

## **Planning**

## **Growth & Development**

### **Delegated officer report for planning application**

**Application no.** 135101/FO/2022

**Date registered valid:** 21 December 2022

**Proposal:** Creation of restaurant /take away (Sui generis) with external alterations comprising installation of louvres to front elevation.

**Address:** 95 Oxford Street, Manchester, M1 6ET

**Ward(s):** Piccadilly Ward

**Applicant:** Mr Sean Hinde Trunk Restaurant Ltd

**Agent (if any):** Maria Marks WSP

**Case officer:** Emily Booth  
Tel: 0161 234 4193  
Email: [emily.booth@manchester.gov.uk](mailto:emily.booth@manchester.gov.uk)

**Recommendation:**

**Date of recommendation:**

## Application details

**Type of application:** Full Application Consent

**Development type:** Minor Dwellings

**Date of site visit:** 27 January 2023

### Standard consultations:

Printed: 4 January 2023    Expired: 25 January 2023

### Neighbour notifications

Printed: 4 January 2023    Expired: 25 January 2023

### Site notice

Posted: 9 January 2023    Expired: 30 January 2023

### Press advert

Published: 10 January 2023    Expired: 31 January 2023

**Departure from Development Plan:** No

**Environmental Statement:** Not required

## Description of site/building

**Listed building:** Grade II

**Conservation area:** Whitworth Street Conservation Area 1985

**Tree Preservation Order:** Not applicable

## Description of area

The application relates to the Grade II Listed St James Buildings, which is a substantial eight storey building that was built in 1912 in the Edwardian Baroque style and designed by Charles Clegg and Son of Manchester and Fryer and Penman of Glasgow. It was designed as the headquarters of the Calico Printers Association Ltd. which was formed in 1899 and was a textile printing and merchant company.

St James Buildings is bounded by Oxford Street, The Rochdale Canal, the Grade II Listed Portland Buildings, and the grounds of Linley House. Oxford Street is a highly trafficked route from South Manchester into the City Centre, is a particularly busy bus route and experiences extremely high footfall.

The surrounding area contains a large number of listed buildings include the Grade II\* Listed Churchgate House, the Grade II Listed Palace Theatre and the Grade II Listed Portland Buildings. The site is also within the Whitworth Street Conservation Area.

The building is currently used as a mixed-use building that predominantly houses offices, but also houses educational uses and has shops, bars, restaurants and cafes at the ground floor.

Surrounding uses include The Place Theatre, Oxford Road Train Station, residential accommodation, multi-storey car parking, offices, restaurants, hotels, cafes and shops.

The area subject of this application is a ground floor unit located at 95 Oxford Street. All of the ground floor units at the property comply with the signage strategy.

### **Description of development**

Planning permission is sought for a change of use from shop (Class E) to Cafe/Take Away (Sui Generis). It is also proposed to install two square louvres within the front elevation of the building above the shop front either within the signage box or within the wall above.

The use would use the building's waste disposal arrangements.

An application for listed building consent has also been submitted for the internal and external alterations and is referenced 135102/LO/2022.

### **Consultations & Notification Responses**

Publicity - The application was advertised as affecting a listed building and a conservation area. A site notice was displayed on site and letter were sent to surrounding occupiers. No responses were received.

Highway Services - Commented as follows:

Highways request that the applicant submits further detail with regard to anticipated take-away operations and confirms whether home deliveries will also be made available by use of car/bicycle.

Highways have concerns that there are limited opportunities for delivery vehicles (both vehicles and cycles) to park in close vicinity of the site which may give rise to safety concerns for pedestrians and cyclists travelling along Oxford Street.

It is recommended that any shared secure and sheltered cycle parking provision within the wider St James Building should be made available for staff associated with the proposed development.

Submitted plans appear to show provision of an external seating area which will encroach onto the adopted footway. If this is proposed, a table and chairs license will need to be applied for. The applicant will need to apply for the license online at [https://www.manchester.gov.uk/forms/form/739/en/table\\_and\\_chairs\\_application](https://www.manchester.gov.uk/forms/form/739/en/table_and_chairs_application).

An assessment of retained footway provision will need to be undertaken. It is recommended that a minimum footway width of 3.0m is retained as this area experiences a significant level of pedestrian footfall.

All tables and chairs should not be affixed to the highway and must be removable and stored internally within the premises outside of the hours approved as part of any tables and chairs license.

Any A Boards, if used, must be kept within the seated area. This is considered appropriate in preventing unnecessary obstruction of the adjacent highway

The submitted Waste Management Plan also states that deliveries will be via Oxford Street. However, should an existing servicing area be associated with the St James Building, it is recommended that all deliveries are made within the curtilage of the wider site.

If internal servicing is not provided, the use of the existing loading bay at the Oxford Street site frontage is acceptable in principle, however, it is recommended that deliveries should be restricted to take place outside of peak-hour periods to avoid unnecessary congestion on the highway network. It is therefore recommended that a Servicing Management Strategy be conditioned to any approval of the application, limiting servicing to outside of peak-hours to avoid congestion with details on the frequency of deliveries to the unit. All servicing requirements should take account of other neighbouring units in order to prevent conflicting service times.

It is requested that the applicant confirms whether there is a wider Travel Plan for the collective St James' Building. It is recommended that an amendment be made to this respective of the development proposals.

Detail should be sought from the applicant in relation to any proposed construction or fit out arrangements, where there is an impact on the highway. The applicant should be advised that any requirements for licensing, hoarding / scaffolding and any associated temporary traffic management arrangements will need discussion and agreement with the council's Highways Applications and Network Resilience teams via Contact Manchester (Tel. 0161 234 5004).

Environmental Health - Recommended conditions to require compliance with servicing hours, require the submission and agreement of fume extraction measures, a construction management plan and the hours of operation, the design of any external lighting, a scheme for the acoustic insulation of the use and the associated plant and equipment and require the implementation of the waste management strategy.

Greater Manchester Police - No comments received.

## **Issues**

The Adopted Core Strategy for the City of Manchester

Policy EN1 (Design Principles and Strategic Character Areas) advises that developer's will be expected to consider the City's heritage, including its listed buildings, conservation areas, archaeological remains and historic street pattern.

Policy EN3 (Heritage) advises that new developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment.

Policy CC9 (Design and Heritage) advises that development in Manchester should preserve or enhance the heritage assets affected.

Policy SP1 (Spatial Principles) advises that development in all parts of the City should protect and enhance the built environment.

Policy DM1 (Development Management) advises that all development should be appropriately sited, scaled, formed, massed and detailed with appropriate layout and materials and should have regard to the character of the surrounding area and effects on built heritage.

The Unitary Development Plan for the City of Manchester

DC10 (Food and Drink) States that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises the Council will have regard to the general location of the proposed development, including any reference to the area in other policies in the Plan, the effect on the amenity of

neighbouring residents, the availability of safe and convenient arrangements for car parking and servicing, the ease of access for all, including disabled people; and the storage and collection of refuse and litter. Conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and the collection of litter.

Policies DC14.1 (Shop Fronts and Related Signs) states that the City Council will ensure that the design of shop fronts is in keeping with the character of the area within which the building is located and that inappropriate features are not permitted.

Saved Policy DC18.1 (Conservation Areas) states that the Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering issues including the effect of signs and advertisements.

Saved Policy DC19.1 (Listed Buildings) advises that in determining applications for listed building consent the Council will have regard to the desirability of securing the retention, restoration, maintenance and continued use of such buildings and to protecting their general setting. The City Council will:

- Not permit any external or internal alteration or addition to a listed building where in its opinion, there would be an adverse effect on its architectural or historic character.

#### National Policy

Sections 16, 66 and 74 of the Listed Buildings and Conservation Areas Act 1990 requires that special consideration is given to the preservation of the significant fabric and setting of listed buildings and conservation areas. Development decisions should, therefore, accord with the requirements of the NPPF and to section 16 (Conserving and Enhancing the Historic Environment).

It is a fundamental requirement of the NPPF that planning proposals contribute to the achievement of "sustainable development". In order to meet this key planning objective, in this instance, the development should sustain and contribute to the stimulation of a thriving historic environment.

Paragraph 197 states that in determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality.
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 194 advises that local planning authorities should require an applicant to submit sufficient information to describe the significance of any heritage assets affected, including any contribution made by their setting.

Paragraph 200 advises that any harm to or loss of a designated heritage asset should require clear and convincing justification. Substantial harm or loss should be exceptional and substantial

harm to or loss of designated heritage assets of the highest significance, including grade I and II\* listed buildings should be wholly exceptional.

Paragraph 201 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Section 12 (Achieving Well Designed Places) advises that the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Under these criteria the effect of the proposal on the affected heritage assets has been considered.

The above national policy and legislation set requirements cannot be set to one side and it is particularly noted that this means decision-making regarding the historic environment is a case of balancing harm against public benefit as is the approach set out in the National Planning Policy Framework (NPPF).

The proposals would introduce incongruous features to the principal elevation of the building overlooking Oxford Street. Adding these ad hoc features to the consistently treated shop fronts disrupts this consistency with a feature that is not in keeping with the significance and appearance of this listed building.

Ideally, there would be a consistent solution for fume extraction at the property for the various ground floor occupiers. If this is not possible, in the absence of this the fume extraction needs to be hidden from view and separated from original or historic features.

The applicant has been advised of ways that the harm could be minimised or avoided but have not so far been able to comply with our advice by proposing any of the recommended solutions.

The proposal would result in less than substantial harm to the significance of this Grade II listed building due to the proposals to install louvres on the front elevation overlooking Oxford Street. However, it is considered that harm to this Grade II Listed building could be avoided by developing an alternative solution. It is also clear that no effort has been made to minimise the impact of the louvres.

The front of this property and the louvre location can be seen from both sides of Oxford Street and from the Rochdale Canal and canal towpath making them highly prominent features.

The other works generally seem to be acceptable subject to the submission of further information as part of a new application.

Insufficient evidence was submitted to fully demonstrate the level of harm that would be caused to the development site however, we have enough information to confirm that this is less than substantial harm. The drawings are basic, and some are inaccurate, and the heritage and design and access statement also failed to assess the proposals fully.

The proposals are also at the entrance to the Whitworth Street Conservation Area and within a highly prominent building and for the reasons described above would be prominent and incongruous features also causing harm to the Conservation Area.

Despite this, the information was enough to show that there would be less than substantial harm caused by the proposals as described above and this harm would affect the Grade II Listed building on which the equipment would be located, the adjoined Grade II Listed buildings and the Stevenson Square Conservation Area and was not justified by public benefit.

Pre application advice was not sought from the LPA and may have assisted in resolving the issues.

In view of the above, it is considered that due to the external louvres the proposals would cause less than substantial harm that has not been justified by public benefit and are contrary to Sections 16 (2) and 66 of (Listed Buildings and Conservation Areas) Act 1990, Sections 7 and 12 of the National Planning Policy Framework, the Core Strategy for the City of Manchester, in particular Policies SP1, CC9, EN3 and DM1 and saved policy DC19.1 of the Unitary Development Plan for the City of Manchester.

#### Principle of the Proposed Use

The proposed use is a type that would have a shopfront and would complement the shop uses on Oxford Street. It would also occupy a vacant unit.

The proposed development use complement existing uses and improve the local environment and as such would be consistent with Core Strategy policies SP1 and CC1.

#### Amenity Including Residential Amenity

This is a critical issue, as amongst other things, it examines the impact that the scheme would have on nearby and adjoining occupiers. It includes the consideration of issues such as impact on noise and disturbance.

The application is in an area of the City Centre that includes residential accommodation with the nearest residential accommodation being located on the opposite side of Oxford Street.

However, should this application be capable of being approved the relevant conditions recommended by our Environmental Health Service would be applied to the decision.

Given the above, it is considered that the proposals remain acceptable in terms of residential amenity and the amenity of surrounding occupiers in accordance with policies CC4, CC7, SP1 and DM1 of the Adopted Core Strategy for the City of Manchester and saved policies DC10.1-10.4 and DC26 of the Unitary Development Plan for the City of Manchester.

#### Crime and Disorder

The proposed use would be sited within a managed building and would be in a busy location being on the Oxford Road Corridor and would therefore benefit from natural surveillance. There are no external alterations proposed other than the louvres.

Given this, the proposals are considered to be in accordance with policies SP1 and DM1 of the adopted Core Strategy for the City of Manchester.

#### Disabled Access

The property is level throughout.

Given the above, the proposals are acceptable in terms of disabled access in accordance with policies CC10, SP1 and DM1 of the adopted Core Strategy for the City of Manchester.

## Highways

The site is located within an area of the City Centre that is highly accessible by public transport, including by train from Oxford Road and Piccadilly Train Stations, Metrolink services from St Peters Square and bus stops on Oxford Road. The concerns raised by Highways haven't been addressed but would have been capable of being resolved if they had been answered.

Given the above the proposals comply with section 4 of the NPPF and policies DM1 and SP1 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.

## Recommendation:

### Article 35 Declaration

Officers have worked with the applicant in a positive and pro-active manner to seek solutions to problems arising in relation to dealing with the planning application. This has included ongoing discussions about the information required to be submitted to support the application and the acceptability of the proposals. Unfortunately the issues with this application couldn't be resolved within the timescales allowed.

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

1) The proposed elevational alterations to the Grade II Listed building would fail to respond positively to the character and appearance of the building and local historic environment. The louvres would be located in a highly prominent position, relate poorly to the shop front and would be highly visible from the Rochdale Canal and towpath. The proposals would cause less than substantial harm to the listed building and affected the setting of the listed building in the street scene with the level of harm caused not being outweighed sufficiently by the public benefits of the scheme. The proposal is contrary to policies SP1, CC9, EN3 and DM1 of the Manchester Core Strategy (2012), saved policies DC14.1, DC18.1 and DC19.1 of the Unitary Development Plan for the City of Manchester (1995) and NPPF.

## **Appendix 1 – List of consultees & neighbours notified**

Highway Services  
Environmental Health  
Greater Manchester Police

Upper Ground Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Ninth Floor, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
Fourth Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Basement, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Palace Theatre, Oxford Street, Manchester, M1 6FT  
Ground Floor, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
Sixth Floor, St. James Building, 79 Oxford Street, Manchester, M1 6HT  
J Sainsbury Plc, 51 Whitworth Street West, Manchester, M1 5EA  
Fifth Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
The Stage Door, 97 Oxford Street, Manchester, M1 6ET  
Seventh Floor, St. James Building, 79 Oxford Street, Manchester, M1 6HT  
First Floor, St James Building, 79 Oxford Street, Manchester, M1 6PP  
Window Display 5, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Third Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Ground Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
First Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Sixth Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Basement Store, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
Second Floor, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
Fourth Floor, St. James Building, 79 Oxford Street, Manchester, M1 6HT  
St James Court, Oxford Street, Manchester, M1 6FQ  
First Floor Suite 7, St James Court, Oxford Street, Manchester, M1 6FQ  
First Floor Suite 2, St James Court, Oxford Street, Manchester, M1 6FQ  
First Floor Suite 8-9, St James Court, Oxford Street, Manchester, M1 6FQ  
Suite 1, St James Court, Oxford Street, Manchester, M1 6FQ  
60 Oxford Street, Manchester, M1 5EE  
Basement Office, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
Fifth Floor, St James Buildings, 79 Oxford Street, Manchester, M1 6EQ  
Window Display 4, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Window Display 1, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Window Display 2, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Eighth Floor, St James Buildings, 79 Oxford Street, Manchester, M1 6FQ  
81 Oxford Street, Manchester, M1 6EG  
Third Floor, St. James Building, 79 Oxford Street, Manchester, M1 6FQ  
Window Display 3, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
Second Floor, Broadhurst House, 56 Oxford Street, Manchester, M1 6EU  
91 - 93 Oxford Street, Manchester, M1 6ET

## **Appendix 2 – Planning constraints**

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4  
Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3  
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M  
Coal Authority - Development Low Risk - Name: DEVELOPMENT\_LOW\_RISK\_AREA  
Conservation Area - Whitworth Street Conservation Area 1985  
Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -  
Area Team Boundary - Name: CENTRAL