

List No. 21

| Baguley Ward | Application Number | Date of Appln | Committee Date |
|---------------------|---------------------------|----------------------|-----------------------|
| | 081866/FU/2007/S2 | 17th Jan 2007 | 31st May 2007 |

Proposal Change of use of ground floor of vacant retail shop to private hire booking office operating between 8.00am to 6.00pm Monday to Saturday and 9.00am to 3.00pm on Sundays

Location 138 Royal Oak Road, Baguley, Manchester, M23 1FB,

Applicant Naveeda Chaudri 17-19 Veerer Street, Brierfield, Lancs, BB9 5QQ

Agent Bridge House Draughting Services 36 Cross Lee Road, Todmorden , Lancs, OL14 8EH

Description

At their meeting of 12th April 2007, the Planning and Highways Committee resolved to ask the Head of Planning to prepare and submit a further report addressing issues raised by Members of the Committee and to advise them as to whether these considerations are relevant to planning and represent sustainable reasons for the refusal of planning permission.

Issues

At the Committee meeting Members expressed concern regarding the potential impact of the development on residential amenity, in terms of increased noise disturbance and activity around the site. Concern was also expressed regarding the potential for increased traffic generation and on-street car parking, which would be potentially detrimental to highway safety.

Conclusion

The Head of Planning's recommendation has not changed and remains one of approval. It is considered that the case for approving the application on a temporary basis is strong and allows the impact of the development to be assessed over the course of the authorised period of operation. It is also considered that the combination of restricted hours of operation and the omission of waiting facilities will provide satisfactory safeguards to residential amenity. Detailed analysis of the impact of the development and its relationship to the surrounding area is discussed within the body of the report.

The recommended conditions have been amended in order to afford more rigorous control of the use of the premises and the associated activity generated by its customers and drivers and their vehicles. It is considered that these conditions are sufficiently robust to allow the proposed private hire car booking office to operate and be effectively monitored throughout the period of the temporary approval. This approach will allow evidence to be gathered regarding the impact of the development, which can be presented to Members when they deliberate any subsequent application for the continuation of the use as a private hire car booking office.

At the present time the impact of the use can only be speculated upon. It is considered that measures are available, through the implementation of conditions and the monitoring of the use, to mitigate against the adverse impact

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of the development on the local area. Within this context it is not considered that, if planning permission is refused, the City Council will be able to sustain its case on appeal. To do so would require clear and demonstrable evidence of the harm caused by the use; this can only be gained through the temporary implementation of the use.

However, Members may wish to give greater weight to the potential impact of the potential noise and activity generated by the use on residential amenity. More weight may also be given to the impact of additional traffic generation on the local highway network as a result of private hire vehicles potential returning to the site and parking on nearby streets. It may be argued that any significant increase in localised vehicular movement may potentially result in additional traffic hazards in and around an essentially a residential area. If Members are minded to refuse the application, the following reasons for refusal are offered for consideration:

1. The use of the premises as a private hire car booking office would have a detrimental impact upon the current levels of residential amenity enjoyed by the occupants of the neighbouring accommodation by virtue of the increased noise and movements associated with the comings and goings of private hire vehicles and potential customers from the site, contrary to policies H2.2 and DC24 of the UDP for the City of Manchester.
2. The use of the premises as a private hire car booking office would have a detrimental impact upon the current levels of pedestrian and highway safety enjoyed in the vicinity of the site, due to increased traffic movements associated with the use, as such the proposal is contrary to policies H2.2 and DC24 of the UDP for the City of Manchester.

Description

This application was considered by the Wythenshawe Area Committee (WAC) at its meeting on 22nd March 2007. The WAC recommended the refusal of the application due to its potentially detrimental impact on residential amenity in terms of additional noise disturbance, activity around the site and traffic generation.

The application site lies within the western half of a two storey shopping parade adjacent to the junction of Royal Oak Road and Spark Road. The surrounding area is predominantly residential.

The site has previously been the subject of the following planning applications:

- i. 078827/FU/2006/S2 -Change of use from shop to 24 Hour Private Hire Booking Office. Refused 3rd May 2006;
- ii. 0808730/FU/2006/S2 - Change of use of ground floor to form private hire taxi base operating between 8.30 a.m. to 8.30 p.m. Monday to Sunday. Refused 6th November 2006

These previously applications were both refused on the grounds of their impact on residential amenity and pedestrian safety; increased traffic movements and localised parking of private hire vehicles resulting in traffic congestion.

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The applicant has sought to address these issues by proposing to operate the premises as private hire booking office only. It is not proposed that the private cars would form a "rank" outside the premises. The applicant has indicated that drivers will be instructed from to refrain returning to the office during quiet periods. The applicants do not propose to install signage to the premises or encourage customers to visit the premises to order private hire cars. It is intended that the business should primarily rely on telephone bookings.

Consultations

Local Residents - The applicant has submitted a petition signed by 49 local residents, 47 of the residents support the proposals.

Two individual letters of objection have been received and are summarised below:

- i. The business will be located in very close proximity to neighbouring uses and will result in additional noise, traffic and air pollution;
- ii. The proposal will result in additional traffic congestion to the detriment of pedestrian and highway safety;
- iii. There is concern that the premises will operate outside the proposed hours;
- iv. The public consultation undertaken by the applicant is considered to be limited;
- v. It is considered that private hire vehicles will return to and operate from the site.

Manchester Residents Association - Object to the proposal on the grounds that the premises will operate outside the proposed hours and that, in practice, a 24 hour operation will be undertaken at the ground and first floor. The use would cause additional noise in a residential area. The generation of additional traffic would result in highway safety difficulties

Head of Engineering Services - The proposed development is located between the junctions of Royal Oak/Spark Road and Royal Oak/Brookcot Road. The close proximity of these roads results in a degree of complexity for drivers and pedestrians alike . There is already an element of on-street parking close to the respective junctions and along especially on Spark Road which is a relatively narrow street. Due to the nature of the proposed development, it is anticipated that the proposals generate traffic and result in private hire vehicles waiting in nearby streets, to the detriment of pedestrian and highway safety. There is also concern that some taxis would mount the footways to park due to the narrowness of Spark Road.

The submission should have detailed the positioning of car parking spaces and the proposed access arrangements.

Issues

Unitary Development Plan - The following policies are relevant to the consideration of the proposed development.

H2.2 - States that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters that the Council will

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consider, amongst other things, the scale and appearance of the development, traffic generation and road safety

DC24 - States that in considering proposals for taxi and private hire businesses, the Council will have regard to:

- i. The effect on the amenity of residents;
- ii. The availability of adequate, safe and convenient arrangements for car parking and servicing;
- iii. The adequacy of the local traffic circulation system and prevailing local traffic conditions.

The policy also states that such development will not normally be permitted within predominantly residential areas. However, the policy states that if the Council considers the location to be acceptable, conditions may be imposed to:

- i. Limit the hours of operation;
- ii. Restricting the use to a radio control base only, with vehicles being prohibited from returning to the base within prescribed hours;
- iii. Secure measures for the avoidance of noise and disturbance;
- iv. Restrictions on the provision or use of customer waiting facilities.

Regional Spatial Strategy for the North West - Formerly RPG13, this provides planning guidance for the North West region. Since 2004, the RSS has formed part of the development plans; as such, the weight to be attached to its policies has increased. It contains policies that address core principles of development including the following:

DP1 Economy in the use of land and buildings.

DP2: Enhancing the Quality of life - Ensuring development provides a high quality of life for this and future generations.

DP3 Quality in New Development - Ensuring that new development demonstrates good design and respect for its setting.

The North West Plan, Draft Regional Spatial Strategy (RSS) - Publicised in January 2006, this draft RSS document provides a framework for the physical development of the region over the next 15 to 20 years. Policy DP1 is relevant in its requirements to "make more sustainable, transparent decisions" and "ensure quality in development".

Wythenshawe Strategic Regeneration Framework - This document provides a strong vision for Wythenshawe over the next 10 - 15 years, guiding the improvement of public services for Wythenshawe residents and shaping future development. At the heart of the Strategic Regeneration Framework (SRF) is a vision for Wythenshawe as Manchester's Garden City, based both on Wythenshawe's uniqueness and the opportunities in the area. This brings together the positive aspects of Wythenshawes housing and green space with the continued growth of the areas economy and potential for further job creation, better quality shops and lifestyle facilities.

It is acknowledged that the SRF is not part of the adopted UDP for Manchester, but it is Council policy for Wythenshawe. The framework clearly follows the

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adopted UDP and is a much more current and specific document for the Wythenshawe area. The Wythenshawe SRF document will inform the Local Development Framework for the City of Manchester i.e. the replacement to the existing UDP.

In general terms it is considered that the proposal is generally consistent with the Wythenshawe SRF document in terms of its aspirations for business development. Consideration needs to be given to the relationship of the development in respect of neighbourhood regeneration.

Principle of the use - It is considered, on the face of it, that the current proposal differs from those previously considered as it primarily relates to a booking office and relies on business from telephone bookings. The premises are not located in an area with local amenities e.g. public houses or restaurants. It is unlikely, therefore, that large numbers of people would visit the site to order a private hire car. However, there is concern that the provision of a public waiting area will encourage people to visit the site and draw vehicles to the premises. Experience elsewhere in the City is that drivers do return to base during "quiet" periods. Measures to address these concerns are outlined below.

With regard to the comments of the Head of Engineering Services, the Head of Planning believes that these concerns may be addressed through the proposed Condition 3.

Hours of Operation - A condition is recommended to restrict the operation of the premises to the following hours: 8.00am to 6.00pm Monday to Saturday and 9.00am to 3.00pm on Sundays and Bank Holidays. It is considered that operation of the premises beyond these hours would have a potentially detrimental impact upon residential amenity.

Public waiting facilities - In order to limit activity around the site and to discourage vehicles from returning to the booking office to collect customers, a condition is recommended to prevent the provision of a public waiting area.

Noise - A condition is recommended to ensure that the application premises insulated against noise to prevent undue noise disturbance to the occupants of the upper floor residential accommodation during the booking office opening hours.

Conclusion

It is recommended that the proposed use should be granted for a temporary period of one year and subject of conditions to mitigate against the impact of the development on residential amenity. The suitability of the use in this location will be monitored and assessed during this period.

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

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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

of one year and on the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies H2.2 and DC24 and other material considerations of material weight including particular RPG policies: DP1; DP2; DP3: DP4, RSS policy DP1, PPS1 and The Wythenshawe Strategic Regeneration Framework.

Planning and Highways Committee: MINDED TO REFUSE

Wythenshawe Area Committee: REFUSE on the grounds that the development would have a potentially detrimental impact on residential amenity in terms of additional noise disturbance, activity around the site and traffic generation.

Conditions and/or Reasons

1) The use hereby permitted shall be discontinued on or before 22nd March 2008.

Reason - In order to allow a period to assess whether the permitted use is detrimental to existing uses nearby and in the interest of residential amenity pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

2) Before the building hereby approved is first occupied it shall be insulated in accordance with a scheme submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the property.

Reason

To safeguard the amenities of the occupiers of nearby accommodation pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

3) The premises shall not be open to the public for the purpose of booking or waiting for private hire vehicles. No private hire vehicle operating in association with the premises shall wait or park at the premises, on Spark Road or within 100 metres of the premises.

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To safeguard the amenity of the occupiers of nearby accommodation pursuant to policies H2.2 and DC24 of the Unitary Development Plan for the City of Manchester.

4) The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as Local Planning Authority:-

* Monday to Saturday 8:00 am to 6.00 pm

* Sunday and Bank Holidays 9:00 am to 3:00pm.

Deliveries, servicing and vehicle/equipment movements on the premises or outdoor parking/amenity areas shall be restricted to the above opening hours.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policy 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: 081866/FU/2007/S2 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/notified on the application:

Engineering Services

First Floor, 136 Royal Oak Road, Manchester, M23 1FB

Spice House Take Away, 27 Spark Road, Manchester, M23 1DQ

Acorn Centre, Royal Oak Road, Manchester, M23 1DY

Royal Oak & Baguley Residents Association, Royal Oak Road, Manchester, M23 1DY

Mini Market, 136-140, Royal Oak Road, Manchester, M23 1FB

37 Royal Oak Road, Manchester, M23 1BE

39 Royal Oak Road, Manchester, M23 1BE

1 Longcroft Grove, Manchester, M23 1DG

2 Longcroft Grove, Manchester, M23 1DG

17 Spark Road, Manchester, M23 1DQ

19 Spark Road, Manchester, M23 1DQ

21 Spark Road, Manchester, M23 1DQ

23 Spark Road, Manchester, M23 1DQ

27 Spark Road, Manchester, M23 1DQ

30 Spark Road, Manchester, M23 1DR

32 Spark Road, Manchester, M23 1DR

34 Spark Road, Manchester, M23 1DR

36 Spark Road, Manchester, M23 1DR

38 Spark Road, Manchester, M23 1DR

40 Spark Road, Manchester, M23 1DR

42 Spark Road, Manchester, M23 1DR

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48 Spark Road, Manchester, M23 1DR
79 Brookcot Road, Manchester, M23 1DS
81 Brookcot Road, Manchester, M23 1DS
83 Brookcot Road, Manchester, M23 1DS
85 Brookcot Road, Manchester, M23 1DS
87 Brookcot Road, Manchester, M23 1DS
89 Brookcot Road, Manchester, M23 1DS
91 Brookcot Road, Manchester, M23 1DS
93 Brookcot Road, Manchester, M23 1DS
95 Brookcot Road, Manchester, M23 1DS
60 Brookcot Road, Manchester, M23 1DU
62 Brookcot Road, Manchester, M23 1DU
64 Brookcot Road, Manchester, M23 1DU
1 Burwell Grove, Manchester, M23 1FA
2 Burwell Grove, Manchester, M23 1FA
3 Burwell Grove, Manchester, M23 1FA
4 Burwell Grove, Manchester, M23 1FA
146 Royal Oak Road, Manchester, M23 1DY
148 Royal Oak Road, Manchester, M23 1DY
150 Royal Oak Road, Manchester, M23 1DY
57 Royal Oak Road, Manchester, M23 1DZ
59 Royal Oak Road, Manchester, M23 1DZ
61 Royal Oak Road, Manchester, M23 1DZ
134 Royal Oak Road, Manchester, M23 1FB
142 Royal Oak Road, Manchester, M23 1FB
41 Royal Oak Road, Manchester, M23 1FD
43 Royal Oak Road, Manchester, M23 1FD
45 Royal Oak Road, Manchester, M23 1FD
47 Royal Oak Road, Manchester, M23 1FD
49 Royal Oak Road, Manchester, M23 1FD
51 Royal Oak Road, Manchester, M23 1FD
53 Royal Oak Road, Manchester, M23 1FD
55 Royal Oak Road, Manchester, M23 1FD
25 Spark Road, Manchester, M23 1DQ
132 Royal Oak Road, Manchester, M23 1FB
136 Royal Oak Road, Manchester, M23 1FB
138 Royal Oak Road, Manchester, M23 1FB
140 Royal Oak Road, Manchester, M23 1FB
1 Ryecroft Grove, Manchester, M23 1EB
2 Ryecroft Grove, Manchester, M23 1EB
3 Ryecroft Grove, Manchester, M23 1EB
4 Ryecroft Grove, Manchester, M23 1EB
6 Ryecroft Grove, Manchester, M23 1EB
120 Royal Oak Road, Manchester, M23 1FB
122 Royal Oak Road, Manchester, M23 1FB
124 Royal Oak Road, Manchester, M23 1FB
126 Royal Oak Road, Manchester, M23 1FB
128 Royal Oak Road, Manchester, M23 1FB
130 Royal Oak Road, Manchester, M23 1FB

Representations were received from the following third parties:

Engineering Services
D Hague, 23 Spark Road, Manchester, M23 1DQ

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J Hill, 95 Brookcot Road, Manchester, M23 1DS

Relevant Contact Officer: : Carl Glennon
Telephone No. : (0161) 234 4164
Email : c.glennon@manchester.gov.uk