

List No. 2

Fallowfield Ward	Application Number 080292/JO/2006/S1	Date of Appln 2nd Aug 2006	Committee Date 23rd Nov 2006
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Proposal Variation of condition 4 attached to planning permission 050221 and condition 7 attached to planning permission 056824 to extend opening hours to 11.00 a.m. to 2.00 a.m. Sunday to Thursday and 11.00 a.m. to 2.30 a.m. Friday and Saturday with 30 minutes dispersal time

Location 311/313 Wilmslow Road, Fallowfield

Applicant Inventive Leisure 21 Old Street, Ashton Under Lyne, Manchester, OL6 6LA

Agent Signet Planning Ltd 12b Hornbeam Park Oval, Hornbeam Park, Harrogate, HG2 8RB

Description

Members will recall that this application proposed a variation of condition for increased opening hours. The application was brought before the Committee on 26th October 2006 with a recommendation for approval. At the meeting a number of concerns were raised by members relating to the negative impact in which the proposed hours would have upon the amenity of local residents. It was therefore resolved that the Head of Planning would bring back a report to the November Committee with comments on reasons for refusal.

Following the comments made by members at the Planning Committee on 26th October 2006, the applicant has expressed a willingness to accept a compromise solution by way of two alternative scenarios.

Firstly, a temporary consent of 12 months for the times currently sought is suggested, in order to monitor any changes that the longer opening hours may have upon the surrounding area. It is also proposed that a further noise assessment could be undertaken towards the end of the temporary period, to see whether the noise environment satisfies environmental health requirements. It is also stated the bar would continue to rely upon exemplary management practices as reported in the submission for this application.

The second compromise solution suggested focuses on some member's comments at the last Committee that opening hours until 1.00am (with a further half-hour drinking up and dispersal time) were acceptable in similar areas elsewhere in the City. The applicant has stated that a compromise to this effect would be acceptable, if it would lead to a permanent planning permission.

The applicant has also stated that although a permanent consent until 1.00am would be an acceptable compromise, it only represents an extension of the current operation hours by one hour. This is not as long as the current license granted for the bar premises or the opening hours for a number of nearby venues.

Consultation

Applicant/Agent

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The applicant has requested that the words 'non resident staff' be removed from Condition 3 of the proposed scheme. The applicant is concerned that if staff were restricted from being within the premises outside of the hours of operation restriction, they would not be able to prepare for opening up the premises and tidying the premises following closing time.

Officers/Outside Bodies

It is considered that the applicant's request to remove the words 'non resident staff' from Condition 3 is considered acceptable with regard to the earlier of the proposed hours of operation. This would enable staff to prepare the premises prior to opening. However, with regard to the proposed closing hours of operation, it is considered that staff should still be included within the restriction so to prevent any further impact on residential amenity and to accord with the license granted.

In addition to policies H2.2 and DC10 the Head of Planning believes that policy DC26 is also relevant to this case. Policy DC26.1 seeks to reduce the impact of noise on people who live, work in or visit the City.

Issues

The issues raised by Members during the meeting predominantly concerned the impact to which the proposed extension of opening hours would have upon the amenity of local residents due to the increased comings and goings late at night which may give rise to unacceptable levels of noise and disturbance to Fallowfield District Centre. Members also raised concerns with regard to the close proximity of residential properties, particularly to the rear of the premises. It was therefore felt by members that the additional opening hours would lead to increase disturbance and therefore have an unacceptable impact upon the amenity of the area and nearby residential properties.

