MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	138419/FO/2023
Date registered valid:	4 December 2023
Proposal:	Change of use from retail (Class E) to hot food takeaway (Sui Generis) with new shop front and erection of extraction flue to rear.
Address:	62 Bury Old Road, Manchester, M8 5BN
Ward(s):	Crumpsall Ward
Applicant:	Mr Ifraz Nabi
Agent (if any):	Mr Ahmed Choudhry, NADA Architects
Case officer:	Janine Renshaw-Livesey Tel: 0161 234 4555 Email: janine.renshaw-livesey@manchester.gov.uk
Recommendation:	Refuse
Date of recommendation:	29 January 2024

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 11 December 2024.

Standard consultations:
Printed: 6 December 2023 Expired: 27 December 2023

Neighbour notifications
Printed: 6 December 2023 Expired: 27 December 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/proposal

Listed building: Not applicable.

Conservation area: No

Tree Preservation Order: No

The property that is the subject of this application is identified as 62 Bury Old Road. The property lies within a parade of commercial properties within the Cheetham Hill District Centre.

The application seeks consent to change of use from retail (Class E) to hot food takeaway (Sui Generis) with new shop front and erection of extraction flue to rear.

The site is set back of the pavement line, adjacent to the adopted highway. Bury Old Road has a Limited Waiting bays (1 Hour, No Return Within 1 Hour Mon-Sat 7am-7pm Except for loading/unloading), No Waiting at Any Time and No Loading at Any Time.
The parade consists of 18 commercial premises including the application site. Five of which including the application site are hot food takeaways.

Hours of Operation

Monday to Sunday including Bank Holidays:

Start Time: 11:00- End Time: 01:00

Site History

F09329 Alterations to shop front of existing Gas Showroom and Service Centre. 1. The development must be begun not later than the expiration of five years beginning with the date of this permission. Approve

F/AD01894 Illuminated individual letter fascia sign on front elevation of gas showroom. Approved

F/AD01846 Illuminated double sided box sign on front elevation of gas showroom, projecting over highway. Approve

Consultations & Notification Responses

The occupiers of the surrounding properties were consulted, and four letters of objections were received and one letter supporting the proposal, the issues raised are set out below.

- Increase traffic in the area when the area is already experiencing high traffic and parking demands.
- Noise and Disturbance
- Increase anti-social behaviour in the area.
- Affect crime levels.
- Loss of privacy level due to people sitting in cars when consuming food.
- Increase of hot food takeaways in the area.

Response to objections.

Some of the issues raised by residents in terms of traffic and parking issues, anti-social behaviours and crime levels in the area already appear to exist. However, the impact of implementation of another hot food takeaway is under consideration.

Highways requested further details from the applicant relating to the impact of the proposal on the highway, and on balance the highways team support the proposal. However, highways commented that the applicant confirmed the development will operate a delivery service. It is currently envisaged that the deliveries will operate after 6pm and will be operated by Deliveroo and Just Eat.

The applicant states that a shared car park is in place at the rear of the property, and this will be used by vehicles. Additionally, the Limited Waiting Bays will be utilised. The applicant confirms that they will inform drivers to use the car park and bays when collecting deliveries.

It is requested that a delivery management strategy is in place, regularly monitored and where necessary updates made. This should also aim to control the level of cycle parking on-street to ensure that pedestrian movements are not impinged. Therefore, taking into account the need for further monitoring of the operation of the site, it is considered the highways impacts of the proposal are acceptable.

Greater Manchester Police have confirmed they support the proposal subject to security measures be incorporated into the proposal.

With regards to Environmental Health impacts on current amenity levels within the district centre, it is considered appropriate worded conditions applied to the consent should satisfy requirements to operate the development in a satisfactory manner. Such conditions should include the restriction of the hours of operations, acoustic attenuation to control noise and effective attenuation of the external plant and equipment including the flue to prevent noise and smells. Therefore, in the absence of any objections raised by statutory consultees and the appropriate use of planning conditions, it is considered the concerns raised by residents can be satisfactorily mitigated.

Issues

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th of 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:

SP1 - Spatial Principles
DM1 - Development Management 1
C1 - Centre Hierarchy
C2- District Centres

The relevant UDP policies for this application are:

DC10 Food and Drink Uses

Hot Food Take Away SPD (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.

In particular NPPF states that in terms of design:

135. 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;
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.

139. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

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.

Cheetham Hill District Centre is identified as a local centre by the Core Strategy (2012) under policy C2.
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 local 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 daytime 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 SP1 of the hot food take away SPD, 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 daytime and nighttime economy and the health of the population.

In accordance with SP1, 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.

o 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/ (Sui Generis) uses.

A Cheetham Hill District Centre Survey has been undertaken which demonstrate the Cheetham Hill District Centre has currently 13% of units are used hot food takeaways. Therefore, the implementation of this scheme would take the number of hot food takeaways to an unaccepted level, contrary to policy.

Therefore, the number of existing hot food take aways exceeds the limitations set by policy SP1 as the proportion of hot food takeaway is more than 10%. The proposal is considered to be contrary to C10, C2 and SP1 as it would further harm the vitality and viability of the local centre.

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. Officers have communicated their concerns about this proposal to the applicant before and 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 addition of a further hot food takeaway (sui generis) use would undermine the aim of achieving an appropriate balance of uses in Cheetham Hill District Centre and further erode the retail and daytime function of the district centre. 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, C10, SP1 and DM1, 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
Greater Manchester Police
Salford City Council

First Floor, 58A Bury Old Road, Manchester, M8 5BL
Recording Studio Rear Of 62, Bury Old Road, Manchester, M8 5BN
64 - 68 Bury Old Road, Manchester, M8 5EL
58A Bury Old Road, Manchester, M8 5BL
56 Bury Old Road, Manchester, M8 5BN
60A Bury Old Road, Manchester, M8 5BN
58 Bury Old Road, Manchester, M8 5BN
60 Bury Old Road, Manchester, M8 5BN
8 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
9 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
10 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
11 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
12 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
13 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
14 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ
15 King Edward Buildings, 11 Bury Old Road, Salford, M7 4QJ

Appendix 2 – Planning constraints

Article 4 Direction - North Manchester PD Restriction - Class B1(a) To C3
Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA