Planning

Growth & Development

Delegated officer report for planning application

Application no.	137719/FO/2023
Date registered valid:	6 September 2023
Proposal:	Change of use of existing hair salon to hot food takeaway (sui generis) with associated fume extraction flue to rear
Address:	659A Hyde Road, Manchester, M12 5PS
Ward(s):	Gorton & Abbey Hey Ward
Applicant:	Mr Sikander Ellahi
Agent (if any):	Mr Subhan Saleem
Case officer:	Ian Jarvis Tel: 0161 234 4079 Email: ian.jarvis@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: 13 November 2023

Standard consultations:
Printed: 19 September 2023 Expired: 10 October 2023

Neighbour notifications
Printed: 19 September 2023 Expired: 10 October 2023

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

This application relates to a vacant mid terraced property which fronts the busy Hyde Road radial route to/from Manchester City Centre. The property is two storey and sits between a single storey hot food take-away and a two-storey shop, with residential accommodation above. These 3 units were formerly part of a public house and signs, at the application site, suggest that it was last used as a hair salon. There is no record of the adjoining property ever having been granted planning permission, to operate as a hot food take-away, although street view images show that it has been continually used, as a hot food take-away, since at least 2011. The remainder of the terraced row consists of two- storey-residential properties. The site lies directly opposite the Co-op Academy High school, located approximately 25 metres away, to the south and there is a further street of terraced properties to the rear, on Norman Street.

It is proposed to change of use of the ground floor, of the premises, into a hot food takeaway (sui generis use). The proposal also includes the installation of an external fume extraction flue to the rear.

The proposed opening hours are 6am to 10pm, 7 days a week. The applicant states that the reason, for the earlier opening time, is that the premises would sell health focussed hot food.

Consultations & Notification Responses

Local residents/adjoining occupiers - No comments received.

Highways Services - Make the following comments:

PARKING AND ACCESS
Two car parking spaces are currently provided within the site, it is noted that these will remain. Clarification is sought regarding the location and dimension of the car parking spaces, these should all accord with MCC's standard minimum requirement. It is recommended that standard parking bay dimensions be a minimum of 2.4m x 4.8m, and driveway dimensions a minimum of 3x by 6m.

The pedestrian access point will remain as existing.

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.

CYCLE PARKING
It is requested that secure sheltered cycle storage is made available for staff, in line with MCC Core Strategy.

BOUNDARY TREATMENTS
It appears from the documents submitted that no boundary treatments are proposed.

WASTE AND SERVICING
A designated bin storage area is noted to the rear of the site. It would be useful to understand further servicing arrangements.

Highways strongly recommend that all servicing is undertaken off the adopted highway given that Hyde Road is a highly trafficked A-road. Servicing demands in comparison to the former use are likely to be considerably greater.

Strategic Area and Citywide Support Manager - Recommends that conditions are attached, to any permission, in relation to fume extraction, hours of operation, external equipment, acoustic insulation and refuse.

Greater Manchester Police - Make the following comments:

Looking at the planning history, the premises were in use as a public house followed by a take-away prior to being used as a hair salon.

Belle Vue Night Shop, the neighbouring premises to the east are in use as an off licence, which according to information available from Google maps, trade from 16.00 to, generally, 02.00, and as late as 04.00 on Friday and Saturday. The premises to the west, Rayan's, a take-away, trade from 16.00 to 22.00 Monday to Saturday.

There is a terrace of houses immediately east of, and attached to, Belle Vue Night Shop, whilst there appears to be two, perhaps, three self-contained flats the application premises and adjoining Night Shop. A short distance to the west, there is another terrace of houses, that face both Norman Street and the rear elevation of the application premises.

Unless evening and night time trading are excluded, the proposed change of use will have a detrimental impact on the residential amenity of the occupiers of nearby residential properties, in particular, by reason of an increase in noise and disturbance from customers attracted to the premises and vehicular and pedestrian comings and goings at, potentially, unsociable hours. In

addition, the presence of take-away premises often results in an increase in litter and a lingering presence of cooking smells to the locality, bringing about a decline in environmental quality, which can affect the viability of a neighbourhood as a suitable place to live.

Should issues arise with the proposed use, particularly with noise and disturbance, local residents may rely on the Police to intervene and whilst it is right that they do so, the avoidance of problems arising seems a more appropriate course of action.

They do not support the application as submitted.

Issues

National Planning Policy Framework (December 2023) - Sets out the Government's Planning Policies for England and how these should be applied. It states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that achieving sustainable development means that the planning system has 3 overarching objectives:

An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land, of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

A social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

An environmental objective - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change including moving to a low carbon economy

It states that 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 visibly 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 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.

Section 12 'Achieving Well Designed Places' states that 'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development

process should achieve. 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. Being clear about design expectations, and how these will be tested, is essential for achieving this. paragraph 126).

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012 and was amended in March 2024, following adoption of the 'Places for Everyone' Joint Development Plan. 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. A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

Policy SP1 identifies the City Council's Core Development Principles and states that 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
- Making a positive contribution to the health, safety and wellbeing of residents
- Considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
- Protect and enhance the built and natural environment.

Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy C1 relates to commercial centres hierarchy and states that the development of town centre uses (as defined in national planning policy) will be prioritised in the centres identified in this policy, taking account of the different roles of the City Centre,
District Centres and Local Centres. In order to maintain the vitality and viability of its centres, provide services as locally as possible and minimise the need to travel by car,

It identifies the centre hierarchy as Manchester City Centre, District Centres and then Local Centres. It states that District centres have an essential role in providing key services to the City's neighbourhoods including shopping, commercial, leisure, public and community functions, ensuring that residents can access such services easily. They are also a focus for the City's residential neighbourhoods, providing an important opportunity to define local character. Development in these centres should primarily respond to the needs of the catchment and recognise the need to support the vitality and viability of other centres.

Policy C9 relates to out of centre development and states that:

Development of town centre uses in locations which are outside a centre identified in policy C1 or a strategic location identified for such uses will be inappropriate unless it can meet the following criteria:
- There are no sequentially preferable sites, or allocated sites, within the area the development is intended to serve that are available, suitable and viable
- The proposal would not have unacceptable impacts, either individually or cumulatively with recently completed and approved schemes and having regard to any allocations for town centre uses, on the vitality and viability of the City Centre and designated district and local centres. An assessment of impacts will be required for retail developments of more than local significance; and,

- The proposal is appropriate in terms of its scale and function to its location.

Development that improves the environment of an existing out-of-centre facility or its relationship with surrounding uses will be supported, providing that it also meets the other criteria in this policy.

Policy C10 relates to Leisure and the Evening Economy with the Core Strategy stating that District and local centres play a vital role, not only as places to shop but because they provide the opportunity for a wide range for leisure services to be delivered locally. The City needs to achieve a better balance of evening and night-time activities and a better distribution throughout the City. In some areas concentrations of uses associated with the evening economy have led to problems with anti social behaviour, while other parts of the City suffer from lack of activity during the evening. It is important that the uses within centres are carefully balanced so that evening/night-time uses are complementary to neighbouring uses.

The policy states that when considering the impact of a proposed restaurant/take away regard will be had to this policy and also factors including the character of the centre and its frontage and the nature of the use proposed and the potential impacts of the proposal on the wider community.

This policy aims to encourage evening and night time economy uses that contribute to the vitality of the Manchester's centres and that support the creation of a safe, balanced and socially inclusive evening economy, stating that centres, in particular the City Centre and District Centres, have an important role as the focus for the City's evening economy.

Where permission is granted, the Council will seek to ensure that any potential harm to the area, from the proposal, can be controlled, for example by limiting the hours of operation and the Core Strategy notes that smaller groups of shops are often found within primarily residential areas and are therefore less commercial in character, stating that proposals for commercial uses which are busy in the evening in Local Centres will be carefully considered to ensure that the amenity and character of the surrounding area is protected.

Policy T2 - States that outside the City Centre all new development should provide appropriate car parking facilities, taking account of the guidance in Appendix B (of the Core Strategy). In all parts of the City proposals should have regard to the need for disabled and cycle parking, in line with appendix B (this indicates maximum car parking standards for various uses).

Notwithstanding the above, Policy T2 requires that consideration is given to the particular circumstances of each proposal to determine the appropriate levels of car parking that may be required. Policy T2 requires the provision of proportionate Traffic Impact Assessments and Travel Plans for all major applications and for any proposals where there are likely to be access or transport issues.

Policy DM1 Development Management - Follows the principles advocated in the aforementioned policies and informs 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 and 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.
- Flood risk and drainage.
- Existing or proposed hazardous installations.
- Developers will be required to demonstrate that new development incorporates sustainable construction techniques.