Conclusion

Whilst the Head of Planning's recommendation has not changed and is still to approve the application, following the Committee meeting on 26th October 2006, members were minded to attach greater weight to the issues outlined above. The Head of Planning believes this is a legitimate concern and that a case could be made for refusal of the planning application. However should Members resolve to take this course of action, before making a decision, members should consider granting a temporary consent or granting consent with reduced hours. It is considered that the recommendation made to the Committee in October was a balanced recommendation and Officers were aware that there could potentially be an issue relating the amenity of the area. With this in mind, a suggested reason for refusal of the proposal considered on 26th October 2006 is set out below:

However, following the two compromise solutions put forward by the applicant, The Head of Planning considers that the option put forward to limit hours of opening to 1.00 am, seven days a week, with half an hours dispersal time is considered a satisfactory option. Many food and drink premises are open until this time and beyond in the immediate vicinity of the application site, and it is

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not considered that the extension of the operating hours by one hour on the existing bar premises would have any significant impact on amenity.

It is also considered that the recommendation made to the Committee in October was a balanced recommendation and Officers were aware that there could potentially be an issue relating the amenity of the area. With this in mind, a suggested reason for refusal is set out below if Members consider that either the original hours proposed or the alternative solution to limit the hours of opening to 1.00am is still not viewed as acceptable.

The proposed extension of hours to allow the premises to stay open until 2.00am Sunday to Thursday and until 2.30am on Fridays and Saturdays, with half an hour dispersal time, will create additional comings and goings in the early hours, giving rise to unacceptable levels of noise and disturbance in the area to the detriment of residential amenity. The proposal is therefore contrary to Policies DC10, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

Description

This application relates to an existing bar at 311-313 Wilmslow Road, Fallowfield. The bar currently operates under the name 'Revolution' and occupies a ground floor position on the eastern side of Wilmslow Road, just south of Carill Drive. The site lies within Fallowfield District Centre which is mixed-use in nature, containing a wide variety of commercial uses fronting Wilmslow Road. These include a large number of late night food and drink uses, with nine bars within a short walking distance of the site.

Wilmslow Road is principal radial route into the city centre with this section of Wilmslow Road a busy and vibrant area, characterised by the large student population that live nearby. In terms of the site's immediate surroundings, the site lies adjacent to a bookmakers to the south, a mixed use commercial parade to the north and a number of food and drink uses opposite. To the rear of the site lies along Carill Drive and Standish Road there are a number of terraced residential properties and a student halls of residence.

The applicants are proposing to vary condition no. 4 of planning permission 050221/FU/CENTL/96 and condition no. 7 of planning permission 056824/FU/SOUTH1/99. These conditions relate to the opening hours of the premises when planning permission was granted for the use of the premises as a food and drink use. Since then planning permission was granted for amending these opening hours under planning permission 060213/JO/SOUTH1/00 in order to allow the premises to operate until midnight each day of the week. This application now seeks to vary the hours of opening further, to allow the premises to open for the following hours:

Sunday to Thursday (inclusive) 11.00hrs to 02.00hrs, with half an hour drinking up and dispersal time until 02.30hrs

Fridays and Saturdays 11.00hrs to 02.30hrs, with half an hour drinking up and dispersal time until 03.00hrs.

For ease of reference, the below table clarifies the hours applied for in relation to existing hours and the hours granted by Licensing:

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Existing hours of operation	Hours granted by Licensing	Proposed hours of operation
8am to Midnight, seven days a week	Sunday to Thursday 11.00 hrs to 02.30 hrs Fridays and Saturdays 11.00 hrs to 03.00hrs	Sunday to Thursday 11.00 hrs to 02.30 hrs Fridays and Saturdays 11.00 hrs to 03.00 hrs These hours include half an hours drinking up and dispersal time.

Consultations

Local Residents - 10 letters of objection were received, 4 of which came from the same two addresses. One letter also contained five signatures. The main comments are outlined below:

The area is already grossly subscribed with drinking premises already causing serious and dangerous parking problems and great inconvenience to residents.

The shouting, slamming of car doors and revving of engines will be a serious threat to old people.

The proposed opening hours will be detrimental to my academic studies and will effect the sleep of myself and my housemates.

I believe that the increased number of people around Standish Road through the early hours of morning will lead to an increase in crime as it is likely that the people will be drunk. I am also concerned that there is no parking made available at the venue and many people use Standish Road for parking. If the hours are extended, then there is likely to be more cars parking and driving through Standish Road in the early hours of the morning.

