3LJ
Flat 8, 79 Palatine Road, Manchester, M20 3LJ
Flat 4, 73 Palatine Road, Manchester, M20 3LJ
Flat 9, 75 Palatine Road, Manchester, M20 3LJ
Basement Flat, 81 Palatine Road, Manchester, M20 3LJ
Second Floor Flat, 81 Palatine Road, Manchester, M20 3LJ
81 Palatine Road, Manchester, M20 3LJ
79 Palatine Road, Manchester, M20 3LJ
Flat 5, 73 Palatine Road, Manchester, M20 3LJ
Flat 6, 73 Palatine Road, Manchester, M20 3LJ
Flat 7, 73 Palatine Road, Manchester, M20 3LJ
Flat 9, 73 Palatine Road, Manchester, M20 3LJ
Flat 1, 73 Palatine Road, Manchester, M20 3LJ
75 Palatine Road, Manchester, M20 9LJ
Flat 5, 79 Palatine Road, Manchester, M20 3LJ
Flat 1, 77 Palatine Road, Manchester, M20 3LJ
Flat 4, 79 Palatine Road, Manchester, M20 3LJ
Flat 2, 79 Palatine Road, Manchester, M20 3LJ
Flat 1, 79 Palatine Road, Manchester, M20 3LJ
Flat 8, 77 Palatine Road, Manchester, M20 3LJ
Flat 7, 77 Palatine Road, Manchester, M20 3LJ
Flat 5, 77 Palatine Road, Manchester, M20 3LJ
Flat 3, 77 Palatine Road, Manchester, M20 3LJ
44 Circular Road, Manchester, M20 3LP
Flat 8, 73 Palatine Road, Manchester, M20 3LJ
33 Circular Road, Manchester, M20 3LB
29 Circular Road, Manchester, M20 3LB
Flat 1, Princess Court, 38 Circular Road, Manchester, M20 3LP

Flat 8, 75 Palatine Road, Manchester, M20 3LJ
Flat 7, 75 Palatine Road, Manchester, M20 3LJ
Flat 4, 75 Palatine Road, Manchester, M20 3LJ
Flat 3, 75 Palatine Road, Manchester, M20 3LJ
Flat 2, 75 Palatine Road, Manchester, M20 3LJ
Flat 1, 75 Palatine Road, Manchester, M20 3LJ
46 Circular Road, Manchester, M20 3LP
42 Circular Road, Manchester, M20 3LP
Flat 9, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 6, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 4, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 3, Princess Court, 38 Circular Road, Manchester, M20 3LP
Flat 8, Princess Court, 38 Circular Road, Manchester, M20 3LP
75A Palatine Road, Manchester, M20 3LJ

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 (Middle) -
Area Team Boundary - Name: SOUTH AREA