

Planning

Growth & Development

Delegated officer report for planning application

Application no. 134539/FO/2022

Date registered valid: 11 August 2022

Proposal: Change of use from cash and carry to restaurant (Class E) together with associated elevational alterations and installation of fume extraction flue

Address: 120 Cheetham Hill Road, Manchester, M4 4FG

Ward(s): Cheetham Ward

Applicant: Mr. Avanrenren Frank, 120 Cheetham Hill Road, Manchester, M4 4FG

Agent (if any): Mr Muthahar Khan Studio, Tashkeel Architecture, 89 Princess Street, Manchester, M1 4HT

Case officer: Janine Renshaw-Livesey
Tel: 0161 234 4555
Email: janine.renshaw-livesey@manchester.gov.uk

Recommendation: Refuse

Date of recommendation 8 November 2022

Application details

Type of application: Full Application Consent

Development type: Change of use

Date of site visit: 12 September 2022

Standard consultations:

Printed: 23 August 2022 Expired: 13 September 2022

Neighbour notifications

Printed: 23 August 2022 Expired: 13 September 2022

Site notice

Posted: 18 October 2022 Expired: 08 November 2022

Press advert

Published: 30 August 2022 Expired: 20 September 2022

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

This application site relates to 120 Cheetham Hill Road, a two-storey mid terraced building within a row of 4 similar units between Fern Street, Knowsley Street and St Chads Street. It is understood that the premises was previously occupied by cash and carry (sui generis) use. Located to the north of the city centre.

An external extract flue is proposed to the rear of the property in conjunction with the change of use.

The premises are situated within a commercial/industrial area.

There is a single yellow line parking restrictions outside the premises. There is no car parking to the rear of the units available for staff parking. However, a space has been allocated for car deliveries within the courtyard area.

Description of area

The site is located adjacent to a busy, north/south arterial route situated in an area defined by a mixture of large and small premises occupied by wholesalers, and distributors involved predominantly in textile, clothing, information communications and technology.

The area also includes a number of food and drink businesses, opposite the application site HMP Strangeways is situated a short distance, whilst the city centre is situated approximately 1

km to the south. There are a number of food establishments on the opposite side of Cheetham Hill Road in close proximity to the site.

Description of development

Change of use from cash and carry to restaurant (Class E) together with associated elevational alterations and installation of fume

Consultations & Notification Responses

Local Residents/Occupiers - No representations were received.

The proposal was advertised in the local press as affecting the setting of listed buildings. There are three Grade II listed buildings in close proximity to the application site, St Chas Catholic Church, 122-124 Cheetham Hill Road and 95 Cheetham Hill Road. It is considered none of the elevational alterations, more specifically the flue due to its size, position and appearance and relationship with the surrounding listed properties would not be detrimental to the setting of the building and the proposal is therefore, acceptable.

A letter was received from a third-party planning consultant acting on behalf of the applicant. The issues raised within the letter states the unit had been vacant for over a 12-month period and has been marketed as such. However, the unit being vacant for a period of time does not justify or outweighs the harm a food type use would have on the character of the area and undermines the aspiration of the development plan.

Highway Services

Objected to the scheme: Highways have concerns on the limited parking opportunities within the immediate vicinity of the site. It is noted that restrictions are in place on Cheetham Hill Road and there is significant on-street parking at the rear of the site. Highways have concerns that the lack of parking will result in on-street parking on restricted streets and reduce available space on the adopted highway due to illegally parked cars. Whilst congested streets will negatively impact other road users, pedestrians and cyclists.

Environmental Health - Conditions are recommended in relation the control of fumes/odours, noise and hours of use an

Issues

Policy

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period.

2012 - 2027.

'The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long-term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.'

The following policies within the Core Strategy are considered relevant:

Policy SP1 refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well-being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Policy T2 looks to manage the pattern of development to ensure that new development is located in accessible locations. Particular emphasis is given to the need to ensure residents are able to live in locations accessible to employment health, education, open space and leisure opportunities. The policy also states that all new development should provide appropriate car parking facilities.

In addition, the following saved policies of the UDP is also considered relevant:

Policy CC10 encourages the continued high level of economic activity in Strangeways and lower Cheetham Hill Rd areas, recognising particularly the needs of the wholesale trades which dominate these areas. The Council recognises the regional role played by this locality and will pursue policies designed to improve the efficiency of existing businesses by environmental improvements and better parking and servicing.

Permission will only be granted where proposals incorporate sufficient parking and servicing for their own needs, subject to a proper balance of other planning requirements.

Policy DC10 (Food and Drink Uses) states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, the Council will have regard to, in this instance:

- The general location of the proposed development;
- The effect on the amenity of neighbouring residents;
- The availability of safe and convenient car parking;
- Access for all;
- The storage and collection of refuse.

National Planning Policy Framework - The central theme to the NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role. The NPPF outlines a "presumption in favour of sustainable development". This means approving development, without delay, where it accords with the development plan and where the development is absent or relevant policies are out-of-date, to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

Paragraph 2 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life. This includes making it easier for jobs to be created in cities.

Issues

Principle

The suitability of the proposed development has been principally assessed with reference to the relevant policies of the Core Strategy, City Council policy and the guidance contained within the National Planning Policy Framework.

The use of the premises as a café/restaurant is not considered acceptable this location and will adversely affect the character and function of the area, whilst contributing to the over proliferation of food and drink uses in the area which will further undermine the employment function of the area. The proposal is therefore contrary to saved policies DC10 and CC10 of the UDP, policies SP1, T2 and DM1 of the Manchester Core Strategy and the NPPF.

The proposed use is also unsustainable in this location and does not propose sufficient off-road parking provision to meet the needs of the business. This in turn will exacerbate existing on street parking and congestion problems, contrary to saved policy DC10 of the UDP, policies DM1, T2 and SP1 of the Manchester Core Strategy and the NPPF.

Impact of the Proposed Use

Saved Policy CC10 of the UDP encourages the continued high level of economic activity in Strangeways and lower Cheetham Hill Rd areas, recognising particularly the needs of the wholesale trades which dominate these areas.

The City Council as Local Planning Authority is concerned that there has been a recent creep of food and drink uses into the immediate area and this is beginning to change the character of the area and will ultimately undermine the role and function of the area as a realm of important economic activity that fulfils an essential employment purpose.

It is assessed that the number of existing and proposed food and drink uses including hot food takeaways within this small area represents an over concentration that will serve to detract from and be harmful to the area's primary economic function. In turn the proposed use would form a contributory factor which would be harmful to the character of the area which would further erode its function.

There are a number of existing food and drink uses in the area (largely takeaways, located within the vicinity of the application site. Four premises to the immediate north of the site and a hot food takeaway situated at 116 Cheetham Hill Road.

The City Council believes that in order to protect the area from an over concentration of food drink uses, a line needs to be drawn. Cumulatively, the impact of an increased number of food and drink uses would substantially erode the character and role of the area and create a host of problems typical of food and drink uses including increased traffic, parking demand and noise. Accordingly, in order to safeguard the area from an invasion of food and drink uses this and other similar proposals are now being resisted.

Impact upon the Highway

Saved Policy DC10 states that in determining applications for the sale of food and drink, regard should be had to the availability of safe and convenient arrangements for parking and servicing.

Policy T2 of the Core Strategy states that all new developments should provide appropriate car parking facilities and also that the circumstances of each proposal should be taken into account to establish what level of parking is appropriate.

Policy DM1 requires that adequate parking should be provided for all new development and consideration should be given to traffic generation and road safety.

The more strategic policy SP1 goes on to state that new developments should improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision. This proposal has no car parking provision.

Cheetham Hill Road is a busy radial route leading into Manchester City Centre, with this section of the road, along with neighbouring side roads heavily congested with on street parking. This makes parking and vehicular manoeuvrability difficult.

Whilst it is acknowledged that the proposed use has the potential to be used for linked trips with adjoining business and by customers on foot, there will undoubtedly be a high demand for car parking from customers, staff and delivery drivers. This will be particularly so when the proposed floorspace is operating at full capacity.

On balance, it is considered that neighbouring roads have reached saturation point in the level of on-street parking demand. The anticipated number of patrons and staff would be excessive in this area, without any substantial off-road parking provision. In turn, the proposed use would have a detrimental impact upon local traffic flow and would generate an unsustainable demand for on-street parking. This in turn will further impact upon the operation of local businesses and potentially raise highway safety issues. As such, the proposal would be contrary to Development Plan policy as outlined above.

Relevant Appeal Decisions

Appeal Decision

Site visit made on 5 February 2018

an Inspector appointed by the Secretary of State

Decision date: 26th February 2018

Appeal Ref: APP/B4215/W/17/3189312 :13 and 13A Bury New Road, Manchester M8 8FW

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.

The appeal is made by Mr Hamid Arman against the decision of Manchester City Council.

The application Ref 116794/FO/2017, dated 26 June 2017, was refused by notice dated 6 September 2017.

The development proposed is change of use from retail premises to cafe / restaurant.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has requested that I determine the appeal on the basis of the 32 covers scheme that was submitted to the Council. However, the Council did not accept the submission of the amended scheme and determined the application on the basis of the 92 covers scheme. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* (1980), as the amended scheme has not been the subject of public consultation, I consider that any interested parties would be prejudiced through my consideration of this scheme as they would not have had the opportunity to comment on it. Accordingly, I have not accepted the amended scheme and have determined the appeal on the basis of the scheme on which the Council made their decision.

Main Issues

3. The main issue is the effect of the proposal on the wholesale trade function of the area and highway safety.

Reasons

Wholesale Trade Function

4. The appeal site comprises a vacant, two-storey, mid-terrace property. It is located within a row of commercial and retail units fronting onto Bury New Road. This stretch of Bury New Road, and the wider area, predominantly consists of a mix of wholesalers, retail units and distributors primarily focusing on textiles, clothing and information technology. The Council state that the appeal property was previously a fashion retailer.

5. Saved Policy CC10 of the Manchester Plan The Unitary Development Plan for the City of Manchester 1995 (the UDP) encourages the continued high level of

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economic activity in Strangeways and lower Cheetham Hill Road areas, with particular regard to wholesale trades which dominate these areas. It goes on to recognise the regional role played by the locality and seeks to improve the efficiency of wholesale cash and carry and bulk distributive trades.

6. Saved Policy DC10 of the UDP states that planning applications for food and drink uses shall have regard to the general location of the proposed development, including any reference to the area in other policies in the Plan. Therefore, in this instance, saved Policy DC10 is linked to saved Policy CC10 of the UDP, which refers to the Strangeways area.

7. The proposal would provide 32 covers on the ground floor and 60 covers on the first floor. As a result of the proposed café/restaurant use of the property, it would no longer be available for a wholesale trade. Therefore, it would conflict with the aim of saved Policy CC10 of the UDP as it would result in the loss of a use that the policy seeks to support. However, the Council's concern is not strictly the loss of the existing retail use but the concentration of food and drinking uses within the locality.

8. The Manchester City Council's Hot Food Takeaway Supplementary Planning Document 2017 (the SPD) states that a proposal will be considered to be harmful to the vitality and viability of a

centre if, amongst other things, it increases the concentration of hot food takeaway ground floor frontages in a centre to more than 10%. Appendix 2 of the SPD identifies all of the district and local centres in Manchester.

9. The site falls within the Workshop Village as identified in the Strangeways Local Plan (the SLP). However, this is not identified as a district or local centre in Appendix 2 of the SPD. Appendix 2 also states that locations not identified but which perform the same function in terms of scale and meeting local needs will also be considered to be local centres. However, given that the area is dominated by wholesale trades I do not consider that it performs the same function as a district or local centre in terms of meeting local needs. Moreover, the proposal is not for a hot food takeaway. Therefore, I do not consider that the 10% concentration threshold set out in the SPD is applicable to the appeal proposal.

10. The appellant contends that the current number of food and drink uses within the Workshop Village is only 4.8% of the total businesses within the Village. The proposal would raise this to 5.3%. The Council have not provided any evidence to the contrary. Nevertheless, there are a number of food and drink uses within proximity of the appeal property along Bury New Road, including the end-terrace, No 17 Bury New Road and, adjacent to that, the Manzil restaurant and banqueting hall. Whilst the concentration of food and drink uses throughout the Village may well be relatively low, within this area of it, the concentration is significantly higher. The proposal would increase this concentration even further, which would undermine the area's primary economic function, that of wholesale trades.

11. A primary objective of the SLP is to diversify its current employment base. However, I consider that this diversification is to be balanced throughout the area and does not advocate the concentration of particular uses, in this instance food and drink uses, in certain parts of it.

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12. I have had regard to the applications referred to me by the appellant that the Council have previously approved at Nos 26, 29, 45 and 63 Bury New Road and No 2 Sagar Street. These schemes were considered against the same development plan policies and are similar to the proposal before me. However, these schemes have contributed to the concentration of food and drink uses in the locality and, whilst they were found to be acceptable, the concentration has now reached a saturation level where any further increase would be unacceptably detrimental to the wholesale function of the area.

13. I have also had regard to the recent appeal decision referred to me by the Council¹. I note that the Inspector similarly concluded that the proposal would harm the wholesale function of the area.

14. I find therefore that the proposal would significantly harm the wholesale function of the area, contrary to saved Policies CC10 and DC10 of the UDP. In addition, it would fail to comply with Policies DM1 and SP1 of the Manchester City Council Core Strategy 2012 (the CS), which, amongst other things, seek to ensure that development is appropriately sited and enhances or creates character. Furthermore, it would fail to accord with the aspirations of the SLP and the objectives of the National Planning Policy Framework (the Framework).
Highways Safety.

15. The proposal does not include any on-site parking provision. The appellant contends that there are approximately 321 on-street parking spaces within a 200m radius of the site and a pay

and display car park on Sherborne Street West, approximately 100m from the site. The site has very good access to public transport with a regular bus service on Bury New Road.

16. The local highway authority confirms that in accordance with the CS, the proposal would require a maximum of 22 parking spaces. Whilst the appellant contends that the amended scheme of 32 covers.

17. During my site visit, which was undertaken in the early afternoon on a weekday, I observed that there are a large number of on-street parking spaces. However, the existing demand in on-street parking is very high, with very few spaces available within reasonable walking distance of the site. I find it highly unlikely that the 22 spaces that the proposed use could potentially require could be accommodated via on-street provision within the vicinity of the site.

18. I have had regard to the nearby pay and display car park. This was almost full at the time of my site visit and therefore it seems to me that it would unlikely be sufficient to accommodate the required parking provision. Moreover, although the site has very good access links to public transport, it is reasonable to conclude that some customers would travel to the site via private car.

19. Overall, the lack of on-site parking provision and the existing demand in on-street parking would likely result in customers arriving by car driving around the nearby roads looking for spaces or waiting until a space becomes available, thus disrupting the free-flow of traffic and significantly increasing the risk of conflict with other road users or pedestrians.

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20. I have had regard to the appellant's contention that the Council have allowed development in the past that also relies on on-street parking provision. However, it is likely that the culmination of these previously approved schemes have resulted in the current lack of on-street parking for the appeal proposal.

21. I find therefore that the proposal would represent a severe risk to highway safety. As such, it would be contrary to saved Policy DC10 of the UDP, which seeks to ensure that food and drink uses have safe and accessible car parking. Furthermore, it would fail to comply with policies DM1, SP1 and T2 of the CS, which, amongst other things, seek to ensure that development provides adequate car parking provision and makes a positive contribution to the safety of residents. In addition, it would fail to accord with the objectives of the Framework.

22. I have had regard to the increase in employment opportunities and the improvements to the visual amenity of the area through the redevelopment of the property's frontage. Given the relatively low staff numbers and the small scale of the property, these benefits to the area are only limited. Nevertheless, they weigh in favour of the proposal.

23. I have also had regard to the increase in the provision of food and drink services to the local population. However, as I have identified above, there are already a high number of other food and drink uses in the locality. Therefore, I attribute this only very limited weight.

Conclusion

24. Whilst the proposal offers some economic benefit with regard to providing jobs and would make a limited improvement to the visual amenity of the area, I do not find that these benefits,

individually or cumulatively, outweigh the harm the proposal would have on the wholesale function of the area or highway safety.

25. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

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: Refuse

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have communicated their concerns about this proposal to the applicant during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan and therefore refused in a timely manner.

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

1) The proposed use would add to the concentration of food and drink uses in the locality which would undermine the primary economic function and character of the area and detract from the high level of economic activity in the Cheetham Hill area, which recognises the needs of the wholesale trades that dominate the area. As such, the proposal is contrary to saved policies DC10 and CC10 of the Unitary Development Plan for the City of Manchester, policies DM1 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework.

2) The proposed use and the potential level of parking demand and vehicular activity generated by the proposal would exacerbate existing on-street parking and highway difficulties in the locality to the detriment of amenity and highway safety. The development is therefore contrary to saved policy DC10 of the Unitary Development Plan for the City of Manchester, policies DM1, SP1 and T2 of the Manchester Core Strategy and the National Planning Policy Framework.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

2 Empire Street, Manchester, M3 1JA
First Floor, 9 Stocks Street, Manchester, M8 8GW
Ground Floor, 9 Stocks Street, Manchester, M8 8GW
First Floor, 116 - 118 Cheetham Hill Road, Manchester, M4 4FG
Ground Floor Right, 116 Cheetham Hill Road, Manchester, M4 4FG
Basement And Ground Floor Left, 116 Cheetham Hill Road, Manchester, M4 4FG
116 - 118 Cheetham Hill Road, Manchester, M4 4FG
Fern House, Fern Street, Cheetham, Manchester, M8 8QQ
First Floor And Second Floor, 97 Cheetham Hill Road, Manchester, M8 8PY
97 Cheetham Hill Road, Manchester, M8 8PY
Ground Floor, 97 Cheetham Hill Road, Manchester, M8 8PY
118 Cheetham Hill Road, Manchester, M4 4FG
First Floor, 116 Cheetham Hill Road, Manchester, M4 4FG
9 Stocks Street, Manchester, M8 8GW
Derby Brewery Arms, 95 Cheetham Hill Road, Manchester, M8 8PY
116 Cheetham Hill Road, Manchester, M4 4FG
Second Floor, 116 Cheetham Hill Road, Manchester, M4 4FG
99 - 101 Cheetham Hill Road, Manchester, M8 8PY
124 Cheetham Hill Road, Manchester, M8 8PZ
CLEOPATRA TRADING LTD, 122 Cheetham Hill Road, Manchester, M8 8PZ
9A Stocks Street, Manchester, M8 8GW

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(c) To C3
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 - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (More) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: NORTH AREA