

Planning

Growth & Development

Delegated officer report for planning application

Application no. 136563/FO/2023

Date registered valid: 12 September 2023

Proposal: Creation of a hot food take away (Sui Generis) together with the installation of a flue to rear

Address: 220 Upper Brook Street, Manchester, M13 9LY

Ward(s): Ardwick Ward

Applicant: Linda Yang OO - Life Ltd

Agent (if any): Mrs Dawn Winterbottom Plans Drawn

Case officer: Max Gibson
Tel: 0161 219 6359
Email: maximillian.gibson@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 20/10/2023

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit:

Standard consultations:

Printed: 18 September 2023

Expired: 9 October 2023

Neighbour notifications

Printed: 18 September 2023

Expired: 9 October 2023

Site notice

Posted: Expired:

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

The site relates to a ground floor commercial unit on a small parade of buildings number 216-220 Upper Brook Street. There are commercial units to the ground floor with residential properties above. The unit in question is the southernmost at 220 Upper Brook Street.

Listed building: Not applicable

Conservation area: n/a

Tree Preservation Order: n/a

Description of area

The surrounding area is dominated by the Manchester Royal Infirmary and its surroundings along Upper Brook Street. The character of the area comprises several uses, including medical, residential, educational and commercial. Upper Brook Street is a major thoroughfare into the city centre and has many Traffic Regulation Orders in place, including outside the proposed application site.

Description of development

The development relates to the creation of a hot food takeaway (Sui Generis use class), together with the installation of a flue to the rear of the property for the purpose of fume extraction.

Consultations & Notification Responses

A notice was displayed on site informing passersby of the development for reasons of public interest. Notifications were sent to surrounding occupiers to inform them of the development. One representation was received as a result of this publicity, summarised as follows:

- Concerns regarding use of adjacent open space for parking as is also used by other businesses

Environmental Health - conditions suggested (fumes, plant noise, hours, servicing, refuse). Refuse strategy inadequate.

Highways Services - cannot support the application due to the lack of onsite parking for both customers, delivery drivers and servicing/waste collection. Concerns about the lack of on street parking due to the TROs in place and the proximity to the junction and potential risks to driver and pedestrian safety.

Design for Security at Greater Manchester Police - no comment

Issues

The main policies that relate to this application are policies DM1 (Development Management), T1 (Sustainable Transport) and SP1 (Spatial Principles) of the Manchester Core Strategy (2012), saved policies DC10 and DC26 of the Unitary Development Plan for Manchester (1995).

Places for Everyone

The Places for Everyone Plan is a Joint Development Plan Document, providing a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester. Once the Places for Everyone Plan is adopted it will form part of Manchester's development plan.

To date, five consultations have taken place in relation on the Plan. The Examination of Plan, following its submission in February 2022, began in November 2022. Following the completion of the Examination of the Plan, main modifications have now been proposed which will now become the subject of further public consultation.

The City Council's Executive agreed the Main Modification on 4 October 2023 and endorsed an 8 week period of public consultation on the Main Modifications commencing no earlier than 9 October 2023.

Any representations will be forwarded to the Examination team managing the Plan. The Inspectors will consider all representations on the proposed Modifications before finalising the examination report.

Given the stage the Plan has reached, and level of public consultation and scrutiny it has received, 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.

Policy JP-C4: Streets for All

- d. Maximising the ability of pedestrians and cyclists to navigate easily, safely and without delay, and minimising barriers and obstacles to their movement;
- j. Providing appropriate places and routes for servicing, deliveries and 'drop-off'

Principle

The application relates to the creation of a hot food takeaway in the ground floor commercial unit at 220 Upper Brook Street, a road running through South Manchester towards the city centre. The unit is in a block of buildings that runs from 216-220 Upper Brook Street. The buildings comprise three commercial units to the ground floor and residential uses up above.

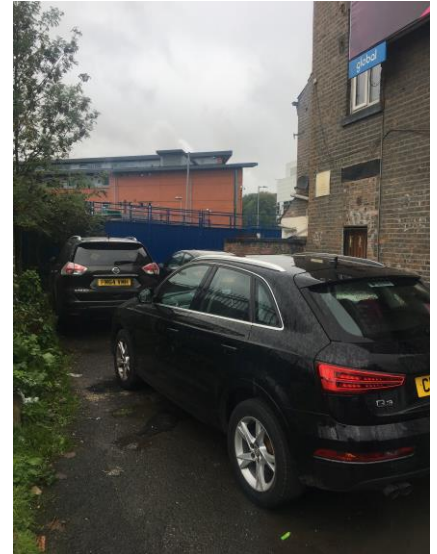
Policy DC10 of the Unitary Development Plan states that the creation of hot food takeaway will not normally be supported outside of the city centre or in parades of less than eight ground floor units. As the proposed takeaway would not meet these locational requirements, then the principle of the development is not supported.

Highways

The unit is on Upper Brook Street, a busy thoroughfare that runs alongside the Manchester Royal Infirmary. There are TROs in place either side of the road at the location. There is a bus stop directly adjacent to the site and another directly opposite on Upper Brook Street. The block the unit is within is on a busy crossroad which is controlled by traffic lights. Furthermore, both the entrance to the MRI A&E and the ambulance station are in the vicinity of the development site.

As a result of these conditions, there is no availability for on street parking outside the proposed takeaway. There is an empty lot directly adjacent to the unit. The applicant has suggested that this area can be used as both an area for waiting delivery drivers and for servicing, including the storage of bins. However, this vacant lot does not form part of the demise of the property nor the site edge red and consequently cannot be relied upon to serve this development.

Observations by officers on site and the representation received from a member of the public suggest that this lot is often in use as ad hoc off-street parking. There is, however, no dropped kerb to access the area safely in the interest of highway and pedestrian safety.



Highways concur with this assessment and have stated that they cannot support the lack of parking for delivery drivers. They have also raised concerns about potential risks to driver and pedestrian safety. This is in relation to the lack of available parking for delivery and servicing vehicles, especially given the proximity to the junction together with the lack of drop curb into the vacant lot in the event that it was utilised. Environmental Health also stated that further information was needed on the waste management strategy, including pick up points, frequency of pick up and volume and type of containers.

Given the above, the application is unacceptable due to the impacts on the Highways network and highways and pedestrian safety and is therefore contrary to the provisions of policies DM1 which require consideration of road safety, refuse and servicing and vehicular access and parking Policy T1 of the MCS also states that development will be supported that would reduce the negative impacts of road traffic, including congestion and road accident casualties and saved policy DC10 of the UDP which states that the council will give regard to the storage and collection of refuse and litter when considering proposals for food and drink uses.

Residential amenity

Policy DM1 of the Manchester Core Strategy require consideration of the impact of development on residential amenity, as does saved policy DC10 in relation to food and drink uses.

The upper floors of the building which contains the unit under consideration contain residential uses, whilst there is student accommodation diagonally across the junction. Therefore, a new food and drink use has the potential to affect the amenity of these occupiers.

Upper Brook Street is a busy arterial road that leads into the City Centre, with substantial levels of vehicular and pedestrian traffic for much of the day. Consequently, ambient noise levels are high.

The proposed opening hours would be from 11.00-22.30 Mon-Fri, 11.00-22.00 Saturday and 13.00-22.30 Sunday. These hours are contained within the times of day when the area is likely to still be busy and hence there would still be high background noise levels.

Thus, the noise generated by trips to and from the takeaway would be unlikely to lead to an unacceptable rise in ambient noise in a manner that would be detrimental to residential amenity. Likewise, noise from plant would be unlikely to create a noticeable rise in noise.

This notwithstanding, for the most proximate occupiers in the upper floor flats, plant noise and odours associated with the takeaway kitchen could lead to unduly harmful amenity impacts. The application was assessed by Environmental Health, who stated that the development would be acceptable subject to the imposition of a number of conditions and submission of further information. These would have included controls on fumes and noise in relation to the installation of a new flue to the rear of the building.

Visual amenity

The proposed flue, by virtue of its siting, scale and orientation, would be detrimental to visual amenity. The flue would run through a penetration in the southern side elevation, along this wall to the rear of the building where it would run up the full height of the building to terminate above the roof.

By virtue of the location of the penetration in the side elevation, the flue pipework of the flue would be highly visible, both facing the primary elevation and, most significantly, facing northwards along Upper Brook Street. When viewed in the context of the existing billboard and pipework on this elevation, the proposed flue would add further clutter to this side elevation in a manner that would be detrimental to visual amenity.

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. In this instance, the principle of the development was contrary to the locational requirements set out under saved policy DC10 of the UDP and, therefore, it was considered that there were no amendments possible that would make the development acceptable.

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

- 1) The creation of a hot food takeaway (Use Class Sui Generis) would not meet the locational requirements necessary, in that the proposal is not located in a parade of more than eight shops. The introduction of the takeaway would alter the character of the small parade of shops. The proposal is therefore contrary to the provisions of policies SP1, CC10 and DM1 of the Manchester Core Strategy (2012) and Saved policy DC10 of the Unitary Development Plan for Manchester (1995).
- 2) The proposed development, by virtue of its location adjacent to a busy junction where Traffic Regulation Orders are in effect together with no off-street parking, would be inadequate for parking, delivery drivers, servicing, patron pick up and drop off. The proposed development is considered to be potentially harmful to local amenity, highway and pedestrian safety and result in an unduly harmful impact on the highways network. The development would be contrary to the provisions of policies DM1 and T1 of the Manchester Core Strategy (2012) and saved policy DC10 of the Unitary Development Plan for Manchester (1995).
- 3) The proposed flue, by virtue of its siting, scale and appearance would form a highly prominent and incongruous feature on a highly visible elevation on a main route into the city centre. This would have an unduly harmful impact on the visual amenity and character of the building and street scene. The proposed development is therefore contrary to the provisions of policies DM1 and SP1 of the Manchester Core Strategy (2012) and saved policy E3.3 of the Unitary Development Plan for Manchester (1995).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

HUTCHISON MAN10958, Communication Station Opposite 220, Upper Brook Street, Manchester, M13 0FY

Top Flat, 220 Upper Brook Street, Manchester, M13 9LY

218A Upper Brook Street, Manchester, M13 9LY

216 Upper Brook Street, Manchester, M13 9LY

218 Upper Brook Street, Manchester, M13 9LY

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Area Team Boundary - Name: CENTRAL