

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132440/FO/2021

Date registered valid: 22 April 2022

Proposal: Change of use of part of ground floor to form commercial kitchen for the preparation and delivery of hot food off the premises together with the installation of extraction flue to the rear

Address: 704 Burnage Lane, Manchester, M19 1NA

Ward(s): Burnage Ward

Applicant: Mr Dat Vo, 704-706 Burnage Lane, Manchester, M19 1NA

Agent (if any):

Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 13 June 2022

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 17th May 2022

Standard consultations:

Printed: 27 April 2022 Expired: 18 May 2022

Neighbour notifications

Printed: 27 April 2022 Expired: 18 May 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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The application site relates to an area to the rear ground floor of number 704 Burnage Lane a commercial unit fronting onto Burnage Lane and providing three commercial premises as indicated on the submitted floor plans. The rear of the property is accessed via an alleyway that provides access to the commercial units whilst also providing car parking spaces and access to some upper floors which appeared to be a mix of commercial and residential uses. Beyond the rear yard servicing the site are further residential properties with ground floor separated by a boundary wall.

Description of development

The application proposals are for the use of part of the rear of the ground floor of the commercial premises to be used as a commercial kitchen. The submitted floor plans indicate the use is as a takeaway although the submitted application forms indicate the premises is to operate as a 'dark kitchen' for home delivery of food products cooked in the kitchen, the submitted plans do not indicate an area for sales from the premises in the form of counter. The proposed hours of use are between 1200hrs and 2300hrs.

Consultations & Notification Responses

Neighbouring properties were notified of the proposals, no responses were received.

Environmental Health - Recommend conditions be attached to any approval of the proposals relating to fume system, waste management, hours of operation, noise and delivery hours.

GMP Design for Security - Make recommendations for security measures to be included within the development.

Policy

Manchester Core Strategy

'The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012 and is the key Development Plan Document in the Local Development Framework (LDF). The Core Strategy is to be used as the framework that planning applications will be assessed against.

There are a number of relevant policies within the adopted Core Strategy relevant to the consideration of the current application in summary these are set out below with reference where applicable to why they are relevant in this instance.

Policy SP1 (Spatial Principles) - This policy sets out the key spatial principles which will guide the strategic development of Manchester to 2027 and states that outside the City Centre and the Airport the emphasis is on the creation of neighbourhoods of choice. All development should have regard to the character, issues and strategy for each regeneration area as described in the North, East, Central and South Manchester and Wythenshawe Strategic Regeneration Frameworks and the Manchester City Centre Strategic Plan.

It also sets out the core development principles, including:

- Make a positive contribution to neighbourhoods of choice.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.
- 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.

Policy DM1 (Development Management) this policy states all development should have regard to the following specific issues:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Green Infrastructure including open space, both public and private.
- The use of alternatives to peat-based products in landscaping/gardens within development schemes.
- Flood risk and drainage.
- Existing or proposed hazardous installations.

- Subject to scheme viability, developers will be required to demonstrate that new development incorporates sustainable construction techniques.

As set out within the issues section of this report below, the application proposals are considered to be in general accordance with policy DM1 of the Core Strategy.

Unitary Development Plan (1995)

The majority of the previous UDP policies have been replaced by the Core Strategy, however there are still saved policies that remain extant. The relevant policies for this application are set out below.

Policy DC26.1 indicates that the Council will use the development control process to reduce the impact of noise on people living and working in, or visiting, the City.

Policy DC26.4 states that where the Council believes that an existing noise source might result in an adverse impact upon a proposed new development, or where a new proposal might generate potentially unacceptable levels of noise, it will in either case require the applicant to provide an assessment of the likely impact and of the measures he proposes to deal satisfactorily with it. Such measures might include the following:

- a. engineering solutions, including reduction of noise at source, improving sound insulation of sensitive buildings or screening by purpose-built barriers;
- b. layout solutions, including consideration of the distance between the source of the noise and the buildings or land affected by it; and screening by natural barriers or other buildings or non-critical rooms within a building; and
- c. administrative steps, including limiting the operating times of the noise source, restricting activities allowed on the site or specifying an acceptable noise limit. Any or all of these factors will be considered appropriate for inclusion in conditions on any planning permission.

NPPF

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

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Issues

The principle of commercial development is generally acceptable in areas where other commercial uses are present subject to consideration of the impacts on visual and residential amenity. In this instance as set out below, the proposals are considered to give rise to unacceptable impacts on the amenity of nearby residential properties.

Visual Amenity - The proposals are located toward the rear of a commercial unit accessed via a yard used to service commercial and residential properties containing waste bins, parked cars and access doors. As such the proposed changes to the rear of the property together with the installation of a flue to serve the proposed use are not considered to give rise to unacceptable impacts in terms of visual amenity.

Residential Amenity - The proposals would utilise the rear yard for servicing and delivery needs. A commercial kitchen producing food for delivery from the premises is likely to generate additional comings and goings within the rear yard area associated with the proposed use. The nature of such a business would be anticipated to result in regular journeys to and from the premises either by delivery vehicles, motorised scooters or such like. As such the activity would be concentrated in the rear yard area in close proximity to existing residential properties. It is anticipated that such activities would generate a differing profile of activity to a traditional takeaway that would generally be accessed from a main street and have a street frontage and presence. As such whilst there are commercial uses in the area the activity associated with these is generally concentrated to the front. It is not considered that there would be scope for conditions to be attached to any approval that would overcome the harm identified.

As such it is considered that the proposals would give rise to unacceptable impacts on existing residents to the detriment of the amenity that they would be expected to enjoy. The proposals are considered to be contrary to the adopted planning policies in place in the City and the NPPF.

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

The application has been determined in a positive and proactive manner. In this instance 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 location of the development together with the associated servicing and activity associated with the proposed enterprise would represent an encroachment of the associated commercial area upon adjacent residential properties. Due to the relationship of the proposed site with neighbouring residential properties, residential occupiers would be subject to increased levels of noise, and disturbance, due to increased levels of activity. This in turn would be harmful to living conditions and a reasonable level of amenity. As such, the proposed development is contrary to policies DM1 and SP1 of the Manchester Core Strategy and saved Unitary Development Plan policy DC26.1 and the National Planning Policy Framework (NPPF).

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Greater Manchester Police

Flat 5, 21 Lane End Road, Manchester, M19 1WA
Vanity Nails, 708 Burnage Lane, Manchester, M19 1NA
700A Burnage Lane, Manchester, M19 1NA
704 - 706 Burnage Lane, Manchester, M19 1NA
706 Burnage Lane, Manchester, M19 1NA
23B Lane End Road, Manchester, M19 1WA
Flat 6, 23 Lane End Road, Manchester, M19 1WA
Flat 4, 19 Lane End Road, Manchester, M19 1WA
27 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
25 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
22 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
702A Burnage Lane, Manchester, M19 1NA
28 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
26 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
24 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
23 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
21 Milton Court, 590 Burnage Lane, Manchester, M19 1RX
700 Burnage Lane, Manchester, M19 1NA
698 Burnage Lane, Manchester, M19 1NA
696 Burnage Lane, Manchester, M19 1NA
682 Burnage Lane, Manchester, M19 1NA
702 Burnage Lane, Manchester, M19 1NA
23 Lane End Road, Manchester, M19 1WA
21 Lane End Road, Manchester, M19 1WA
19 Lane End Road, Manchester, M19 1WA

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH