

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137204/FO/2023

Date registered valid: 30 June 2023

Proposal: Installation of new shop front and extraction flue to the side of the building; creation of internal bin store and creation of external seating area with associated balustrading.

Address: 365 Barlow Moor Road, Manchester, M21 7FZ

Ward(s): Chorlton Park Ward

Applicant: Mr M Ilyas Chaudhury

Agent (if any): Mr V Alyas, Architek

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

Recommendation: Approve

Date of recommendation: 29 November 2023

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 11th August 2023

Standard consultations:

Printed: 13 July 2023 Expired: 3 August 2023

Neighbour notifications

Printed: 13 July 2023 Expired: 3 August 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

The application property relates to an extended end of terrace property with commercial ground floor unit and residential accommodation above and to the rear. A narrow alley separates the application property from two storey residential properties to the northwest. A small forecourt hardstanding area lies to the front and an alley gate to the side restricts access to a small rear yard area.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The remainder of the area is a mix of residential and commercial properties. There are mainly commercial to the ground floor with residential above as is the proposal site. The commercial occupies the roads that sit at all 4 points of the junction of Barlow Moor Road and Mauldeth Road West. Opposite the site on Barlow Moor Road is Chorlton Park Primary School. With the Metrolink line running across the junction of the two roads.

Description of development

The proposal is for the installation of new shop front and extraction flue to the side of the building; creation of internal bin store and creation of external seating area with associated balustrading. The use proposed for the ground floor of the property is as a cafe serving a maximum of 20 covers, which falls within the same use class as the previously operating general store (Use Class E). Therefore, it is only the physical changes referred to above that are under consideration as part of the current application.

Consultations & Notification Responses

Local Residents were informed- two representations have been received, the main points of concern being as follows:

Some of the works have already been carried out. The new shop front is in, and internal works have been done.

There are existing parking problems, with people parking across residents' driveways which means that you can sometimes either not be able to get out of your driveway, or get back on to it. Some of the forecourt at the front is used for parking by people visiting the commercial uses, however the external seating area will remove some of that. This means that people will park across the cycle path.

The proposed opening hours are too long for a take-away use. The previous use was only open until 5:00pm. A take-away with later hours will result in a change in character of the area.

The use will introduce a take-away in close proximity to a primary school, which Manchester City Council discourages.

The installation of an extraction flue will introduce constant noise from the fan and vibration, and fumes from what is being expelled. This will cause a problem due to the close proximity of the occupants of the flats to the first floor.

Environmental Health- no objections subject to the attachment of a conditions requiring confirmation that the approved mitigation measures have been implemented in accordance with the approved scheme, a schedule of the days and hours of operation of the external seating area, Noise-external equipment and waste management.

Highways- no objections subject to the attachment of conditions requiring the door to the bin store to be inward opening rather than outward opening, and all furniture should be stored internally within the premises outside of operational hours.

Issues

Policy

Class E

Commercial, Business and Service

Use, or part use, for all or any of the following purposes:

- a) Shop other than for the sale of hot food
- b) Food and drink which is mostly consumed on the premises
- c) the following kinds of services principally to visiting members of the public
 - i. financial services
 - ii. professional services (other than medical services)
 - iii. any other services which it is appropriate to provide in a commercial, business or service locality
- d) Indoor sport and recreation (not swimming pools, ice rinks or motorised vehicles or firearms)
- e) Medical services not attached to the residence of the practitioner
- f) Non-residential creche, day centre or nursery
- g) i) office ii) the research and development of products or processes or iii) any industrial process, (which can be carried out in any residential area without causing detriment to the amenity of the area)

The application is also subject to assessment under the following policies within the development plan:

Unitary Development Plan

The following saved policies from the Unitary Development Plan are also considered to be

relevant.

Policy DC26 - Noise

Policy DC26.1 - Has been related to the actual and potential contribution of the use on the local noise environment, its impact on residential character and amenities of the area.

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.

The proposal in this application is considered to be a potential noise source based on the nature of the age groups it seeks to accommodate.

DC10.1 - Food and Drink

In determining planning applications for developments involving the sale of food and 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.

Policy 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.

Policy 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.
- c. Policy DC10.4
- d. 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, and the storage of refuse and collection of litter.

Policy DC14 applies to all retail premises and to other commercial premises, which have similar physical characteristics e.g. betting shops, banks, building society offices, optician's premises etc.

DC14.1

In determining applications relating to these premises for shopfronts, security grilles, advertisement signs, canopies and awnings, the council will seek to ensure that the proposals are in keeping with the character of the building and adjoining buildings, of adjoining shop fronts, where appropriate, and of the area within which the premises are located

Issues

Principle

Consent is sought for the flue on the side elevation and installation of new shop-front to the front elevation of a ground floor commercial property only, together with the creation of an internal bin store and external seating area to the front of the property. The property is to change the nature of a Class E general store to that of a Class E cafe. The principle of locating food and drink uses into this existing commercial property has been established through the General Permitted Development Order Use Class 2020. Such premises almost inevitably require flues therefore the principle of a flue and alterations to the shopfront are considered acceptable. However this is subject to the assessment of the impact upon visual and residential amenity.

Design

The flue is proposed to be sited along the side elevation of the property, and is set well back from the property frontage it is typical of a flue that would serve a use of the proposed nature. It is in comparable locations to flues that are present on other properties within the local, and it is not considered that the proposed flue would have a detrimental impact upon the character of the property itself, nor the area within which it is located. The suitability of the proposed flue will be assessed further into the report.

Revised drawings were received on the 29th October 2023 which included additional detail on the flue with regards to the air intake and the set up with regards to the number of covers. The proposed new shop front comprises of a glass door and a fixed glazed full length windows. The external seating area would comprise of removable 1.2 metre high barriers enclosing 2 tables with 4 seats each. All the furniture is portable. The use of materials are common for this form of development and can be seen within the local vicinity for similar commercial properties. The roller shutter is the same mechanism that has been present on the property as its previous use as a general store.

Scale

The exit point at which the top of the flue sits is 1 metre above roof level and will be situated therefore a much greater distance from the window that sits within a recessed area on the side elevation that serves the flats on the first floor. The flue is relatively slim and is considered of an appropriate scale for the location. The seating area to the frontage is modest in scale and will contain 2 tables only within the enclosed forecourt.

Noise

Assessment of the proposal required additional information to be submitted. Following the supplementary information Environmental Health colleagues assessment has found the mitigation measures to be acceptable and a condition will be attached to any consent granted to ensure that the proposed works are carried out in accordance with the approved details, and to ensure that the external equipment for the kitchen extraction system is implemented as approved. A post-installation assessment confirming that the works conform to the appropriate industry standard shall be submitted and approved by the City Council as local planning authority.

Residential Amenity

The application site is located within the local commercial centre with commercial properties being located along each point of the junctions of Barlow Moor Road and Hardy Lane. There are flats above the unit to the first floor and residential properties in the form of semi-detached dwellinghouses to the west of the site, these being separated from 365 Barlow Moor Road by the alleyway (partially gated) that runs alongside between the commercial and residential. It is acknowledged that either living above or adjacent to an established commercial terrace will have some disamenity associated with it, however there should still be a reasonable expectation of being able to enjoy your property though mitigation measures conditioned to that effect. It is considered that as the proposal has a change in the use, the measures proposed should be appropriate to safeguard residential amenity. The proposed changes to the shop front would not result in a detrimental impact, and the flue will be conditioned to ensure that the effects are not detrimental, however the external area could have the potential for disamenity if the hours are not controlled. A condition requiring the submission of a schedule of the days and hours of the use of the external areas shall be attached to any consent granted.

As the proposed use sits within the same use class as the previous use, planning consent is not required for the change, and as such the use is not being considered as part of the application. There was a previous application for change of use to a hot food take-away (Sui Generis), following the advice that this use in this location would not be supported, was withdrawn

Visual Amenity

As noted above, the external equipment will be sited approx. 1.0 metre above the roof level. Given the pitch of the roof the flue will not be highly visible from properties to the south east and west of the proposal site, and to the west will be mainly screened by the row of the residential properties. There are no windows in the side elevation of the residential property at number 367 Barlow Moor Road and given how far back down the alley way that the flue is to be positioned, it would not be visible to that property from the habitable room windows.

Elevational drawings and submitted supporting information indicate the flue will comprise of galvanised steel ducting. Given the distance and the small- scale nature of the development and physical buildings intervening, there will be limited views within the residential properties. Notwithstanding this, the development is typical of the associated plant for commercial kitchens at the rears of similar premises. The proposed external alterations to the front elevation together with the use of will enhance the frontage to create a fresh image of the building, and the use of quality materials will further improve the visual amenity of the area. The predominately window glazed shop front and entrance doors will not detract from the character and appearance of the premises or the surrounding local

Street-scene, in accordance with policies DM1 and DC14, due to the transparent character and appearance of the shopfront. Therefore, it is deemed that the proposal is acceptable as it is considered that works would not adversely affect the appearance of the building or visual amenity within the area.

Proposed signage

It should be noted that the proposed elevations drawings dated 29th October 2023 indicate a shop fascia signage located along the front elevation, this will require sperate advertainment consent and thus an informative has been included to ensure is the case.

On the basis of the above and subject to the conditions as recommended the proposal is acceptable in accordance with saved UDP policies DC10, DC14 and DC26 and with Core Strategy policies SP1 and DM1.

