

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137133/JO/2023

Date registered valid: 1 June 2023

Proposal: Variation of condition number 2 (opening hours) from planning permission reference 127019/FO/2020 (granted on appeal reference APP/B4215/W/20/3261720) to allow the following opening hours:
Monday to Thursday 1100 to 12 midnight; Friday and Saturday 1100 to 0200hrs; Sunday and bank holidays 1300hrs to 12 midnight

Address: 147 Greenbrow Road, Manchester, M23 2DB

Ward(s): Baguley Ward

Applicant: Mr Jaffar Parvaiz, Dix Chicken

Agent (if any): Tony Dales, Due Diligence Matters

Case officer: Joshua Lee
Tel: 0161 219 2851
Email: joshua.lee@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 07/07/2023

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Retail

Date of site visit: 20/06/2023

Standard consultations:

Highway Services: Printed: 15 June 2023 Received: 21/06/2023

Environmental Health: Printed: 15 June 2023 Received: 21/06/2023

Neighbour notifications

Printed: 15 June 2023 Expired: 06 June 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 relates to an existing hot food takeaway business on Greenbrow Road currently occupied by Dixy Chicken. The property is a single storey end terrace property adjacent to other retail outlets in a modern shopping parade. There is a public footpath immediately to front the property and a small car parking bay. There is hardstanding to the rear for delivery vehicle access.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable



Figure 1. Street Scene



Figure 2. 3/4View including view of flue.



Figure 3. Rear service yard

Description of area

The proposal is related to a commercial property in the Baguley ward of Manchester. The area is mixed residential/commercial. Directly adjacent to the rear of the property is residential housing. Directly opposite is a Nursery and Medical Centre. The row of shops features a One Stop Convenience store and Ladbrokes Betting Shop. Further down Greenbrow Road is Newall Green Public House and Newell Green High School.



Description of development

The applicant is seeking the variation of condition number 2 (opening hours) from planning permission reference 127019/FO/2020 (granted on appeal reference APP/B4215/W/20/3261720) to allow the following opening hours: Monday to Thursday 1100 to 12 midnight; Friday and Saturday 1100 to 0200hrs; Sunday and bank holidays 1300hrs to 12 midnight.

The premises would like to extend their opening times.

At present the premises opening hours are Monday to Saturday 1100hrs to 2300hrs. Sunday and Bank Holidays 1300hrs to 2300hrs

The proposed hours would be Monday to Thursday 1100hrs to 12 midnight. Friday and Saturday 1100 to 0200hrs. Sunday and Bank holidays 1300hrs to 12 midnight.

Planning History

127019/FO/2020

Retrospective application for the change of use from Cafe (A3) into Hot Food Takeaway (A5)

Decision: Refused 24/07/2023

Appeal APP/B4215/W/20/3261720: Allowed 29/04/2021

It is of note that the proposed variation is related to the retrospective application allowed at appeal.

ENF/14898/20

Without planning permission, the material change of use to a hot-food takeaway (Class A5).

Enforcement Notice Served: 23/07/2020

It is of note that this enforcement notice prompted the retrospective change of use application allowed on appeal.

068255/AO/2003/S2

Retrospective application for the display of non-illuminated fascia sign on the side elevation

Decision: Approved 03/07/2003

057759/FO/SOUTH2/99

Mixed development comprising 79 residential units and 4 shop units

Decision: Approved 27/01/2000

Consultations & Notification Responses

Residents

As per Appendix 1, Occupiers of properties surrounding the application site were notified of the proposal.

3no objections were received from local residents. Their main concerns were:

- Bad smell of fried food around the residential area
- Night-time noise.
- Pest issues and bin smells caused by poor waste management in the rear service yard
- Opening hours won't align to other businesses in the area
- Increase in anti-social behaviour.

These comments have been considered and balanced with the development management policies as below.

Manchester City Council Highways Services

As per Appendix 1, Manchester City Council Highways Services were consulted

HIGHWAYS RESPONSE

The Highways Team have no objections to the variation of opening hours. Highways Reference: 14548/VAR/2023

Manchester City Council Environment Health

As per Appendix 1, Manchester City Council Environment Health were consulted.

They are objecting to the proposed variation. Their comments have been used within Policy DM 1 (below).

Policies & Principles

Relevant Policy

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The adopted development plan consists of The Manchester Core Strategy Development Plan Document 2012-2027 (Core Strategy) (adopted 2012) and Extant Unitary Development Plan Policies (UDP). Due consideration in the determination of the application will also need to be afforded to national policies in the National Planning Policy Framework (NPPF) which represents a significant material consideration.

The following policies are considered relevant in the consideration of this application.

- [The Manchester Core Strategy Development Plan Document 2012-2027](#) ("the Core Strategy") was adopted by the City Council on 11th July 2012 and is the key document in the Manchester Local Plan. It sets the out the long-term strategic policies for Manchester's future development and forms the framework that planning applications are assessed against. The following Core Strategy Policies are considered relevant to this proposal:
 - o Policy DM 1 - Development Management
 - o Policy SP 1 - Spatial Principles
 - o Policy EN 1 - Design Principles and Strategic Character Areas
 - o Policy EN 16 - Air Quality
 - o Policy EN 18 - Contaminated Land and Ground Stability
 - o Policy EN 19 - Waste
 - o Policy EC 2 – Existing Employment Space
 - o Policy C 10 – Leisure and the Evening Economy
- [Extant Unitary Development Plan Policies \(UDP\)](#) - The Core Strategy replaced much of the UDP, but some UDP Development Control policies are extant (remain). The following extant policy are still considered relevant to this proposal.
 - o Policy DC10 for Food and Drink Uses

- o Policy DC26 for Development and Noise
- [The National Planning Policy Framework \(The NPPF\)](#) - The National Planning Policy Framework (NPPF) was first published on 27 March 2012 and updated on 24 July 2018, 19 February 2019, and 20 July 2021. This sets out the government's planning policies for England and how these are expected to be applied. The following sections are considered relevant to this proposal:
 - o Section 4 – Decision-making
 - o Section 6 – Building a strong, competitive economy
 - o Section 12 – Achieving well-designed places

For reasons to be outlined below, it is considered the proposal accords with the principles of these policies.

Principle

The Manchester Core Strategy Development Plan Document 2012-2027 (Core Strategy)

Policy DM 1 of the Core Strategy sets out the principles to which all development in the City should have regard to. It seeks to ensure that new development enhances or creates character, protects, and enhances the built environment; and that the design, scale and appearance of the proposed development is appropriate to its context.

Policies SP 1 of the Manchester Core Strategy 2012 (Core Strategy) sets out the key spatial principles which will guide the strategic development of Manchester to 2027 to meet the strategic objective SO1. *Provide a framework within which the sustainable development of the City can contribute to halting climate change.*

Policy DM 1 of the Core Strategy sets out the principles to which all development in the City should have regard to. It seeks to ensure that new development enhances or creates character, protects, and enhances the built environment; and that the design, scale and appearance of the proposed development is appropriate to its context.

Policy EN 1 of the Core Strategy sets out the key principles of place making and design in Manchester about strategic character areas. All development in Manchester will be expected to follow the seven principles of urban design, as identified in national planning guidance, and have regard to the strategic character area in which the development is located. This is aligned

to the strategic objective SO6. *Protect and enhance both the natural and built environment of the City and ensure the sustainable use of natural resources, in order to mitigate and adapt to climate change, support biodiversity and wildlife, improve air, water and land quality, recreational opportunities and provide networks of high quality green infrastructure, ensuring that the City is inclusive and attractive to residents, workers, investors and visitors.*

Policy EN 16 of the Core Strategy sets out the key principles of air quality management in the city. The policy seeks to improve the air quality within Manchester, and particularly within Air Quality Management Areas, located along Manchester's principal traffic routes and at Manchester Airport. This is aligned to the strategic objective SO6. *Protect and enhance both the natural and built environment of the City and ensure the sustainable use of natural resources, in order to mitigate and adapt to climate change, support biodiversity and wildlife, improve air, water and land quality, recreational opportunities and provide networks of high quality green infrastructure, ensuring that the City is inclusive and attractive to residents, workers, investors and visitors.*

Policy EN 18 of the Core Strategy set out the principle of development on contaminated land or unstable land. This is aligned to the strategic objective SO6. *Protect and enhance both the natural and built environment of the City and ensure the sustainable use of natural resources, in order to mitigate and adapt to climate change, support biodiversity and wildlife, improve air, water and land quality, recreational opportunities and provide networks of high quality green infrastructure, ensuring that the City is inclusive and attractive to residents, workers, investors and visitors.*

Policy EN 19 of the Core Strategy sets out the key principle of waste management in the city. In a district such as Manchester with a significant existing population and a vision for a growing economy and population a key issue is that of ensuring that this does not automatically lead to a proportionate increase in waste arisings. This is aligned to the strategic objective SO6. *Protect and enhance both the natural and built environment of the City and ensure the sustainable use of natural resources, in order to mitigate and adapt to climate change, support biodiversity and wildlife, improve air, water and land quality, recreational opportunities and provide networks of high quality green infrastructure, ensuring that the City is inclusive and attractive to residents, workers, investors and visitors.*

Policy EC 2 of the Core Strategy set out the key principles regarding developing, retaining, and enhancing existing employment space and sites. This is aligned to the strategic objective SO2. *Support a significant further improvement of the City's economic performance and spread the benefits of this growth across the City to reduce economic, environmental and social disparities, and to help create inclusive sustainable communities.*

Policy C 10 of the Core Strategy sets out the principles and considerations of new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy. This is aligned to the strategic objective S04. *Provide a network of distinctive, attractive and high-quality centres, strengthening local identity, providing essential services close to homes and local access to healthy food.*

Extant Unitary Development Plan Policies (UDP)

The Core Strategy replaced much of the UDP, but some UDP policies are extant (remain). Relevant extant policies outline the issues and principles of citywide development control. The relevant extant policies (see above) have been assessed alongside the Core Strategy for this proposal.

The National Planning Policy Framework (NPPF)

The NPPF sets out the government's planning policies for England and how these are expected to be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 4 of the NPPF outlines how local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Section 6 of the NPPF outlines the development management principles to help create the conditions in which businesses can invest, expand, and adapt. Significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development.

Section 12 of the NPPF outlines the need to achieve well-designed places. 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.

In this instance the principle of the proposal is not considered acceptable as it is believed that there are any multiple factors of sufficient weight in amenity terms that warrants refusal of the application.

On balance, the proposed development is deemed to oppose with relevant policy of the Manchester Core Strategy, Extant UDP and the NPPF.

Manchester Core Strategy Policy DM 1 – Development Management

All new developments should follow the ‘Development Principles’ and accord with the design guidance set out in the Supplementary Planning Documents.

All development should have regard to the following specific issues:

Appropriate siting, layout, scale, form, massing, materials, and detail

The applicant is seeking the variation of condition number 2 (opening hours) from planning permission reference 127019/FO/2020 (granted on appeal reference APP/B4215/W/20/3261720) to allow the following opening hours: Monday to Thursday 1100 to 12 midnight; Friday and Saturday 1100 to 0200hrs; Sunday and bank holidays 1300hrs to 12 midnight.

The hot food take away was served with an enforcement notice for change of use without planning permission in 2020 (ENF/14898/20).

The resulting application for change of use was refused by Manchester City Council (127019/FO/2020) due to the:

- adverse impact on the residential amenity of surrounding occupiers due to its potential generation of noise and disturbance.
- inappropriate use, as it is located outside an established and defined shopping parade/centre where hot food take away uses are usually considered to be appropriately located.
- retrospective flue is located along the side of the premises and would have a visual impact, creating a highly prominent and visually obtrusive feature by virtue of its siting, scale, and appearance, when viewed from Greenbrow Road.

The applicant appealed to the Planning Inspector (APP/B4215/W/20/3261720) and the appeal was allowed with the Inspector concluding:

“...that the development would not have a harmful impact on the living conditions of neighbouring residential occupiers, particularly through noise and disturbance. The materials used fit with the commercial nature of the site.” And that “...that the development would not have a harmful impact on the character and appearance of the appeal site and surrounding area or the function of the parade”

The Planning Inspector allowed the appeal based on the conditions.

1) The development hereby permitted shall be carried out in accordance with the following approved plan: NA-PO1

2) The premises shall not be open outside the following hours: Monday to Saturday 11:00hrs to 23:00hrs; and Sunday and Bank Holidays 13:00hrs to 23:00hrs.

This is what the applicant is proposing varying, however it is paramount to the inspectorate's decision.

3) Deliveries, servicing, and collections, including waste collections shall not take place outside the hours of 07:30hrs to 20:00hrs Monday to Saturday. No deliveries or collections on Sundays and Bank holidays.

4) Prior to first use and occupation of the development hereby approved and notwithstanding the flue shown on the approved drawing, a scheme for the extraction of any fumes, vapours and odours from the premises hereby approved shall be submitted to, and approved in writing by, the City Council as Local Planning Authority. The approved scheme shall be fully implemented prior to occupancy and shall be maintained and retained for the life of the development.

As of writing this report the applicant has not discharged this condition

5) Prior to first use and occupation of the development hereby approved, a scheme for the storage (including segregated waste recycling and disposal of food waste) and disposal of refuse shall be submitted to and approved in writing by the City Council as Local Planning Authority. The details of the approved scheme shall be fully implemented prior to occupancy and shall be maintained and retained for the life of the development.

As of writing this report the applicant has not discharged this condition. The flue is currently in use and Environmental Health have had complaints due to the discharge of cooking smells.

6) Any externally mounted ancillary plant or equipment shall be selected and/or acoustically insulated in accordance with a scheme designed so as to achieve a rating noise level of 5dB (LAeq) below the existing background (LA90) at the nearest noise sensitive location. The scheme should be 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 site prior to installation of any plant. The approved scheme shall be fully implemented prior to occupancy and shall be maintained and retained for the life of the development.

As of writing this report the applicant has not discharged this condition.

7) Within 6 months from the date of this decision, the external surface of the flue hereby approved shall be colour coated black (RAL 9005) and shall be maintained and retained for the life of the development.

As of writing this report it appears the applicant has complied with this condition.

Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation.

By extending the opening hours further exacerbates the issues as outlined in the original planning application (127019/FO/2020)

The development would have an adverse impact upon the residential amenity of surrounding occupiers due to its potential generation of an unacceptable level of pedestrian and vehicular activity, associated noise and disturbance and the congregation of people in and adjacent to the premises, at later hours, which would thereby affect the amenity of neighbouring and local residents.

It is of note that Condition 6 from the planning appeal requiring a scheme to be submitted to and approved in writing by the City Council as Local Planning Authority to secure a reduction in the level of noise emanating from the site prior to installation of any plant, has yet to be discharged.

The applicant has provided no noise impact assessment for the proposed hours change in terms of noise from any external plant, patrons coming and going and the premises operation in general. This would be required due to the proximity of the residential dwellings on Shadowbrook Avenue and the residential units under construction on Greenbrow Road.

Environmental Health have received noise complaints from the noise from the kitchen extraction equipment within the last 2 years and have concerns that this application could lead to noise disamenity for the residents.

Comments from local residents echo the concerns of Environmental health adding concerns around pest control and waste management in the area.

The proposal is expected to have a negative effect on Air Quality with the increased opening hours exacerbating the smell of fried food around the residential area into the night.

It is of note that Condition 4 from the planning appeal required a scheme for the extraction of any fumes, vapours and odours from the premises hereby approved shall be submitted to, and

approved in writing by, the City Council as Local Planning Authority. This condition has yet to be discharged.

On balance the proposal has a negative effect on privacy, local light, noise, vibration, air quality, odours, litter, vermin, and birds and is therefore in opposition with this development management principle.

Community safety and crime prevention.

The extended opening hours would increase the likelihood of anti-social behaviour in the area.

The applicant has provided no detail of how they would propose to manage any anti-social behaviour issues resulting from the extended opening hours.

The proposal is in opposition with this development management principle.

Refuse storage and collection.

Comments from local residents are concerned around waste management and the resulting pest control of the property.

Extended opening hours would further increase waste issues especially around storage.

It is of note that Condition 5 from the planning appeal requiring a scheme for the storage (including segregated waste recycling and disposal of food waste) and disposal of refuse to be submitted in writing has not been discharged.

The applicant has provided no detail of how they would propose to manage any extra waste resulting from the extended opening hours.

The proposal is in opposition with this development management principle.

Vehicular access and car parking

The proposal would create excess comings and goings into out of hours would create noise and disturbance to the residential amenity in the area.

Highways were consulted and had no comment.

The applicant provided commentary on the vehicular access and parking

“As you will be aware we have sufficient parking for customers who spend only a small amount of time parked up. A large proportion of our customers are local foot passengers, who in the main are those attending the local pubs and are requesting us to provide an extended service”

The applicant recognises the extra vehicle traffic that may be created however has provided no proposal on how to effectively manage this.

The proposal is in opposition with this development management principle.

Manchester Core Strategy Policy SP 1 - Spatial Principles

The policy outlines the guiding spatial principles and core development principles of Manchester City Council.

Most notably the core development principles highlight development should ‘make a positive contribution to neighbourhoods of choice’.

This principle has been considered within the Core Strategy DM1 policy.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy C 10 – Leisure and the Evening Economy

This policy outlines the key principles around development management of proposals pertaining to Leisure and the Evening Economy.

New development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy will be permitted, subject to the following considerations:

1. Cumulative impact – in areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities.
2. Residential amenity – the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.
3. Balance - 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. When considering the impact of a proposed bar or hot food take away regard will be had to the above policy and also:
 - The existing number of similar establishments in the immediate area and their proximity to each other;
 - The type and characteristics of other uses, such as housing, shops and public houses;
 - The existence of vacant shop units and the condition of the unit;
 - The importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
 - The character of the centre and its frontage, and the nature of the use proposed;
 - The potential impacts of the proposal on the wider community; and
 - Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

This principle has been considered within the Core Strategy DM1 policy.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy EN 1 – Design Principles & Strategic Character Areas

This policy outlines key design principles for development in Manchester most notably that all development in Manchester will be expected to follow the seven principles of urban Design.

1. Character: a place with its own identity
2. Continuity and enclosure: a place where public and private places are clearly distinguished

3. Quality of the public realm: a place with attractive, and successful outdoor areas
4. Ease of movement: a place that is easy to get to and move through
5. Legibility: a place that has a clear image and is easy to understand
6. Adaptability: a place that can change easily
7. Diversity: a place with variety and choice

This proposal sits within the 'Southern Character Area'. The key principles for this area are:

- New development needs to retain the identity and focus of activity associated with the historic District Centres.
- Where appropriate development along the radial routes such as Princess Parkway should be commensurate in scale with the prominence of its location

These principles have been taken into consideration within the Core Strategy Policy DM1.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy EN 16 – Air Quality

Policy EN 16 of the Core Strategy sets out the key principles of air quality management in the city. The policy seeks to improve the air quality within Manchester, and particularly within Air Quality Management Areas, located along Manchester's principal traffic routes and at Manchester Airport.

Developers are expected to take measures to minimise and mitigate the local impact of emissions from traffic generated by the development, as well as emissions created by the use of the development itself, including from Combined Heat and Power and biomass plant. When assessing the appropriateness of locations for new development the Council will consider the impacts on air quality, alongside other plan objectives. This includes cumulative impacts, particularly in Air Quality Management Areas.

This principle has been considered within the Core Strategy DM1 policy.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy EN 18 - Contaminated Land and Ground Stability

Policy EN 18 of the Core Strategy set out the principle of development on contaminated land or unstable land.

The Council will give priority for the remediation of contaminated land to strategic locations as identified within the Core Strategy. Any proposal for development of contaminated land must be accompanied by a health risk assessment.

All new development within former mining areas shall undertake an assessment of any associated risk to the proposed development and, if necessary, incorporate appropriate mitigation measures to address them.

This principle has been considered within the Core Strategy DM1 policy.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy EN 19 - Waste

Policy EN 19 of the Core Strategy sets out the key principle of waste management in the city. In a district such as Manchester with a significant existing population and a vision for a growing economy and population a key issue is that of ensuring that this does not automatically lead to a proportionate increase in waste arisings.

The policy seeks to:

- Work with other Districts through the Greater Manchester Joint Waste Development Plan Document (GMJWDPD) to safeguard existing sites for waste management and identify and safeguard new sites in existing areas of employment where appropriate.
- Require all developers, including those of new waste management facilities within the District, to demonstrate the proposal's consistency with the principles of the waste hierarchy (prevention, reduction, re-use, recycling/composting, energy recovery, final disposal)

- Require all developers of new waste management facilities within the District to plan for and, where appropriate, use sustainable modes for waste transport, including use of modes such as rail and the Manchester Ship Canal.
- Require all developers to submit a waste management plan to demonstrate how both construction and demolition waste will be minimised and recycled on site wherever possible and how the sustainable waste management needs of the end user will be met.
- Have full regard to the economic and environmental benefits that well designed and run, waste management facilities can bring to the District, subject to any conditions required to protect the amenity of existing adjacent users.
- Promote the development of innovation and technological advancement within the sustainable waste management industry, aiming to achieve a closed-loop waste management system.
- Require waste management practices to have full regard to the environmental, social and economic impacts of such development and encourage long-term benefits in improving the environment, the regeneration of areas in need of investment and location with other employment uses where appropriate.
- Encourage communities to take responsibility for the waste they create through the provision of accessible facilities.

This principle has been considered within the Core Strategy DM1 policy.

The proposal is considered in opposition with this policy.

Manchester Core Strategy Policy EC 2 – Existing Employment Space

This policy outlines the key principles to retain and enhance existing employment space and sites.

Alternative uses will only be supported on sites allocated accordingly, or if it can be demonstrated that

- The existing use is un-viable in terms of business operations, building age and format.
- The existing use is incompatible with adjacent uses.
- The existing use is unsuitable for employment having had regard to the Manchester-Salford - Trafford SFRA; or

- On balance, proposals can offer greater benefits in terms of the Core Strategy's
- vision and spatial objectives than the existing use.

This principle has been considered within the Core Strategy DM1 policy.

Extant Unitary Development Policies (UDP)

The Core Strategy replaced much of the UDP, but some UDP policies are extant (remain) and are relevant to this proposal.

Policy DC10. Food and Drink Uses

This policy outlines the key issues when considering proposed Food and Drink uses.

The policy seeks to maintain the long-established view of the Council that these uses are best located in existing commercial areas, and that the range of conditions to be attached to any planning permission needs very closely to reflect the specific circumstances on the ground - particularly the effect on people who live close by the site.

This saved policy has been considered within the Core Strategy Policy DM1.

Policy DC26. Development and Noise

This policy outlines the key issues to reduce the impact of noise on people living and working in, or visiting, the City

It has become increasingly accepted that noise is a major source of environmental pollution, affecting peoples' physical and mental health. The Council considers that the planning process has a role to play in reducing noise levels generally and, through the development control system, to consider carefully the relationship between different land-uses from the point of view of noise generation and impact. Reaching judgments on what is or is not an acceptable amount or type of noise is a complex matter, consideration of which will depend on the particular circumstances on the ground.

These principles have been taken into consideration within the Core Strategy Policy DM1.

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework sets out the government's planning policies for England and how these are expected to be applied. It provides a framework within which locally prepared plans for housing and other development can be produced.

The NPPF has been adhered to and considered at all stages of the application.

Section 4. Decision-making

Section 4 of the NPPF outlines how local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Section 4 of the NPPF has been adhered to and considered at all stages of the proposal.

Section 6. Building a strong, competitive economy

Section 6. of the NPPF outlines the development management principles to help create the conditions in which businesses can invest, expand, and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Section 12. Achieving well-designed places

Section 12 of the NPPF outlines the need to achieve well-designed places. 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.

NPPF principles have been considered within Core Strategy Policy DM 1.

Other Material Considerations

Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (April 2007)

The [Supplementary Planning Document and Planning Guidance](#) supplements guidance within the Adopted Core Strategy with advice on development principles including on design, accessibility, design for health and promotion of a safer environment.

The design, scale and siting of the proposed development is considered in more detail within Policy DM 1.

Manchester Residential Quality Guide (July 2016) (MRQG)

The [MRQG](#) provides specific guidance on considerations, qualities, and opportunities that will help to deliver high quality residential development as part of successful and sustainable neighbourhoods across Manchester.

This is considered in more detail with policies DM 1 and SP 1 of the Core Strategy.

Manchester, Salford, and Trafford Strategic Flood Risk Assessment

The [Level 1 SFRA](#) provides a spatial assessment of flood risk within key urban areas, which expands on the detail included in the Association of Greater Manchester Authorities (AGMA) sub-regional SFRA. Together these sources will support developing Local Development Frameworks (LDFs) and the production of policies and proposals for development within Manchester, Salford, and Trafford.

This is considered in more detail with policies DM 1 and SP 1 of the Core Strategy.

Manchester City Council Planning and Noise Technical Guidance (2022)

The [Planning and Noise Technical Guidance](#) aims to provide help and advice to noise in a planning context to encourage good acoustic design. It outlines what is expected, current guidance and policy details with the aspiration that new developments achieve the highest possible standards without compromising the health and wellbeing of people that live and work within the City of Manchester.

This is considered in policies DM 1 of the Core Strategy.

Air Quality & Planning Technical Guidance (2022)

The [Air Quality & Planning Technical Guidance](#) aims to provide help and advice regarding air quality issues in a planning context; it outlines the background to air quality in Manchester, what is expected and current guidance.

This is considered in policies DM 1 and EN 16 of the Core Strategy.

Planning & Contaminated Land Technical Guidance (2021)

The [Planning and Contaminated Land Technical Guidance](#) aims to provide help and advice in relation to land contamination in a planning context to encourage good practice and mitigation of impacts. It outlines what is expected in relation to current guidance and policy with the aspiration that new developments achieve the highest possible standards without compromising the health and well-being of people that live and work within the City of Manchester.

This is considered in policies DM 1 & EN 18 of the Core Strategy.

Greater Manchester Joint Waste Development Plan Document (GMJWDPD)

The [Joint Waste Development Plan Document](#) (the 'Waste Plan') identifies how Greater Manchester will deliver the spatial vision for waste development 2027. The Waste Plan sets out policies to guide future waste development and identifies sites and areas suitable for the location of waste development across Greater Manchester to 2027.

This is considered in policies DM 1 & EN 19 of the Core Strategy.

Waste Storage and Collection Guidance for New Developments (2017)

The [Waste Management Strategy](#) contains minimum standards for planners, architects, developers and property managers to assist in planning and designing systems for the storage and collection of refuse and for recycling facilities in domestic and commercial properties.

This is considered in policies DM 1 & EN 19 of the Core Strategy.

Hot Food Takeaway Supplementary Planning Document (2017)

The Hot Food Takeaway Supplementary Planning Document (SPD) seeks to build on the priorities of the Core Strategy and encourage centres and neighbourhoods which are vibrant, and which contribute to the Council's objective of improving the health of people living in Manchester.

The SPD outlines several policies and considerations for development and management of Hot Food Takeaways in the city

Policy 1 - Vitality and Viability

Policy 2 – Amenity, Extraction of odours and noise abatement, Disposal of Waste Products and Customer Litter, and Highway Safety

Policy 3 - Hot Food Takeaways and Schools

This is considered in policies DM 1 & C 10 of the Core Strategy.

Manual for Streets (2007)

The [Manual for Streets](#) is a joint publication produced by the Department for Transport (DfT) and Communities and Local Government. It is expected to be used predominantly for the design, construction, adoption, and maintenance of new residential streets, but it is also applicable to existing residential streets subject to re-design. It aims to assist in the creation of high-quality residential streets that:

- build and strengthen communities;

- balance the needs of all users;
- form part of a well-connected network;
- create safe and attractive places which have their own identity; and
- are cost-effective to construct and maintain

This is considered in more detail with policies DM 1 of the Core Strategy.

National design guide & National Model Design Code (2021)

The [National design guide](#) & [National Model Design Code](#) illustrates how well-designed places that are beautiful, enduring, and successful can be achieved in practice with detailed guidance on the production of design codes, guides and policies to promote successful design.

This is considered in policies DM 1 & EN 1 of the Core Strategy.

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.

Conclusion

The proposed variation of opening hours would have an adverse impact upon the residential amenity of surrounding occupiers due to its potential generation of an unacceptable level of pedestrian and vehicular activity, associated noise and disturbance and the congregation of people in and adjacent to the premises, which would thereby affect the amenity of neighbouring residents. This would be especially prominent in usually quiet night-time hours. The proposed variation is therefore considered to be contrary to policies DM 1, SP 1, C 10, EN 1, EN 16, EN 19 and of the Manchester Core Strategy, saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and Hot Food Take Away SPD (March 2017).

Recommendation: Refuse

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner. The proposal was assessed with regards to policies outlined in the National Planning Policy Framework, Unitary Development Plan Saved Policies, Local Development Framework Core Strategy Development Plan, and other material considerations. No significant problems have arisen during the consideration of this application.

Reasons for recommendation to refuse

1. Refusal

The proposed variation of opening hours would have an adverse impact upon the residential amenity of surrounding occupiers due to its potential generation of an

unacceptable level of pedestrian and vehicular activity, associated noise and disturbance and the congregation of people in and adjacent to the premises, which would thereby affect the amenity of neighbouring residents. This would be especially prominent in usually quiet night-time hours. The proposed variation is therefore considered to be contrary to policies DM 1, SP 1, C 10, EN 1, EN 16, EN 19 and of the Manchester Core Strategy, saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and Hot Food Take Away SPD (March 2017).

Appendix 1 – List of consultees & neighbours notified

Highway Services

Environmental Health

169 Greenbrow Road, Manchester, M23 2TA

3 Tuffley Road, Manchester, M23 2SS

6 Tuffley Road, Manchester, M23 2SR

137 Greenbrow Road, Manchester, M23 2BA

The Co-operative Pharmacy, Scout Drive, Manchester, M23 2SY

145 Greenbrow Road, Manchester, M23 2DB

139 Greenbrow Road, Manchester, M23 2BA

Flat At, Newall Green Hotel, Greenbrow Road, Manchester, M23 2SX

5 Shadowbrook Avenue, Manchester, M23 2BD

4 Shadowbrook Avenue, Manchester, M23 2BD

3 Shadowbrook Avenue, Manchester, M23 2BD

1 Shadowbrook Avenue, Manchester, M23 2BD

15 Shadowbrook Avenue, Manchester, M23 2BD

9 Shadowbrook Avenue, Manchester, M23 2BD

6 Shadowbrook Avenue, Manchester, M23 2BD

4 Tuffley Road, Manchester, M23 2SR

The Mapels Medical Centre, 2 Scout Drive, Manchester, M23 2SY

11 Shadowbrook Avenue, Manchester, M23 2BD

7 Shadowbrook Avenue, Manchester, M23 2BD

2 Shadowbrook Avenue, Manchester, M23 2BD

163 Greenbrow Road, Manchester, M23 2SD

161 Greenbrow Road, Manchester, M23 2SD

Newall Green Hotel, Greenbrow Road, Manchester, M23 2SX

167 Greenbrow Road, Manchester, M23 2TA

5 Tuffley Road, Manchester, M23 2SS

1 Tuffley Road, Manchester, M23 2SS

8 Tuffley Road, Manchester, M23 2SR

2 Tuffley Road, Manchester, M23 2SR

Wythenshawe Community Housing Group, 8 Poundswick Lane, Manchester, M22 9TA

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 45M

Area Team Boundary - Name: SOUTH AREA