

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135106/FU/2022
Date registered valid: 24 November 2022
Proposal: Change of use to form retail shop (Class E)
Address: 269 Upper Brook Street, Manchester, M13 0HR
Ward(s): Ardwick Ward

Applicant: Mr A Buali
Agent (if any): Younus Khan
Case officer: Carl Glennon
Tel: 0161 234 4530
Email: carl.glennon@manchester.gov.uk

Recommendation: Approve
Date of recommendation: 17 April 2023

Application details

Type of application: Change of use Consent

Development type: Change of use

Date of site visit: 17 January 2023

Standard consultations:

Printed: 6 December 2022 Expired: 27 December 2022

Neighbour notifications

Printed: 1 December 2022 Expired: 22 December 2022

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 relates to a shop unit within a 7 unit parade of shops. The immediate area is characterised by a mix of commercial and retail uses and MRI is location of the opposite (western side of the Upper Brook Street. The parade comprises of:

3 x Class E uses (1 x estate agent & 2 restaurants)

3 x HFTA

1 vacant unit (the application property)

The parade from the ground floor of a 3-storey terrace with the upper two floors comprising of red -brick elevations and continuous grey slates roof with the eaves line punctuated with hipped pitched dormer features. The application property is characterised by a ground floor lean-to roof spanning the frontage with No 267. The site incorporates a forecourt which has been partially enclosed by structure to neighbouring units. The sub-division of the application property from No 267 has taken place. No 267 remains in the applicant's ownership. A HFTA continues to operate at No 267. (The operation of hot food take way appears to the historically established with planning permission ref: 054226/FO/CENTL2/98 referencing a single storey extension to restaurant kitchen.)

The rear yards at ground floors have been enclosed by additions to single storey lean-to extension. A number of properties include enclosed staircases to upper floors. Bin storage occurs in the rear alleyway. Rear gardens to houses are located to the north-east of the alleyway.



Fig.1 – Views to the front and rear of the application site.

Description of development

The development would maintain the existing layout of the ground floor and the related shopfront. To the rear a new access door would be formed in external elevation of a yard area that is enclosed by a lean-to roof. The door would facilitate access into the rear alleyway, including the transfer of bins. A Class E use has been applied for and the layout relates to a barber shop with an ancillary kitchen and WC. Proposed opening hours are: Monday to Saturday: 9.00 am to 10.00 pm and Sunday and Bank Holidays: 10.00 am to 5.00pm

Consultations & Notification Responses

Local residents – One email of objection has been received and raises issues of potential competition between proposed and existing neighbouring retail uses. Such considerations are not relevant to the consideration of the planning application.

Highway Services – The following comments have been received:

- i. The level of trips generated by the development would be similar to the previous use with trips dispersed across the day. It is also anticipated that a number of trips will be taken on foot via sustainable modes or as part of linked pass-by trips to other destinations.

- ii. The development is not supported with on-site parking and the area has significant demands for on-street car parking. However, this may be offset by local connectivity via sustainable modes.
- iii. A refuse storage area is noted to the rear of the site, with collection from Tennyson Street via an adopted rear alleyway. This approach is considered acceptable.
- iv. Servicing demands associated with the site will be minimal and therefore give rise to no significant highways impact.
- v. The applicant should be advised that any requirements for licensing, hoarding / scaffolding, skips and any associated temporary traffic management arrangements should be agreed with the City Council as local planning authority.

Environmental Health - No objection but the following recommendations have been made:

- i. Opening hours should be conditioned as applied for, i.e., Monday to Saturday: 9.00 am to 10.00 pm and Sunday and Bank Holidays: 10.00 am to 5.00pm.
- ii. Deliveries, servicing and collections, including waste collections should be conditioned and not take place outside the following hours: 7:30 am to 8.00 pm, Monday to Saturday with no deliveries/waste collections on Sundays/Bank Holidays.
- iii. The development should be conditioned to prevent the undue transfer of noise from the ground floor application property to residential uses above prior to occupation of the development.
- iv. Any required externally mounted equipment should be conditioned to secure appropriate noise insulation prior to the occupation of the development.
- v. The development should be related to a condition to ensure that satisfactory waste and recycling management information is submitted, approved and implemented as part of the development.

Greater Manchester Police Design for Security – No objection but the following recommendations have been made:

- i. Any new external fittings (i.e. shutters, windows or doors) should be certified to Secured by Design standards.
- ii. Any new glazing in external doors, ground floor or easily accessible windows should include at least one pane of laminated glass.
- iii. A CCTV system should be included within these premises and include monitoring of external doorways and all internal spaces.
- iv. An intruder alarm should be installed with contacts on all external doors and with movement detectors. The alarm should be monitored by an appropriate body.
- v. Signage should be displayed to indicate the areas of the premises that are restricted to staff only.
- vi. Areas restricted to staff should be access controlled.
- v. Dusk 'til dawn lighting should be installed above all external doors.

Issues

National Planning Policy Framework - This Framework came into effect on 27th March 2012 and was amended and updated in July 2021 and sets out the Government's planning policies for England and how these are expected to be applied. It defines the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so'. It provides a mechanism through 'which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities'.

The Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations

indicate otherwise. The statutory status of the development plan remains as the starting point for decision making. It states that 'at the heart of the Framework is a presumption in favour of sustainable development' and, in 'decision-taking', this means that development proposals should accord with the development plan should be approved without delay unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted. The Framework has been related to the proposed development, with particular emphasis given to the following:

Chapter 8: Promoting healthy and safe communities - States that planning decisions should aim to achieve healthy, inclusive, accessible and safe places, where crime and disorder (and the fear of crime) do not undermine the quality of life or community cohesion. These considerations have been related to the layout and design of the proposed development and the incorporation of measures to address issues of security and potential opportunities for criminal and anti-social behaviour. It is not considered that development would present new security concerns and the incorporation of measures included in the crime reduction informative would potentially reduce the risk of crime.

iii. Chapter 9: Promoting sustainable transport - States that in assessing specific applications for development, it should be ensured that:

- a) Appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- b) Safe and suitable access to the site can be achieved for all users; and
- c) Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

The development is within a sustainable location with access regard access on foot and via public transport. Whilst the development may result in some traffic generation any impact would be consistent with the established operational characteristics of the surrounding parade and would not depart from existing circumstances.

iv. Chapter 11: Making effective use of land - States that planning decisions should promote an effective use of land. The development would secure a sustainable use for existing Class E floorspace and Chapter 11 would therefore be accorded with.

v. Chapter 12: Achieving well-designed places - States that 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. The development would not result in significant changes to the appearance of the building and its relationship to the surrounding context would not change.

Planning Practice Guidance - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource and is relevant to key planning issues of significance to applicants and local authorities. In considering this application consideration has been given to the following aspects of the PPG:

- i. Consultation and pre-decision matters
- ii. Health and well-being
- iii. Noise

For the reasons set out below, it is considered that the development would be satisfactorily related to the above.

Manchester's Local Development Framework: Core Strategy - The Core Strategy Development Plan Document 2012 -2027 ('the Core Strategy') was adopted by the Council on 11th July 2012. 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. The following policies are relevant to the proposed development:

Policy SP 1 - Specifies the Core Development Principles for parts of the City. In this case the relevant principles relate to the extent to which the development:

- i. Makes a positive contribution to neighbourhoods of choice including the creation of well designed places that enhance or create character; making a positive contribution to the health, safety and well-being of residents, considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income and to protect and enhance the built and natural environment;
- ii. Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- iii. 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.

It is considered that the introduction of Class E use would improve the diversity of the retail and commercial offer within the parade and secure a sustainable use for a vacant unit. The related activity would be acceptable given the characteristics of the development. Moreover, the related impact is likely to be less significant than the neighbouring hot food take away operation. There would be no change to existing access arrangements the shop unit would be maintained. It is therefore considered that the development would be satisfactorily related to policy SP1.

Policy EC1 Employment and Economic Growth in Manchester - The relevant sections of policy EC 1 include the contribution of the development to:

- o Improving access to jobs for all via public transport, walking and cycling;
- o Demonstrating that employment-generating development has fully considered opportunities to provide jobs for local people, through construction or use;
- o Ensuring the continued social, economic and environmental regeneration of the City.

The development would deliver small scale employment opportunities and would therefore be appropriately to policy EC1.

Policy EN 14 (Flood Risk) - Relates to the provision of appropriate drainage and the management of flood risk. The development site is in Flood Zone 1 and the scale of the development would not usually have a significant increase the risk of flooding.

Policy EN19 (Waste) - Requires consideration of the submitted details relating to determine if the applicant has satisfactorily demonstrated how:

- i. Both construction and demolition waste will be minimised and recycled on site wherever possible;
- ii. The sustainable waste management needs of the end user will be met.

Policy EN19 has been related to the proposed waste management arrangements, which have demonstrated that waste and recycling can be stored within the rear yard appropriately managed as part of the development.

Policy T1 Sustainable Transport - Relates to the delivery of sustainable, high quality, integrated transport system, which encourages a modal shift away from car travel to public transport, cycling and walking and prepare for carbon free modes of transport. In this case, the application site is in a sustainable location with easy access to bus routes. Cycle storage would not be provided. On balance, policy T1 has been responded to positively.

Policy DM1 Development Management - States that all development should have regard to the following specific issues, which are relevant in relation to the proposed development:

- o Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development;
- o Development should have regard to the character of the surrounding area;
- o Effects on amenity;
- o Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes;
- o Community safety and crime prevention;
- o Design for health;
- o Refuse storage and collection;
- o Vehicular access and car parking;
- o Flood risk and drainage.

The development would be related to the existing configuration of the external layout and shopfront, including the retention of an existing shopfront and stepped access. There would therefore be no change in the existing circumstances with regard to access. It is not considered that the development would harmfully affect residential amenity. Moreover, operational condition would aid the management of the premises. Improvements to security can be achieved based on the advice of GM Police. The site has the capacity to secure appropriate waste management. It is likely that the premises would be used by residents thereby reducing traffic generation. The development would not introduce any apparent additional flood risk. Policy DM1 would thereby be positively related to.

Unitary Development Plan (UDP) saved policies - The following saved policy is considered to be relevant:

Policy DC26 Development and Noise - Is relevant to the proposed development due to its potential to generate noise and disturbance through the operation of the proposed use and any external associated equipment. The following aspects of this policy (DC26) are considered to be relevant to the proposed development.

Policy DC26.1 - Has been related to the proposal potential contribution of the development to the local noise environment.

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. This is particularly relevant given the proximity of the site to established residential uses.

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

Based on the comments of Environmental Health, it is considered that these noise outbreak issues from the ground to the upper floor can be addressed by condition. There is no apparent requirement for external plant and equipment as part of the development but a condition has been included to ensure that any future plant installation incorporate satisfactory noise attenuation. The above spaces of policy DC26 would thereby be accorded with.

Positive and proactive engagement with the applicant - An amendment to the DMO, which came into effect on 1st December 2012, requires every decision notice relating planning permission and reserved matters application to include an explanation as to how the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems, which arise during the determination of the planning application. This includes the identification of issues and 'problems' associated with the proposals that have required positive consideration, dialogue and negotiation to secure positive outcomes.

In this case, the applicant was asked to clarify the details of external alterations forming part of the development. Consideration of the originally submitted and supplementary details has facilitated the appropriate assessment of the planning application.

Principle of the development - The proposed use would be appropriate in an established shopping parade. Given the specific nature of the proposed Class E use, it is anticipated that visits would be transient with limited duration and thereby consistent with the characteristics of the shopping parade. The development would aid to the viability and vitality of the shopping parade. The principle of the development is thereby considered to be acceptable.

Inclusive access – Given the limited depth of the forecourt, the provision of inclusive access would be difficult to achieve. Properties at Nos. 265 and 271 – 273, have incorporated access ramps that cover adjacent forecourt areas and have had a significant visual impact. Given the magnitude of the development and that there would be no change in the existing circumstances the absence of level thresholds would be acceptable in this case.

Residential amenity – Given the characteristics of the locality, upper floor residents will be accustomed with some noise and activity associated with the operation of ground floor shops. Levels of noise and disturbance associated with the proposed Class E use, potentially would have a lesser impact than the previous hot food take away use. Notwithstanding the above, the applicant has agreed to a condition that would ensure that noise transfer is managed through an acoustic attenuation condition. The existing circumstances would thereby be improved.

Opening and servicing hours – In a busy located to following opening hours (as applied for) are appropriate: Monday to Saturday: 9.00 am to 10.00 pm and Sunday and Bank Holidays: 10.00 am to 5.00pm.

The following servicing hours have also been conditioned: 7:30 am to 8.00 pm, Monday to Saturday with no deliveries/waste collections on Sundays/Bank Holidays.

These conditions would provide further safeguards to residential amenity.

Car parking and highways issues – Given the magnitude of the proposals it is considered that related traffic generation can be accommodated into the highway. Potential car parking would be managed through the existing double yellow lines on the adjacent section of Upper Brook Street.

Crime reduction and site security – The recommendations of GMP Design for Security are capable of being incorporated into the development and have been related to it as an informative.

Waste management – The applicant has demonstrated that bins can be stored in the enclosed yard area. A condition has been included to ensure that the development is related to appropriate bin capacities and the proposed door has sufficient width to facilitate the transit of bins for collection. This condition has been agreed.

Land conditions - No specific land contamination issues have been identified by Environmental Health. The development relates to a change of use without a requirement for extensions or any other related ground works.

Flood risk - The site is in Flood Zone 1 and has a relatively low risk of flooding. The development would not significantly affect the existing circumstances and there would be no apparent additional increased risk of flooding.

Conclusion - It is considered that the development would secure a sustainable and active use for a vacant premises thereby adding to the viability and vitality of the existing shopping parade. The impact of the development would be capable of being managed through the operational conditions.

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, the applicant was asked to clarify the details of external alterations forming part of the development. Consideration of the originally submitted and supplementary details has facilitated the appropriate assessment of the planning application.

Condition(s) to be attached to decision for approval

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 stamped as received by the City Council as local planning authority on 30 September 2022, 16 November 2022 and 3 February 2023 :

Planning application forms

Location plan with a red edge

Existing & proposed ground floor plan, existing & proposed cross sections and existing elevations Ref: 3604/01 Rev A

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 for the City of Manchester.

3) The authorised development relates the use of the ground floor of 269 Upper Brook Street for Class E (Commercial, business and service) use with ancillary basement accommodation.

Reason – For the avoidance of doubt and in the interests of local amenity, pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester.

4) The premises shall not be open outside the following hours: Monday to Saturday: 9.00 am to 10.00 pm and Sunday and Bank Holidays: 10.00 am to 5.00pm.

Reason - In interests of residential amenity and to reduce noise and general disturbance in accordance with policies SP1 and DM1 of the Core Strategy for the City of Manchester and saved policy DC26 of the Unitary Development Plan.

5) Deliveries, servicing and collections, including waste collections should be conditioned and not take place outside the following hours: 7:30 am to 8.00 pm, Monday to Saturday with no deliveries/waste collections on Sundays/Bank Holidays.

Reason - In interests of residential amenity and to reduce noise and general disturbance in accordance with policies SP1 and DM1 of the Core Strategy for the City of Manchester and saved policy DC26 of the Unitary Development Plan.

6) a) Before the commencement of the development, the premises shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority. The scheme shall be implemented in full before the occupation of the development.

b) Prior to occupation of the development a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to policies SP1 and DM1 of the Core Strategy for the City of Manchester and saved policy DC26 of the Unitary Development Plan.

7) Before its installation, any externally mounted ancillary equipment required as part of the development, shall related to a scheme of acoustic insulation 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. Related equipment shall be installed and operated at all times in accordance with the approved scheme.

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

8) Before the occupation of the authorised development, a waste and recycling management scheme shall be submitted to and approved in writing by the City Council as local planning authority, detailing bin sizes and capacities and demonstrating the arrangement for the transfer of bind from the enclosed rear yard to an identified collection point. The approved scheme shall be implemented upon occupation of the development and maintained in situ at all times thereafter.

Reason - In the interests of residential amenity and to secure appropriate arrangements for the storage and collection of segregated waste and recycling, pursuant to policies SP1, EN19 and DM1 of the Core Strategy for the City of Manchester.

Informative

1) Guidance for developers can be found via the following link:

http://www.manchester.gov.uk/info/500207/planning_and_regeneration/1962/additional_planning_guidance/3

2) The applicant should be advised that any requirements for licensing, hoarding / scaffolding, skips and any associated temporary traffic management arrangements will need discussion and agreement with the council's Highway Applications and Network Resilience teams via Email -highwaylicences@manchester.gov.uk

3) The following security and crime reduction measures are recommended:

- i. Any new external fittings (i.e. shutters, windows or doors) should be certified to Secured by Design standards.
- ii. Any new glazing in external doors, ground floor or easily accessible windows should include at least one pane of laminated glass rated as P4A under EN 356.
- iii. A CCTV system should be included within these premises and should be capable of monitoring the following areas: external doorways, all internal spaces.
- iv. An intruder alarm should be installed with contacts on all external doors and with movement detectors. The alarm should be monitored by an appropriate body.
- v. Signage should be displayed to indicate the areas of the premises that are restricted to staff only and appropriate access controls incorporated into the development.
- vi. Dusk til dawn lighting should be installed above all external doors.

- 4) The required waste management strategy should include:
 - i. Estimated volumes and types of waste produced by the development;
 - ii. Details of internal and external storage for both waste and recycling;
 - iii. Location of the proposed collection point;
 - iv. Details of number and capacity of bins proposed and collection frequency.

The above details should be related to the guidance that can be accessed via:
http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

265A Upper Brook Street, Manchester, M13 0HR
271 - 273 Upper Brook Street, Manchester, M13 0HR
267 Upper Brook Street, Manchester, M13 0HR
265 Upper Brook Street, Manchester, M13 0HR
9 Wheat Close, Manchester, M13 0ED
7 Wheat Close, Manchester, M13 0ED
269A Upper Brook Street, Manchester, M13 0HR
265B Upper Brook Street, Manchester, M13 0HR
267A Upper Brook Street, Manchester, M13 0HR
267B Upper Brook Street, Manchester, M13 0HR
273A Upper Brook Street, Manchester, M13 0HR
269B Upper Brook Street, Manchester, M13 0HR
271A Upper Brook Street, Manchester, M13 0HR
271B Upper Brook Street, Manchester, M13 0HR

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