Other Concerns

The objection letters received mainly centre around the use of the property as a restaurant and the associated car parking and traffic issues in connection with the change of use. It should be noted that given the Use Class has already been established (Class E) this conversion of the property can be completed under permitted development. This application therefore cannot assess the introduction of a restaurant in this location and the associated car parking.

Ultimately, this application can only be assessed on the installation of a new shopfront and flue extraction to the side together with the creation of an enclosed seating area to the frontage which the above sections outlined.

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: Approve

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, officers have engaged in discussions with the applicant's agent and appropriate conditions have been attached to any approval granted.

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

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Kitchen Odour Assessment and Design Guide received by email 29th October 2023.

A101 Rev P1 Site Location Plan dated 7th June 2023

A104 Rev P3- Proposed Floor Plan received 29th October 2023.

A105 Rev P3- Proposed Elevations received 29th October 2023.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.

3) The materials to be used throughout the proposal hereby permitted shall be implemented in accordance with the approved details as set out in the Application Form specified in Condition 2 of this approval.

Reason- In order to ensure a satisfactory appearance in the interests of visual amenity in accordance with saved policies DC1 of the Unitary Development Plan for the City of

Manchester, SP1 and DM1 of the Manchester Core Strategy and the requirements of the National Planning Policy Framework.

4) a) The development hereby approved shall be carried out in accordance with 'Supporting Information- Kitchen Odour Risk Assessment and Design Guide dated 25th October 2023 and received 29th October 2023 by the City Council as Local Planning Authority in relation to fumes, vapours and odours extracted and discharged from the premises. These measures shall be implemented before first occupation of the premises and maintained in place as long as the use is in operation.

b) Prior to commencement of the use hereby approved confirmation shall be submitted for the approval of the City Council as local planning authority that the approved scheme has been implemented.

Reason - In the interests of the amenities of the occupiers nearby properties and policies SP1 and DM1 of the Core Strategy for the City of Manchester and saved policy DC10 of the Unitary Development Plan.

5) A schedule of days and hours of operation of the external seating area shall be submitted to and approved in writing by the City Council as local planning authority, once approved the external seating area shall not be used outside of the agreed hours and shall not allow for the use of amplified sound or any music in these external areas at any time.

Reason - To safeguard the amenities of the occupiers of nearby properties. pursuant to saved policy DC26 of the UDP and policy DM1 of the Manchester Core Strategy.

6) Before first occupation of the development, the building, together with any externally mounted ancillary equipment shall be acoustically insulated in accordance with a scheme submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the equipment.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy.

7) All furniture used in the external seating area should be stored internally within the premises outside of the agreed operational hours.

Reason

In order to prevent unnecessary obstruction of the adjacent highway pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

8) Notwithstanding the detail shown on drawing ref A104 Rev P3 and A105 Rev P3, the door to the internal bin store shall open inwards as opposed to outwards over the adopted alleyway as shown on the drawing.

In the interest of public safety in the vicinity of the bin storage area pursuant to policies SP1, EN19 and DM1 of the Core Strategy for the City of Manchester.

9) a) Before the development commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority.

New developments shall have refuse storage space for segregated waste collection and recycling. Internal and external storage areas are required.

b) The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health pursuant to policy SP1, EN19 and DM1 of the Core Strategy for the City of Manchester.

Informatives

1) The applicant only has bins for general waste and mixed recycling. Bins for food waste and pulvable recycling will also be needed.

The proforma/ Waste Management Strategy must include the following information:

1 Estimated volumes and types of waste produced by the development;

2 Details of internal and external stores for both waste and recycling, including any plans and designs;

3 Location of the proposed collection point and details of the route the collection vehicle will take;

4 Details of how waste will be transferred between stores and to the collection location; and

5 Details of number and capacity of bins proposed and collection frequency.

6 Other details as per 'Waste Proforma v1.0' - refer to guidance

at:http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

Flat 3, 365A Barlow Moor Road, Manchester, M21 7FZ
Flat 2, 365A Barlow Moor Road, Manchester, M21 7FZ
Flat 1, 365A Barlow Moor Road, Manchester, M21 7FZ
363A Barlow Moor Road, Manchester, M21 7FZ
Chorlton Park Primary School, Mauldeth Road West, Manchester, M21 7HH
14 Aveson Avenue, Manchester, M21 8EY
361 Barlow Moor Road, Manchester, M21 7FZ
361A Barlow Moor Road, Manchester, M21 7FZ
12 Aveson Avenue, Manchester, M21 8EY
Flat Above, 363 Barlow Moor Road, Manchester, M21 7FT
2 Hardy Lane, Manchester, M21 7JZ
359 Barlow Moor Road, Manchester, M21 7FZ
369 Barlow Moor Road, Manchester, M21 7FZ
367 Barlow Moor Road, Manchester, M21 7FZ

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: SOUTH AREA