

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139057/P3MPP/2024

Date registered valid: 22 January 2024

Proposal: Prior approval for the change of use for the first floor of the take-away storage area to 1no. x residential flat.

Address: 717 Stockport Road, Manchester, M19 3AG

Ward(s): Levenshulme Ward

Applicant: Mr Shouket Hussain Red Cherry

Agent (if any):

Case officer: Carl Glennon
Tel: 0161 234 4530
Email: carl.glennon@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 13 February 2024

Application details

Type of application: Prior Approval-Sui Gen to Dwell (Cl. M)

Development type: Notifications

Date of site visit: 7 February 2024

Standard consultations:

Printed: 22 January 2024 Expired: 12 February 2024

Neighbour notifications

Printed: 22 January 2024 Expired: 12 February 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

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The application site is located on the eastern side of Stockport Road and within Levenshulme District Centre. The property forms part of a two storey parade with varying roof heights situated between Matthews Lane and Jean Street. Neighbouring properties have a mix of uses, including residential accommodation. The immediately to the rear of the property is a car repair business with housing beyond. The ground floor of the property is used as a hot food take away with ancillary storage above.



Fig. 1 – Views of the application site from Stockport Road (Red Cherry Take Away)

Description of development

The proposal involves:

- i. The retention of the ground floor hot food take away. However, the ground floor would be reconfigured following the demolition of existing extension, and also include the introduction of single storey rear extension. The rear elevation [of the extension] would be partially recessed to facilitate the formation of separate entrances to the commercial and residential uses. The residential access would link to a reconfigured staircase providing access to the proposed apartment. Externally, separate bin storage has been identified for the respective uses.
- ii. The proposals would also involve the formation of a first floor extension that would increase the rearward projection of the property by 3 metres. The enlarged roof would incorporate a flat roof dormer extension and a front roof window.
- iii. The residential accommodation would comprise:
 - First floor – Kitchen/living/dining room and bedroom
 - Roof space – Bedroom and storage.

Details for the provision of external plant and equipment relating to the ground floor use, including an extraction flue, has not been provided.

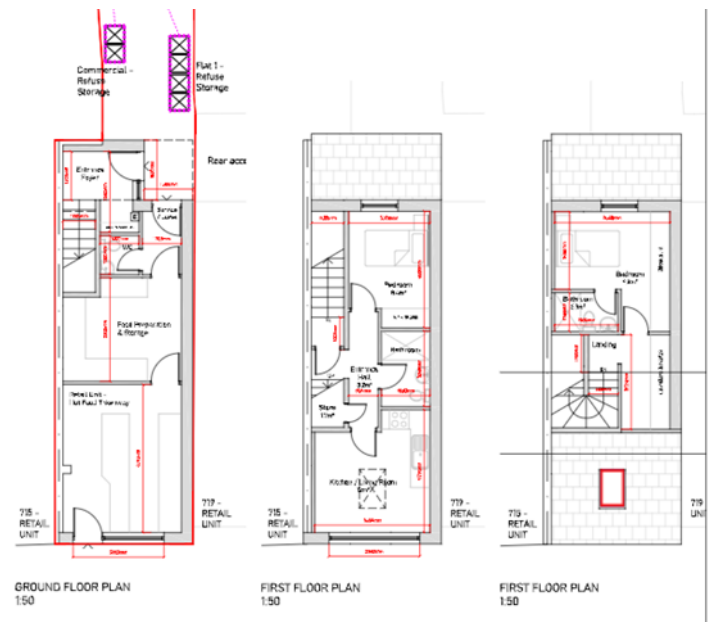


Fig.1 – Proposed layout

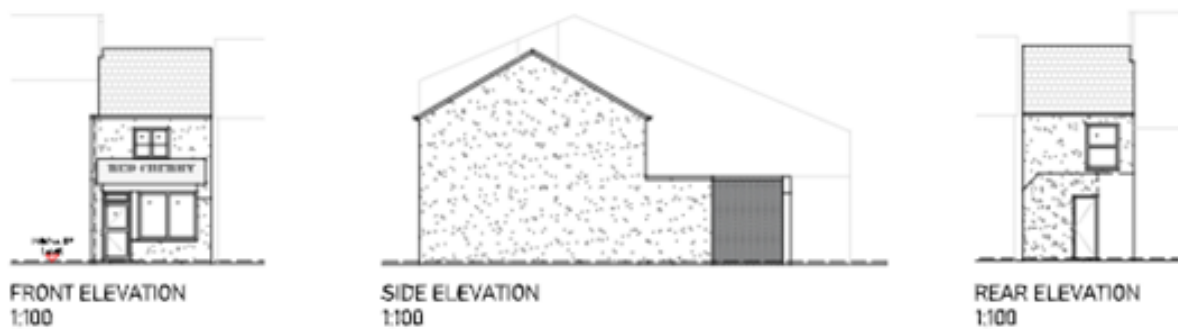


Fig.2 – Existing and proposed elevations



Fig.3 – Proposed elevations

Consultations & Notification Responses

Local residents – No comments received.

Environmental Health – The following concerns have been expressed:

- i. Noise and fumes – Insufficient detail has been submitted to determine if future occupants of the proposed flat could be protected from noise from adjoining uses or fumes and odours from the retained ground floor takeaways. This is particularly significant as the existing [ground floor] take away has the following permitted hours: Sunday to Thursday, 8.00 am to 12.00 Midnight and Fridays and Saturdays, 8.00 am to 1.00 am, which give rise to increased risk of

disturbance. The existing non-compliant extraction fume punctuates the front roof plane but excluded from the submitted drawings. The provision of alternative fume extraction measures has not been demonstrated or potential harm from odours discussed as part of the development.

ii. Waste and recycling – Due to the configuration of the internal layout and position of surrounding buildings, it is not apparent that residents would be able to access to proposed bin storage area. It is therefore not apparent that appropriate waste management and recycling arrangements could be achieved.

iii. Given the potential harm to residential amenity, it is recommended that the above issues are addressed prior to the determination of the application.

Highway Services – The following comments have been received:

i. It is not anticipate that the development will impact upon the operation of the highway as result of increased trips associated with the development.

ii. The provision of secured cycle storage for residents is recommended.

iii. Bin storage is acceptable from a Highways perspective. It is assumed that servicing and waste collection takes place from Jean Street and this arrangement will continue.

iv. The consent of the Council as local highways authority should be sought for any construction works affecting the highway.

Issues

Legislative requirements - The proposed development has been assessed with reference to:

Schedule 2 Part 3 Class M of the Town & Country Planning (General/ Permitted Development) (England) Order 2015 (as amended): Change of Use from Takeaways, Betting Offices, Pay Day Loan Shops or Launderettes (Sui Generis Uses); or a Mixed Use combining use as a Dwellinghouse (Use Class C3) with a Betting Office, Pay Day Loan Shop or Launderette (Sui Generis Uses); to Dwellinghouses (Use Class C3), and for building operations reasonably necessary for the conversion, which states:

Permitted development:

M. Development consisting of—

(a) a change of use of a building from—

(i) a use falling within one of the following—

(aa) launderette;

(bb) betting office;

(cc) pay day loan shop;

(dd) hot food takeaway; or

(ii) a mixed use combining use as a dwellinghouse with a use falling within one of the uses mentioned in paragraph (i)(aa), (bb) or (cc) (whether that use was granted permission under Class G of this Part or otherwise); to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order; or (b) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses).

M.1 Development is not permitted by Class M if—

(a) the building was not used for one of the uses referred to in Class M(a)— (i) on 20th March 2013, or

- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;
- (d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;
- (e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- (f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or
- (g) the building is—
 - (i) on article 2(3) land;
 - (ii) in a site of special scientific interest;
 - (iii) in a safety hazard area;
 - (iv) in a military explosives storage area;
 - (v) a listed building; or
 - (vi) a scheduled monument.

Conditions

M.2—(1) Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to— (a) transport and highways impacts of the development,

- (b) contamination risks in relation to the building,
- (c) flooding risks in relation to the building,
- (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—

- (i) on adequate provision of services of the sort that may be provided by a building falling within article 3(6)(c) (laundrette) of the Use Classes Order, but only where there is a reasonable prospect of the building being used to provide such services,

- (e) the design or external appearance of the building, and
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class M(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (d) and (f), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class M is permitted subject to the condition that—

- (a) development under Class M(a), and under Class M(b), if any, must be completed within a period of 3 years starting with the prior approval date;
- (b) a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse; and
- (c) where the proposed development includes a change of use of a building from a use falling within Class A1 or Class A2 of the Use Classes Order, the developer must apply for a determination under sub-paragraph (1) or (2) on or before 31 July 2021.

Assessment - The proposed development has been assessed with reference to the following relevant criteria of Schedule 2, Part 3, Class M:

- i. The submitted application forms confirm that the operation of the existing ground floor hot food take away pre-dated 20 March 2013.
- ii. The floorspace involved was used as ancillary storage supporting the ground floor use. The amount of existing floorspace to be converted to residential use would not exceed 25 sq. metres. This does not include floorspace lost to demolition or the additional space formed within the proposed extensions.
- iii. The building is not on article 2(3) land, in a site of special scientific interest, in a safety hazard area, in a military explosives storage area, a listed building or a scheduled monument.
- iv. The application property is located in Flood Zone 1 and the development would not present additional risk of flooding.
- v. Requirements relating the provision and retention of launderette services are not applicable.
- vi. It appears that appropriate natural light would be provided.

Notwithstanding the above, the development would not meet the following criteria:

- i. The development would involve the erection of a single storey rear extension and rear first floor and roof extensions. The requirements of paragraph M1 (e) would not be met as 'the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point'.
- ii. To facilitate the erection of the ground floor extension, the existing ground floor extension would be demolished. The development would fail to comply with paragraph M1 (f).
- iii. The development would require the removal of existing fume extraction equipment. The applicant has not satisfactorily demonstrated how the extraction of fumes and vapours would be managed in respect of the retained hot food take away use. The requirements of condition M2-(1)(b) regarding the management of contamination risk would therefore not be fulfilled.

Conclusion - The proposed change of use would fail to accord with the criteria of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3, Class M and therefore does not constitute permitted development.

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

Not applicable

Reasons for recommendation to refuse

The proposed change of use is not permitted as the required criteria of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3, Class M would not be met as the development involves:

- i. The erection of a single storey rear extension and rear first floor and roof extensions contrary to the requirements of paragraph M1 (e), which state that development is not permitted if it would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- ii. The demolition of ground floor extensions to facilitate the enlargement of the property as part of the development, which would be contrary to paragraph M1(f);
- iii. The removal of existing fume extraction equipment without due regard to the satisfactorily future management of fumes and vapours extraction and related contamination risk from the retained ground hot food take away use (Sui Generis). The requirements of condition M2-(1)(b) relating to the management of contamination risk would therefore not be fulfilled.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Top Flat, 715 Stockport Road, Manchester, M19 3AG
715 Stockport Road, Manchester, M19 3AG
719 Stockport Road, Manchester, M19 3AG

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: NORTH AREA