The proposed opening hours will lead to increased levels of noise, litter and disturbance.

I feel that the timing of this letter is unfortunate as a large proportion of housing behind and around revolution is rented by students, of which the majority will be vacant for the summer months during which the letter has been sent and the deadline for reply set.

Greater Manchester Police (Architectural Liasion Unit) - No comments received to date.

Greater Manchester Police (Crime Prevention Unit) - No comments received to date.

Environmental Health - Recommends an hours of opening condition be imposed for the hours applied for.

Ward Councillors - No comments received to date.

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Licensing Unit - A Licensing Sub-Committee Hearing was heard on 19th June 2006. The hours granted at the hearing were as follows:

Hours open to the Public

Sunday to Thursday 11.00hrs to 02.30hrs

Fridays and Saturdays 11.00 to 03.00hrs

Supply of Alcohol and Regulated Entertainment

Sunday to Thursday 11.00hrs to 02.00hrs

Fridays and Saturdays 11.00 to 02.30hrs

Late Night Refreshment

Sunday to Thursday 11.00hrs to 02.00hrs

Fridays and Saturdays 11.00 to 02.30hrs

A number of conditions were also imposed. These include the following:

Notices shall be displayed within the premises requesting customers to leave quietly and not linger in the vicinity;

The licensee is encouraged to keep the footpath outside the curtilage of the premises clean and tidy;

The licensee shall provide CCTV coverage to monitor incidents of anti-social behaviour both within and outside of the venue;

The licensee shall monitor its existing service to ensure the smooth dispersal of customers and that nuisance is not caused to residents by any taxis attending the premises.

Issues

Unitary Development Plan (UDP) - There are no site specific policies in the UDP for this site. However, in considering this proposal consideration is given to policy H2.2 in the Part 1 of the UDP and policy DC10 in Part 2 of the plan.

Policy H2.2 states that the Council will not allow development which will have an unacceptable impact on residential areas. The matters which will be considered in coming to such decisions will include the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

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 policy states further that the Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

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Principle of the Proposal - Although the principle of a food and drink use has been established here for many years, the impact of the proposed extended opening hours upon the existing levels of residential amenity enjoyed by local residents must be considered. However, it should also be noted that this application has also been submitted to accord with the entertainment license that that has recently been granted for the venue for the same hours hereby applied for.

Residential Amenity - The 'Revolution' Bar is located approximately 10 metres from the nearest residential property on Standish Road. This road contains a small number of terraced properties to the rear of the premises, to the east of Wilmslow Road. However, given that the bar fronts onto Wilmslow Road within Fallowfield District Centre, it is not considered that the proposal will have a significant detrimental impact on the current levels of amenity enjoyed by the closest residents on Standish Road and Carill Drive. This section of Wilmslow Road is very busy with both vehicular and pedestrian traffic. There are also a number of bars and hot food takeaway businesses open for a similar timescale as that being applied for. This is closely affiliated to the large student population that live in the area, including the adjacent roads to the application site. It is therefore considered that given the existing levels of activity in the area and the current levels of background noise, there will be no significant impact on residential amenity.

Notwithstanding the above, it is considered prudent to attach a number of conditions to any planning approval in order to protect residential amenity. These conditions will ensure that windows and doors remain closed during regulated entertainment; that no external speakers are installed on the premises; and that there is no disposal of refuse (including glass bottles) late at night and early in morning. Failure to comply with these conditions may result in enforcement action being taken against the applicant.

Noise - A noise assessment was submitted with the application. This concludes that that during the times noise was monitored, noise levels were consistent and little variation was exhibited between the time Revolution Bar was open and closed. Although music and activities were audible during the monitoring period, they were not the main contributor to the noise climate of the area. Sources such as traffic noise and general public activity were the main contributors to the noise climate.

Licensing - The Licensing Committee granted a licence for the premises to be open to the public for the following hours:

Sunday to Thursday 11.00hrs to 02.30hrs
Friday to Saturday 11.00hrs to 03.00 hrs

The licence was granted on 19th June 2006 and imposed a number of conditions. Those relevant include the following:

Notices shall be displayed within the premises requesting customers to leave quietly and not linger in the vicinity;

The licensee is encouraged to keep the footpath outside the curtilage of the premises clean and tidy;

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The licensee shall provide CCTV coverage to monitor incidents of anti-social behaviour both within and outside of the venue;

The licensee shall monitor its existing service to ensure the smooth dispersal of customers and that nuisance is not caused to residents by any taxis attending the premises.

Good Practice Initiative - The applicant has submitted a management and operating statement. Within the context of the conditions associated with the public entertainments license, the applicant states that they will endeavour to undertake a proactive approach to being a good neighbour in order to reduce any potential conflict between residents and customers of the premises. Such measures include participation in the national 'pub watch' scheme, dealing with litter, the installation of CCTV surveillance and the employment of additional doormen on busy nights to ensure an appropriate taxi service is provided to allow for the smooth dispersal of customers.

Crime and Disorder - It is not considered that allowing these premises to open 02.30hrs Sunday to Thursday and 03.00hrs on Fridays and Saturdays will have a significant impact upon public safety in this part of Fallowfield. Many other food and drink premises are open to a similar hour within the vicinity of the site and it is not considered that a couple of additional hours of operation for an existing bar will have any undue impact on crime and disorder levels.

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 the right to a fair hearing and to this end the Committee 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 Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these Articles on the applicant(s)/objectors/residents 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. He believes that any restriction on these rights posed by approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation APPROVE

On the basis that the increase in the hours of operation of the premises will not have an adverse impact on residential amenity. The proposal therefore accords with Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester and there are no material considerations of sufficient weight to indicate otherwise.

Conditions and/or Reasons

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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 premises shall not be open outside of the following hours:

11.00 hrs - 02.30 hrs Sunday to Thursday

11.00 hrs - 03.00 hrs Fridays and Saturdays

These times include half an hour drinking up and dispersal time.

Reason -

To protect the amenities of the occupiers of nearby residential accommodation, pursuant to Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

3) All patrons and non-resident staff shall not be on the premises outside of the following hours:

11.00 hrs - 02.30 hrs Sunday to Thursday

11.00 hrs - 03.00 hrs Fridays and Saturdays

Reason -

To protect the amenities of the occupiers of nearby residential accommodation, pursuant to Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

4) No windows or doors shall be open when music is played or performed within the premises.

Reason -

To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies H2.2 and DC10 of the Unitary Development Plan for the City of Manchester

5) No externally mounted speaker system shall be operated on the premises.

Reason -

To protect the amenities of the occupiers of nearby residential accommodation, pursuant to Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

6) The outside terrace area shall not be used after 23.00 hrs

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Reason -

To protect the amenities of the occupiers of nearby residential accommodation, pursuant to Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

7) No servicing or any other activity shall take place in the year yard of the premises after 23.00 hrs on any night. This includes the disposal of refuse, glasses, or glass bottles, being disposed of in outside receptacles.

Reason -

To protect the amenities of the occupiers of nearby residential accommodation, pursuant to Policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 080292/JO/2006/S1 held by Planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are all held by the Planning Division.

The following residents, businesses and other third parties in the area were consulted on the application:

Patels Kebabs 264 Wilmslow Road Fallowfield Manchester M14 6JR
10 Standish Road Fallowfield Manchester M14 6NP
2 Standish Road Fallowfield Manchester M14 6NP
4 Standish Road Fallowfield Manchester M14 6NP
6 Standish Road Fallowfield Manchester M14 6NP
8 Standish Road Fallowfield Manchester M14 6NP
Food 317 Wilmslow Road Fallowfield Manchester M14 6NW
319a Wilmslow Road Fallowfield Manchester M14 6NW
Redds Hair Design 329 Wilmslow Road Fallowfield Manchester M14 6NW
10 Carill Drive Fallowfield Manchester M14 6WR
4 Carill Drive Fallowfield Manchester M14 6WR
6 Carill Drive Fallowfield Manchester M14 6WR
8 Carill Drive Fallowfield Manchester M14 6WR
315a Wilmslow Road Fallowfield Manchester M14 6NW
2 Boland Drive Fallowfield Manchester M14 6DS
4 Boland Drive Fallowfield Manchester M14 6DS
6 Boland Drive Fallowfield Manchester M14 6DS
8 Boland Drive Fallowfield Manchester M14 6DS
10 Boland Drive Fallowfield Manchester M14 6DS
12 Boland Drive Fallowfield Manchester M14 6DS
14 Boland Drive Fallowfield Manchester M14 6DS
Ladybarn House Flat 27 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 13 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 14 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 15 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 16 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 17 2 Moseley Road Fallowfield Manchester M14 6ND

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Ladybarn House Flat 18 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 19 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 20 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 21 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 22 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 23 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 24 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 25 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 26 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 28 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 29 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 30 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 31 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 32 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 33 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 34 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 35 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 36 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 37 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 38 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 39 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 40 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 41 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 42 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 43 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 44 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 45 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 46 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 47 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 48 2 Moseley Road Fallowfield Manchester M14 6ND
Ladybarn House Flat 49 2 Moseley Road Fallowfield Manchester M14 6ND
Mighty Micro 268 Wilmslow Road Fallowfield Manchester M14 6JR
Leisure Travel 321 Wilmslow Road Fallowfield Manchester M14 6NW
317a Wilmslow Road Fallowfield Manchester M14 6NW
321a Wilmslow Road Fallowfield Manchester M14 6NW
323a Wilmslow Road Fallowfield Manchester M14 6NW
325a Wilmslow Road Fallowfield Manchester M14 6NW
329a Wilmslow Road Fallowfield Manchester M14 6NW
Ladybarn House Flat 50 2 Moseley Road Fallowfield Manchester M14 6ND
Pumpkins Ltd 319 Wilmslow Road Fallowfield Manchester M14 6NW
The Sherwood 304 Wilmslow Road Fallowfield Manchester M14 6NL
Stanley Racing 315 Wilmslow Road Fallowfield Manchester M14 6NW
Happy Days Take Away 325 Wilmslow Road Fallowfield Manchester M14 6NW
Texas Chicken 327 Wilmslow Road Fallowfield Manchester M14 6NW
Prima Vera 262 Wilmslow Road Fallowfield Manchester M14 6JR
The Glass 258 Wilmslow Road Fallowfield Manchester M14 6JR
Letts Rent 323 Wilmslow Road Fallowfield Manchester M14 6NW
Showmans Chemist 266 Wilmslow Road Fallowfield Manchester M14 6JR
331 Wilmslow Road Fallowfield Manchester M14 6NW
Healds (day & Nite) Ltd 260 Wilmslow Road Fallowfield Manchester M14 6JR
331a Wilmslow Road Fallowfield Manchester M14 6NW
Post Office Fallowfield Post Office 260 Wilmslow Road Fallowfield Manchester
M14 6JR
15 Standish Road Fallowfield Manchester M14 6NP

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3 Standish Road Fallowfield Manchester M14 6NP
2 Redmere Grove Fallowfield Manchester M14 6ES
7 Standish Road Fallowfield Manchester M14 6NP

Representations were received from the following third parties:

2 Standish Road Fallowfield Manchester
4 Standish Road Fallowfield Manchester
10 Carill Drive Fallowfield Manchester
315a Wilmslow Road Fallowfield
15 Standish Road Fallowfield Manchester
3 Standish Road Fallowfield Manchester
2 Redmere Grove Fallowfield Manchester
7 Standish Road Fallowfield Manchester

Relevant Contact Officer: : Steven McCoombe
Telephone No. : (0161) 234 4607
Email : s.mccoombe@manchester.gov.uk