

Planning

Growth & Development

Delegated officer report for planning application

Application no. 134677/FO/2022

Date registered valid: 21 February 2023

Proposal: Use of premises for the sale of food and drink (Use Class E(b) to Upper Ground Floor.

Address: 41 - 43 Faulkner Street, Manchester, M1 4EE

Ward(s): Deansgate Ward

Applicant: Mrs Shirley Low

Agent (if any): Mr Barry Tang Tang and Associates Ltd - Chartered Architects

Case officer: Jack Naven
Tel: 0161 219 2095
Email: jack.naven@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 20/04/2023

Application Details

Type of application: Full Application Consent

Development type: Minor Retail

Date of site visit: 8 March 2023

Standard consultations:

Printed: 2 March 2023 Expired: 23 March 2023

Neighbour notifications

Printed: 2 March 2023 Expired: 23 March 2023

Site notice

Posted: 8 March 2023 Expired: 29 March 2023

Press advert

Published: 7 March 2023 Expired: 28 March 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of Area

Listed building: Not applicable

Conservation area: George Street Conservation Area 1985

Tree Preservation Order: Not applicable

Description of Site/Building

The building is situated on the southern side of Faulkner Street, close to the corner of Charlotte Street. It lies right in the heart of the area known as Chinatown. The building is a classical style building with the coursed sandstone rubble façade with ashlar dressings, otherwise brick, with a slate roof.

The site is a Grade II listed building within the George Street Conservation Area. There are numerous Grade II listed buildings either adjoining the property or in close proximity to the site, including; 45-47 Faulkner Street, Lindencourt House, 49 Faulkner Street, Fraser House, 44 to 50 Portland Street, and 52 and 54 Portland Street.

Description of Development

The proposal seeks the use of premises for the sale of food and drink (Use Class E(b) to Upper Ground Floor.

The majority of the changes proposed are internal to the unit. Externally, the proposal seeks to refurbish the windows to the unit which face Faulkner Street and to the rear elevation of the building two mechanical ventilation units will be removed and replaced with a flue.

Consultations & Notification Responses

Publicity - Letters were posted out to neighbouring properties, a site notice was displayed on site and an advert was placed in the Manchester Evening News.

Highway Services - No objections.

Greater Manchester Police - Recommended a monitored intruder alarm and a comprehensive CCTV system are installed. Also recommended that the proposed opening hours be kept in line with similar uses in the local area.

Environmental Health - Various conditions added following consultation response on; fumes, opening hours, servicing hours, noise, external plant equipment, and waste management.

Policy

The following policy and guidance is considered relevant to the consideration of this application:

- Policies DM1, SP1, T2, EN19 of the Adopted Core Strategy for the City of Manchester
- Saved policy DC26 of the Unitary Development Plan for the City of Manchester
- National Planning Policy Framework

Issues

Principle

The principle of the development is considered acceptable to the existing Planning Policy Framework, City Council policy and national planning guidance.

In this case, the use of this vacant premises on the Upper Ground Floor area for the sale of food and drink (Use Class E(b)) is considered to represent an effective and appropriate use of space which would contribute to the city's economic growth and employment priorities. The host building and surrounding environment is partially commercial in context and together with existing levels of activity in the area, the number of staff/floorspace ratio and the proposed hours of use, it is not anticipated that the use would give rise to any negative effects.

The issues to consider in relation to this application are visual amenity, waste management, designing out crime, impact on the highways, noise, odours & fumes, and assess requirements.

Visual Amenity

Most of the alterations are internal. These internal alterations are not considered to be visually harmful to the amenity of the building or the surrounding area.

Clutter would be removed from the building following the removal of the redundant plant. A modest, powder coated flue would be installed which would not be visible. This would not have a material impact on the setting of the conservation area or listed building.

Repairs to the windows have been considered in detail under LBC 134678.

Waste Management

The Waste Management Strategy submitted with the application is considered acceptable.

Designing Out Crime

There are no major security concerns regarding this change of use. It has been recommended that a monitored intruder alarm and comprehensive CCTV system are installed. The proposed opening hours are in line with similar uses in the local area.

Highways Impact

This city centre site is considered to be suitably accessible by sustainable modes and is in close proximity to a range of public transport facilities including bus, free bus, tram and train. It is anticipated that the proposals are unlikely to generate a significant increase in the level of vehicular trips therefore they do not raise any network capacity concerns.

No on-site car parking is offered as part of this development and on-street parking is managed with parking restrictions which are contained within the city centre Controlled Parking Zone.

Noise, Odours and Fumes

An odour impact assessment has been undertaken (Redmore Environmental, Reference: 6027r, 21 December 2022). This assessment makes some recommendations based on a high level of odour control being required. This forms the basis of the kitchen extraction strategy; more details will need to be provided once the exact specifications are known including information on maintenance and servicing. A condition has been added to ensure that all the relevant details are sent to the Local Planning Authority, and are signed off, prior to commencement of the use hereby approved confirmation.

Regarding any noise or plant equipment concerns, the Environmental Protection Section has reviewed the submitted acoustic report (Hann Tucker Associates, 30162/NIA1, 14 November 2022). The report has not considered proposed new residential (application 135858/FO/2022, still to be determined). If approved these will be the nearer residents to the development site and therefore the noise assessment needs to take them into account. Conditions have been added regarding both Noise and Plant Equipment to make sure that a report is submitted that takes the proposed new residential application into account.

The opening hours are as follows:

11:30am - 9:30pm Sunday to Thursday
11:30am - 10:00pm Friday to Saturday

The hours are considered acceptable for this mixed use neighbourhood and would not give rise to any unacceptable impact on residential amenity given the character of the area.

Access Requirements

Pedestrian access arrangements are considered acceptable. Various options were considered to improve access requirements to the site and these are detailed in the Design & Access Statement, however, there was no feasible option for improving access that would not cause a negative impact on the historic fabric or significance of the building. Toilet facilities will remain as in place on the Upper Ground Floor.

Conclusion

Considering all of the above, the proposed use is considered acceptable and an appropriate land use for this city centre location.

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/agent in a positive and proactive manner based on seeking solutions to any problems arising in relation to dealing with the planning application.

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:

Received by the City Council as Local Planning Authority on 12 August 2022:

Existing & Proposed Faulkner Street Elevations 9807/121 A

Existing & Proposed Reyner Street Elevations 9807/122 A
Existing & Proposed GF Plan 9807/211 A
Waste Management Proforma

Received by the City Council as Local Planning Authority on 21 February 2023:
Proposed Site Plan 9807/101 B
Redmore Environmental, Reference: 6027r, 21 December 2022
Noise Impact Assessment prepared by Hann Tucker Associates (ref. 30162/NIA1)

Received by the City Council as Local Planning Authority on 08 March 2023:
Existing & Proposed Rear Elevations 9807-123D
Design & Access Statement

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) a) Notwithstanding the Redmore Environmental, Reference: 6027r, 21 December 2022 received by the City Council, as Local Planning Authority, on the 21 February 2023, fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences.

Mixed use schemes shall ensure provision for internal ducting in risers that terminate at roof level. Schemes that are outside the scope of such developments shall ensure that flues terminate at least 1m above the eave level and/or any openable windows/ventilation intakes of nearby properties.

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 occupiers of nearby properties and to ensure an acceptable development in the interests of residential amenity, pursuant to policies DM1 and SP1 of the Core Strategy and saved policy DC26 of the Unitary Development Plan.

4) The premises shall not be open outside the following hours:-

11:30am - 9:30pm Sunday to Thursday
11:30am - 10:00pm Friday to Saturday

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

5) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

07:30 to 20:00, Monday to Saturday, Sunday/Bank Holiday the times shall be confined to 10:00 to 18:00.

Reason - In order to protect the amenity of local residents and in accordance with policies SP1 and DM1 of the Core Strategy.

6) The details of the approved Waste Management scheme Received by the City Council as Local Planning Authority on 12 August 2022 shall be implemented as part of the development (from first use) and shall remain in situ whilst the use or development is in operation.

Reason - In order to ensure that adequate provision is made within the development for the storage and recycling of waste in accordance with policies DM1 and EN19 of the Core Strategy for the City of Manchester.

7) a) Notwithstanding the Noise Impact Assessment prepared by Hann Tucker Associates (ref. 30162/NIA1) received by the City Council, as Local Planning Authority, on the 21 February 2023, prior to the first use of the development hereby approved, a noise study of the premises and a scheme of acoustic treatment shall be submitted for approval in writing by the City Council as local planning authority.

The scheme shall be implemented in full before the first use of the premises for the development hereby approved.

Where entertainment noise is proposed the LAeq (entertainment noise) shall be controlled to 5dB below the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive location, and internal noise levels at structurally adjoined residential properties in the 63Hz and 125Hz octave frequency bands shall be controlled so as not to exceed (in habitable rooms) 47dB and 41dB (Leq,5min), respectively.

b) Prior to use of the development a verification report shall 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 ensure an acceptable development in the interests of residential amenity, pursuant to policies DM1 and SP1 of the Core Strategy and saved policy DC26 of the Unitary Development Plan.

8) (a) Notwithstanding the Noise Impact Assessment prepared by Hann Tucker Associates (ref. 30162/NIA1) received by the City Council, as Local Planning Authority, on the 21 February 2023, prior to the installation of any new plant and externally mounted equipment, a scheme shall be submitted for approval 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 and equipment. The scheme shall be implemented in full before the first use of the development.

Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. Prior to commencement of the use hereby approved the scheme

b) Prior to the first use of the development a verification report shall be submitted to and approved in writing by the City Council as local planning authority to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic report. The report shall also undertake post completion testing to confirm that the noise criteria have been met. Any instances of nonconformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site.

9) Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) the Upper Ground floor area of premises outlined in this application shall only be used as a premises for the sale of food and drink (Use Class E(b)) and for no other purposes.

Reason - To ensure that the premises is used solely for the intended purpose to safeguard the character of the area pursuant to policies SP1, and DM1 of the Manchester Core Strategy (2012)

Informatives

1) Construction and demolition works should be confined to the following hours unless otherwise agreed in writing by the City Council as local planning authority:

- Monday - Friday: 7.30am - 6pm
- Saturday: 8.30am - 2pm
- Sunday / Bank holidays: No work

Reason - To safeguard the amenities of nearby residents pursuant to policies SP1, EN19 and DM1 of the Manchester Core Strategy.

2) Information for Developers guidance documents can be downloaded using the following link:
http://www.manchester.gov.uk/info/500207/planning_and_regeneration/1962/additional_planning_guidance/3

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Second Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Second Floor Rooms 8 And 9, 41 Faulkner Street, Manchester, M1 4EE
Ground Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Second Floor, 41 Faulkner Street, Manchester, M1 4EE
Third Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Third Floor, 41 Faulkner Street, Manchester, M1 4EE
Ground Floor, 41 Faulkner Street, Manchester, M1 4EE
Sub Basement And Basement, 41 Faulkner Street, Manchester, M1 4EE
Second Floor, 44 Portland Street, Manchester, M1 4GS
50 Portland Street, Manchester, M1 4QU
44 - 46 Faulkner Street, Manchester, M1 4FH
Third Floor Office, 36 Charlotte Street, Manchester, M1 4FD
Fourth Floor Office, 36 Charlotte Street, Manchester, M1 4FD
Basement And Ground Floor Restaurant, 36 Charlotte Street, Manchester, M1 4FD
First Floor And Second Floor, 36 Charlotte Street, Manchester, M1 4FD
Basement, Lindencourt House, 34 Charlotte Street, Manchester, M1 4FD
Ground Floor To Fourth Floor, Lindencourt House, 34 Charlotte Street, Manchester, M1 4FD
First Floor To Third Floor, 45 - 47 Faulkner Street, Manchester, M1 4EE
First Floor And Second Floor Room 7, 41 Faulkner Street, Manchester, M1 4EE
41 Faulkner Street, Manchester, M1 4EE
44 Portland Street, Manchester, M1 4GS
Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Magnus Ltd, Suite B, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Brindle And Yam Solicitors, Suite A, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Fifth Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
Fourth Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4FD
First Floor, Hanover House, 30 - 32 Charlotte Street, Manchester, M1 4EX
45 - 47 Faulkner Street, Manchester, M1 4EE
46 Portland Street, Manchester, M1 4QU
Fourth Floor, 44 Portland Street, Manchester, M1 4GS
First Floor, 44 Portland Street, Manchester, M1 4GS
Ground Floor, 45 - 47 Faulkner Street, Manchester, M1 4EE
Second Floor, 36 Charlotte Street, Manchester, M1 4FD
48 Portland Street, Manchester, M1 4QU
Third Floor, 44 Portland Street, Manchester, M1 4GS
Sub Basement, 36 Charlotte Street, Manchester, M1 4FD
Basement, 45 - 47 Faulkner Street, Manchester, M1 4EE
39 Faulkner Street, Manchester, M1 4EE
42 Portland Street, Manchester, M1 4GS

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - George Street Conservation Area 1985
Area Team Boundary - Name: CENTRAL