Saved Unitary Development Plan policies

Policy DC10 relates to food and drink uses

DC10.1 In determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the Council will have regard to:
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.

DC10.2 The Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

DC10.3 Development will not normally be permitted where:
a. it is proposed outside the general locations mentioned above, or
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.

DC10.4 Where, having regard to the preceding policies, the Council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of
refuse and the collection of litter.

DC10.5 The Council will consider on their individual merits proposals for larger, free-standing restaurants, public houses, clubs etc. which require a main road location and do not clearly meet the locational criteria set out in policy.

Policy DC26 relates to development and noise

Policy DC26.1 - Relates to the proposals contribution to the local noise environment and the impact of existing noise sources on the development has been assessed, particularly in relation to the proposed residential units.

Policy DC26.4 - Requires that where an existing noise source might result in an adverse impact upon a proposed new development, or where a new proposal might generate potentially unacceptable levels of noise, consideration is given to measures to deal with it satisfactorily.

Policy DC26.5 - Relates to the assessment of the development, in terms of measures to control noise, including the provision of noise insulation.

The 'Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039' was adopted on 21 March 2024.

Policy JP-P6 relates to health, stating that:
To help tackle health inequality new development will be required, as far aspracticable, to:
A. Maximise its positive contribution to health and wellbeing, whilst avoiding any potential negative impacts of new development;
B. Support healthy lifestyles, including through the use of active design principles making physical activity an easy, practical and attractive choice;
and
C. Be supported by a Health Impact Assessment for all developments which require to be screened for an Environmental Impact Assessment, and other proposals which, due to their location, nature or proximity to sensitive receptors, are likely to have a notable impact on health and wellbeing.

Hot Food Takeaway Supplementary Planning Document - On 8th March 2017, Manchester City Council's Executive Committee adopted the Hot Food Takeaway Supplementary Planning Document as Supplementary Planning Guidance. The document has 3 key policies:

Policy 1 - Vitality and Viability.

This states that a proposal will be considered to be harmful to the vitality and viability of a District or local centre if it:
-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.
- Creates a cluster of more than two hot food takeaways together
- Reduces the number of units between hot food takeaway clusters to less than two non-A5 uses.
- Where there is no evidence of demand for a preferable use, hot food takeaways will be considered favourably even if this would increase the threshold of takeaways to above 10% of ground floor frontages.
The area, in which the site is located, is not a local centre identified in the Core Strategy as described by Policy C1 which lists all district centres and many of Manchester's local centres and also states that any locations not identified but which perform the same function in terms of scale and meeting local needs which will also be considered to be local centres.

Policy 2 - Amenity.

This states that hot food takeaways must consider their impact on noise sensitive developments and any proposal that has the potential to cause noise disturbance to existing residential

development or noise sensitive properties should be accompanied by a noise survey and assessment and only approved if the impact is shown to be acceptable.

In relation to highway safety the policy states that planning permission for hot food takeaways will only be granted where there would not be an adverse impact on highway safety and the amenity of the surrounding area. Proposals should take account of the likely needs of both customers and the operator's delivery requirements. Regard will be given to:
1. Existing traffic conditions;
2. The availability of public parking provision in close proximity to the premises, including suitable on-street parking;
3. The availability of an adequate loading and unloading area.

The policy states that on the edge of centres and in close proximity to residential units, careful consideration should be given ensuring the lives of people in the local area are not negatively affected by amenity issues. Hot food takeaways open at different hours to most town centre uses often opening later and this has the potential to affect residential amenity. The character and roles of centres differ throughout

Policy 3 - Hot Food Takeaways and Schools.

Should a proposed new hot food takeaway otherwise be considered to be acceptable, this policy restricts the opening times of new takeaways within 400m of a primary school as follows:-
o A primary school: the hot food takeaway is not open to the public between 3 pm to 5.30pm on weekdays.
o A secondary school: the hot food takeaway is not open to the public before 5.30pm on weekdays.

Principle of proposed development - Whilst there are some shops in the vicinity of the site, these are interspersed with residential properties and it is not therefore considered that the site lies in what might be considered as a local centre or in a parade of retail units. Within the guidance for food and drink uses (saved UDP policy DC10) it is therefore considered clear that the proposed A5 use would not fulfil the criteria for a suitable location (10.2 and 10.3a) being outside an established retail and commercial parade where such uses are generally considered acceptable. It is therefore considered that the proposed use, in this location, is not in accordance with City Council policy.

Residential amenity - The application site, along with adjoining retail premises, sits at the end of a long row of residential properties (661 to 675 Hyde Road) with a further row of residential properties to the rear (1-19 Norman Street). The proposed hot food takeaway seeks hours of operation later that would allow both early morning and late night opening and it is considered that the potential levels of disturbance would be particularly problematic during the evening and at night when the hot food take away would see most of its trade, a time when most residents can reasonably expect to enjoy their property undisturbed. It is therefore considered that the use would have a detrimental impact on the occupiers of those properties due to comings and goings, particularly late in the evening. There are double yellow lines, in front of the site, on Hyde Road, but there is a wide pavement area, in front of the shop, creating the potential for visitors to the takeaway to park, along with on the adjoining residential Norman Street. Greater Manchester Police have also identified potential anti-social issues that would be likely due to the proposed evening opening hours of the premises. The proposal is therefore considered to be contrary to policy 2, of the Hot Food Takeaway Supplementary Planning Document, saved policies 10.1b and 26.1a of the UDP and policies SP1, C10 and DM1 of the Core Strategy

Proximity to Co-op Academy High School - The site lies approximately 25 metres from a secondary school, which is substantially within the 400 metre guideline specified by policy 3 of

the Hot Food Takeaway Supplementary Planning Document. In such cases, acceptable opening hours are specified, in order to minimise the use/reliance on hot food takeaways by younger people. In this case the premises seek operating hours of 6.00am to 10.00pm, which are far in excess of the recommended hours and the potential would be there to attract schoolchildren to the site. For this reason, the proposal is therefore considered to be contrary to policy 3, of the Hot Food Takeaway Supplementary Planning Document

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: 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 case it is considered that the concerns about the scheme are significant and fundamental and cannot be overcome with simple amendments. The proposal would not improve the social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. The applicant was invited to withdraw the application, but wishes to see it determined.

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

1) The proposed use is located outside an established and defined shopping parade/centre where hot food take away uses are usually considered to be appropriately located, to avoid any adverse impacts on the character or amenities of the occupiers of residential premises. The

proposed use is therefore considered to be contrary to saved policy DC10 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Manchester Core Strategy.

2) The use of the premises as a hot food take-away (sui generis use) would have a detrimental impact on the amenity of neighbouring residents, particularly in relation to those residing in the adjoining terraced properties on Hyde Road and Norman Street, due to the increase in the comings and goings to and from the premises, and associated noise, disturbance and increase in vehicular and pedestrian traffic particularly late at night. The proposed change of use is therefore contrary to the provisions of policies SP1, DM1 and C10, of the Manchester Core Strategy, saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and Policy 2 of the Hot Food Takeaway Supplementary Planning Document.

3) The proposed hot food take away would be situated within 400 metres of the Co-op Academy High School and would be open for business before the hours of 5.30 pm weekdays thereby exposing children to foods that contribute towards obesity. The proposed development is therefore contrary to the provisions of policies SP1 and DM1 of the Manchester Core Strategy, Policy 3 of the Hot Food Take Away Supplementary Planning Document and policy JP-P6 of the 'Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039', adopted in March 2024.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Co-op Academy Belle Vue, 450 Hyde Road, Manchester, M12 4BA
665 Hyde Road, Manchester, M12 5PS
661 Hyde Road, Manchester, M12 5PS
9 Norman Street, Manchester, M12 5PR
5 Norman Street, Manchester, M12 5PR
1 Norman Street, Manchester, M12 5PR
Flat 2, 659A Hyde Road, Manchester, M12 5PS
Flat 1, 659A Hyde Road, Manchester, M12 5PS
659B Hyde Road, Manchester, M12 5PS
Flat At, 655 Hyde Road, Manchester, M12 5PS
Flat 3, 659A Hyde Road, Manchester, M12 5PS
663 Hyde Road, Manchester, M12 5PS
655 Hyde Road, Manchester, M12 5PS
7 Norman Street, Manchester, M12 5PR
3 Norman Street, Manchester, M12 5PR
11 Norman Street, Manchester, M12 5PR
657 Hyde Road, Manchester, M12 5PS
Spiceland, 659 Hyde Road, Manchester, M12 5PS

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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA