

Planning

Growth & Development

Delegated officer report for planning application

Application no. 133586/FO/2022

Date registered valid: 10 August 2022

Proposal: Formation of external seating area with barrier enclosures and associated erection of a canopy to Albyn's Avenue elevation

Address: 463 Cheetham Hill Road, Manchester, M8 9LR

Ward(s): Cheetham Ward

Applicant: Mr Deen Star, 463 Cheetham Hill Road, Manchester, M8 9LR

Agent (if any): Mr Talat Zeria, HSH Engineering Design Service Ltd, 428 Cheetham Hill Road, Manchester, M8 9LE

Case officer: Steven McCoombe
Tel: 0161 234 4607
Email: steven.mccoombe@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 22 September 2022

Application details

Type of application: Full Application Consent

Development type: Minor Retail

Date of site visit: 15 September 2022

Standard consultations:

Printed: 15 August 2022 Expired: 5 September 2022

Neighbour notifications

Printed: 15 August 2022 Expired: 5 September 2022

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

The application site relates to a hot food takeaway situated at the corner of Cheetham Hill Road and Albyns Avenue.

The premises incorporates shop front windows to the front and side elevations, presently covered by metal security grilles. Access to the premises is achieved via an entrance from Cheetham Hill Road.



View looking towards Albyns Avenue from Cheetham Hill Rd

The area subject to the application relates to a narrow area of hard-standing to the side of the premises fronting Albyns Avenue and is separated from the public footway by a series of bollards.

To the rear is a pair of single storey, lock-up garages which separates the premises from residential dwellinghouses along Albyns Avenue.

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The application site is situated within an area mixed use in character.

The host premises lies adjacent to Cheetham Hill Road – a busy arterial route which links the city centre with north Manchester and is situated approximately 300 metres outside of the defined district centre boundary which extends along Cheetham Hill Road from Seymour Grove to the north and Woodlands Street to the south.

The section of Cheetham Hill Road to which the site relates is largely commercial in nature, comprising a mixture of small and medium scale retail, food and drink and office uses. Immediately opposite the proposed seating area on the opposite side of Albyns Avenue is a small supermarket with associated parking, which has recently received planning permission for sub-division into 4 smaller units.

The sides roads off Cheetham Hill Road are mainly residential in character, including Albyns Avenue, which is characterised by two storey, terraced dwellinghouses.

Description of development

Planning permission is sought for the creation of an external seating area to be used in association with the existing hood food takeaway.

The proposed seating area is situated to the side of the host premises, fronting Albyns Avenue and shows space for 4 tables and 16 chairs, enclosed by 1 metre high planter containers, with access achieved at the corner of Cheetham Hill Road and Albyns Avenue

In addition, a canopy is proposed to provide shelter to the seating area. This comprises a lightweight frame with lean-to roof attached to the side elevation of the existing building.

It is anticipated that the seating area be used during 11:00 to 20:00 hrs daily.

Consultations & Notification Responses

Local Residents/Occupiers – 7 representations objecting to the proposed application have been received from neighbouring occupiers. In summary, concerns focus on noise and disturbance impact, increased traffic congestion, poor pedestrian access along Albyns Avenue, loss of privacy, increased change of littering and the potential for increased crime by attracting more people to the area late at night.

Environmental Health – It is recommended that the application be refused.

There are concerns that the proposed external seating area has the potential to negatively impact the amenity of the occupiers of nearby residential properties on Albyns Avenue due to noise disturbance from customers using the area.

Noise from customers using the external seating area such as raised voices, laughter and shouting and noise from groups of customers is likely to cause a disturbance to nearby residents especially when considering they are in such close proximity

Noise events of this nature are very difficult to control and likely to have already caused a disturbance and impacted the amenity of these residents before action can be taken to prevent it.

There is also concern regarding potential for noise break-out from the building when customers open any doors onto the external seating area to access or vacate the area, which is likely to impact amenity, considering there are residential properties less than 20 metres away.

In conclusion, it is felt that the location of the proposed external terrace is not suitable due to the close proximity of residential properties and the potential for noise disturbance from activities in the external area to impact on the amenity of these residents. Therefore, in the interests of protecting residents from noise disturbance and protecting their amenity, it is recommended that that the application is refused.

Highway Services – It is noted that the development consists of 4 tables with 16 associated chairs, enclosed by raised planter beds.

As the proposed tables and chairs are to be located on a private forecourt, a tables and chairs licence will not be required.

The proposed development is located on a length of footway, subject to a high volume of pedestrian movement.

In this location, street furniture in the form of street signage is located on the adopted footway at Albyns Avenue junction with Cheetham Hill Road.

The proposed seating area retains a footway clearance of 2 m from the back of the seating area to the kerbside. This is not considered sufficient to accommodate pedestrian demands in this location.

All furniture is to be stored internally within the premises outside of operational hours. This is considered appropriate in preventing unnecessary obstruction of the adjacent highway.

A free-standing canopy will be in place over the external seating area. A Projection Over Licence will not be required as the canopy is located over the private forecourt.

Greater Manchester Police (Design for Security) – Various security measures are advised, including the need for CCTV, lighting and maintenance.

Planning History

077808/JO/2005/N1

Variation of hour condition to allow opening until 1am on Monday-Thursday, 3am Fridays and Saturdays and 1am on. *Approved 26 January 2006.*

067673/FO/NORTH1/03

Elevational alterations namely new window and roller shutter on side elevation. Approved 29 May 2003.

064256/FU/NORTH1/02

Change of use from shop (Class A1) to Office (Class A2). *Approved 15 March 2002.*

066260/FU/NORTH1/02

Change of use from shop to hot food takeaway. *Approved 25 November 2002.*

Policy

Local Development Framework

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.

Policy SP1 (Spatial Principle) - 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 (Development Management) - 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 C10 Leisure and the Evening Economy – refers to 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.

Unitary Development Plan for the City of Manchester, 1995 (Saved Policies)

The below saved policies of the Unitary Development Plan are also considered relevant:

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:

- The general location of the proposed development, including any reference to the area in other policies;
- 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.

Policy DC26 (Noise) states that the Council intends to use the development control process to reduce the impact of noise on people living and working in the City. In particular, consideration will be given to the effect of new development proposals which are likely to be generators of noise.

National Planning Policy Framework

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role.

Section 4 provides guidance on the decision-making process and mirrors legislation in stating that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Section 12 relates to achieving well-designed Place. Of particular relevance, Paragraph 130 states:

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Issues

Principle

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise.

The NPPF at paragraphs 2 and 47 reinforces this requirement and at paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

In the case of this application, the principle of the proposed change of use is not considered acceptable and is in conflict with the aforementioned development plan policy and associated guidance. The principal concern relates to the impact on the living conditions of the nearest residential occupiers as outlined below.

Residential Amenity

Policies DM1 and SP1 of the Core Strategy both indicate that consideration should be given to the effects of development upon the amenity, living conditions and the well-being of residents, whilst policy C10 states that uses relating to the evening economy should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance

Saved policy DC10 of the UDP requires consideration to be given to the location of new development and seeks to protect the amenity of neighbouring occupiers, as a consequence of such uses. Saved policy DC6 requires consideration to be given to new development that is likely to be generator of noise.

Guidance provided at paragraph 130(f) of the NPPF states further that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

In this case the proposed external seating area is situated approximately 12 metres away to the east from the nearest residential dwellinghouse along Albyns Avenue.

Given the proximity and relationship of the proposed seating area with nearby dwellinghouses, there is significant concern that the use of the seating area would give rise to an increased likelihood of noise and disturbance. For example, as a consequence of raised voices, the movement of furniture, cars pulling up, smoking and general pedestrian activity. The use of the outdoor seating area would also attract a concentration of patrons rather than typical, isolated pass by trade normally associated with a hot food takeaways. This view endorsed by the City Council's Environmental Health section who object to the proposal.

The impact caused by increased noise and disturbance would be particularly acute during the evening when it can be expected that many residential occupiers along Albyns Avenue would be home from work, as well as during the warmer months when residential windows may be left open.

It should also be noted that the host premises is situated approximately 300 metres outside of the defined district centre. The further, incremental encroachment of commercial activity upon residential environments is an issue that the City Council seeks to avoid. It is considered that commercial activity should be focused along the main Cheetham Hill Road frontage, rather than along residential side roads.

In light of the above, it is considered that on balance, the proposed outdoor seating area would undermine the living conditions of nearby residential occupiers to the detriment of their amenity.

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 external seating area would have a detrimental impact upon the level of amenity afforded to nearby residential occupiers along Albyns Avenue. The outdoor seating area is located at the corner of a predominantly residential road and coupled with the hours of use sought, would generate an unacceptable level of additional activity and associated noise and disturbance which would be harmful to the living conditions of the nearest residential occupiers. The proposed application is therefore contrary to saved policies DC10 and DC26 of Unitary Development Plan for the City of Manchester and policies DM1, C10 and SP1 Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Highway Services
Greater Manchester Police

461A Cheetham Hill Road, Manchester, M8 9PA
461F Cheetham Hill Road, Manchester, M8 9PA
461E Cheetham Hill Road, Manchester, M8 9PA
461D Cheetham Hill Road, Manchester, M8 9PA
461C Cheetham Hill Road, Manchester, M8 9PA
461B Cheetham Hill Road, Manchester, M8 9PA
469B Cheetham Hill Road, Manchester, M8 9LR
Flat 4, 380A Cheetham Hill Road, Manchester, M8 9LS
Flat 3, 380A Cheetham Hill Road, Manchester, M8 9LS
Flat 2, 380A Cheetham Hill Road, Manchester, M8 9LS
Flat 1, 380A Cheetham Hill Road, Manchester, M8 9LS
14 Albyns Avenue, Manchester, M8 9AQ
374A Cheetham Hill Road, Manchester, M8 9LS
8 Albyns Avenue, Manchester, M8 9AQ
5 Albyns Avenue, Manchester, M8 9AQ
10 Albyns Avenue, Manchester, M8 9AQ
6 Albyns Avenue, Manchester, M8 9AQ
3 Albyns Avenue, Manchester, M8 9AQ
First Floor, 463A Cheetham Hill Road, Manchester, M8 9LR
465 Cheetham Hill Road, Manchester, M8 9LR
465A Cheetham Hill Road, Manchester, M8 9LR
378 Cheetham Hill Road, Manchester, M8 9LS
380 Cheetham Hill Road, Manchester, M8 9LS
467A Cheetham Hill Road, Manchester, M8 9LR
467 Cheetham Hill Road, Manchester, M8 9LR
16 Albyns Avenue, Manchester, M8 9AQ
12 Albyns Avenue, Manchester, M8 9AQ
4 Albyns Avenue, Manchester, M8 9AQ
2 Albyns Avenue, Manchester, M8 9AQ
1 Albyns Avenue, Manchester, M8 9AQ
376 Cheetham Hill Road, Manchester, M8 9LS
374 Cheetham Hill Road, Manchester, M8 9LS
469 Cheetham Hill Road, Manchester, M8 9LR
382 Cheethamhill Road, Manchester, M8 9LS

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 - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH