

## List No. 6

<b>Chorlton Ward</b>	<b>Application Number</b> 082976/FO/2007/S1	<b>Date of Appln</b> 8th May 2007	<b>Committee Date</b> 26th Jul 2007
<b>Proposal</b>	Change of use from hot food take away Class A5 to bar Class A4		
<b>Location</b>	30A Manchester Road, Chorlton, Manchester, M21 9PH,		
<b>Applicant</b>	Jon Woodruff Live The Dream UK Ltd, 152 Cheadle Old Road, Stockport, SK3 9RH		
<b>Agent</b>	A Cube Architects Ltd 18 Sparkle Street, Manchester, M1 2NA		

### **Description**

This application relates to a two storey end terraced property located within Chorlton District Shopping Centre at the junction of Manchester Road and Selborne Road. The ground floor of the premises has been used as a restaurant/hot food takeaway, in respect of which a Certificate of Lawful use was granted in 2005. The property has been extended at the rear and there is an outside seating area at the front. The upper floor is residential. The adjoining property is residential whilst Selbourne Road is a residential road. The remainder of the terrace has commercial uses at ground floor level. Across Selbourne Road fronting Manchester Road is a property currently being converted to a bar with the benefit of planning permission.

The proposal involves no external alterations to the property. The use would be confined to the ground floor whilst the basement would be used for storage. The first floor will remain in residential use. The building is already accessible and a disabled toilet will be provided.

The hours of opening applied for are 9.00am to 11.30pm Sunday to Thursday and 9.00am to 1.30am Friday and Saturday.

### **Consultations**

Local residents - One letter has been received objecting to the proposed development on the following grounds:-

- Though there is a takeaway operating from the property the primary use is a restaurant.
- A bar would exacerbate problems such as noise, parking and anti social behaviour in the area.
- The use would go on to the early hours whereas the restaurant closes quite early
- There are problems with wheelie bins being left on the street in the area and this would be made worse by the proposed use.

Ward Members- Councillor Sheila Newman has expressed concern that the bar is seeking to remain open until 12.30 Friday and Saturday. Recently in response to an application for a bar at 50/54 Manchester Road the Planning and Highways Committee were minded to approve subject to reducing the closing time to 12.30 am Thursday to Saturday, planning permission was

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subsequently granted on this basis. She feels that the additional hour for the proposed bar will mean noise and disturbance for local residents until 2.00am, particularly as the bar would be near residential property and would like to see a similar closing time.

Licensing- The applicant and his legal representative attended Licensing Committee together with an officer from Environmental health.

Decision

To grant the application as follows:

Supply of alcohol and all regulated entertainment restricted to:

Sunday to Thursday 10.00 - 23.00 hrs

Friday & Saturday 10.00 - 01.00 hrs

Late night refreshment restricted to:

Friday & Saturday 23.00 - 01.00 hrs

Opening hours restricted to:

Monday - Sunday 10.00 - 23.30 hrs

Friday & Saturday 10.00 - 01.30 hrs

With the following additional conditions:

1. Outside area to be used only as follows: Sunday - Thursday until 22.00 hrs and Friday & Saturday until 23.00 hrs
2. Noise limiter to be used for all amplified entertainment, set at a level determined by Environmental Health.
3. All doors and windows to be kept closed during regulated entertainment except for access and egress.
4. Signs advising patrons to leave quietly to be put in place
5. Taxi numbers to be prominently displayed
6. Refuse disposal to be stored within the curtilage of the premises and not on public highway
7. No glasses to be disposed of between the hours of 23.00 and 07.00 hrs
8. Noise from DJs not to be audible at noise sensitive properties

Head of Environmental Health - This end terraced property is situated adjacent to a residential house in a terraced block, with residential properties in the adjoining street. Compared with a 'noisy bar', a restaurant use will be likely to have fewer patrons at any one time, relatively quiet conversation, and only light background music. Additionally, the proposed opening hours are later than would be usual for a restaurant use, and patrons milling about and leaving the premises will therefore have more impact on local residents. There is, therefore significant additional potential for noise disamenity to nearby residential occupiers arising from the proposed change of use from restaurant to bar, with louder amplified music and longer opening times it is suggested that conditions be attached to any approval relating to noise insulation, fumes extraction, hours of opening times and refuse storage.

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Greater Manchester Police Architectural Liaison Officer-No objections.

Crime Reduction Officer - any comments will be reported.

### Issues

Unitary Development Plan - The relevant policies are H2.2 which seeks to protect the amenity of the occupiers of residential properties from the adverse impact of development. Policy DC10 sets down the criteria to be considered in determining applications for food and drink uses. Policy DC26 looks to protect the amenity of the occupiers of residential properties from noisy development and policy L1.9 established the principle of pavement cafes and bars within district centres and the city centre.

Principle - Policy DC10 says that food and drink uses are acceptable within, amongst other, district shopping centres. However, the policy goes on to say that normally such uses would not be acceptable where there is a ground floor flat or a house adjoining the proposed business. The principle of the proposed development is therefore not clear-cut and would depend on an assessment of other issues.

Disabled Access - The proposed use would be fully accessible in terms of access and provision of facilities within the premises.

Crime and disorder - The architectural liaison officer has raised no issues with the proposed development. Any comments from the crime reduction officer will be reported.

Licensing - Having considered the application against the four tests, namely prevention of crime and disorder, public nuisance, safety and protection of children from harm the Licensing Committee granted a license with reduced hours and subject to a number of conditions. The license granted goes a significant way towards ameliorating the impact of the development on the amenity of the adjoining property.

Residential amenity - The amenity of the residents of Selborne Road can be addressed through the imposition of conditions. The relationship of the proposed use to the adjoining residential property gives greater concern. The ground floor use is separated from the party wall with the adjoining property by the entrance hall and stairs to the first floor flat. The head of Environmental health believes that a suitable scheme can be produced to attenuate any noise issues.

Opening Hours - The applicant has sought to open between 9.00am and 11.30pm Sunday to Thursday and 9.00am to 1.30am Friday and Saturday. The License granted allows the property to open 10.00am to 11.00pm Sunday to Thursday and 10.00am to 1.00am Friday and Saturday, plus an additional half hours to drink up. The reduction granted by Licensing Committee clearly reflects the concern in respect of the amenity of adjoining properties. The additional

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hours requested by the applicant is for the sale of coffee and pastries for breakfast. The Head of Planning does not believe that the additional hours in the morning is significant and indeed activity at this time of day would have a positive impact on the vitality of the District Centre.

Refuse storage/collection and general deliveries - The submitted drawings show a refuse storage area at the side of the rear extension fronting Selborne Road. Due to its proximity to residential accommodation the Head of Environmental Health has requested a condition limiting collections, and deliveries to between 7.30 and 8.00pm Monday to Saturday with no collections or deliveries on Sundays or Bank Holidays. In addition should permission be granted it is suggested that a condition be imposed restricting the time that glass and refuse can be put out of the building.

Outside areas - The forecourt to the property has been used for some time as an outside seating area. The area is enclosed by the existing perimeter wall which is approximately one metre high, thus preventing spillage into the adjoining areas. Licensing have restricted its use until 10.00pm Sunday to Thursday and 11.00pm Friday and Saturday.

Conclusion - In considering applications for a license the Licensing Committee consider the following four issues, the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. To this end they have reduced the opening hours from those applied for and imposed conditions. The Head of Planning believes that given these conditions and the comments of the Head of Environmental Health it would be difficult to resist the proposed change of use solely on its impact on the adjoining house.

**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 proposal is in accord with the City Councils Unitary Development Plan in particular policies H2.2, L1.9, DC26 and DC10 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 development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority: (9)02, (2)01, (2)02, (2)03A, (2)07, and (2) 08 24th April 2007 and 8th May 2007

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy DC10, H2.2 and L1.9 of the Manchester Unitary Development Plan.

3) The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:-

Sunday to Thursday 9.00 am to 11.30 pm Friday and Saturday 9.00 am to 1.30 am;

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with Policies H2.2 and DC26 and the Unitary Development Plan for the City of Manchester.

4) Before development commences a scheme for the extraction of any fumes, vapours and odours from the premises hereby approved shall be submitted to, and approved in writing by, the City Council as local planning authority. The approved scheme shall be implemented prior to occupancy and shall remain operational thereafter.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply with Policy DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

5) Before first occupation of the development the building, together with any externally mounted ancillary equipment, shall be acoustically 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 equipment.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policy H2.2 of the Manchester Unitary Development Plan.

6) 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.

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Reason - To safeguard the amenities of the occupiers of nearby accommodation, pursuant to policy H2.2 of the Manchester Unitary Development Plan.

7) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - To protect the visual amenity of the occupiers of nearby residential accommodation pursuant to policies H2.2 and Dc10 of the unitary Development Plan for the City of Manchester

8) The consent hereby approved shall only allow use of external areas within the application site between 9.00am and 10.00pm Sunday to Thursday and 9.00am to 11.00pm Friday and Saturday, and shall not allow for the use of amplified sound or any music in these external areas at any time.

Reason

To safeguard the amenities of the occupiers of nearby properties pursuant to policies H2.2, DC10 and Dc26 of the Unitary Development Plan for the City of Manchester.

9) No refuse, glasses or glass bottles shall be disposed of in outside receptacles between the hours of 11.00pm and 7.00am.

reason

To protect the amenity of the occupiers from noise caused by by putting out refuse, glasses or bottles late in the evening and early morning pursuant to policies H2.2, Dc10 and Dc26 of the Unitary Development Plan for the City of Manchester.

10) Deliveries, servicing and collections, including waste and bottle collections shall not take place outside the following hours: 7.30 am to 8.00 pm, Monday to Saturday, no deliveries, servicing and collections, including waste and bottle collections on Sundays and Bank Holidays. All servicing shall take place from Manchester Road

Reason

To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to policies H2.2, DC10 and Dc26 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: 082976/FO/2007/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

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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:**

Environmental Health  
Licensing Unit  
Greater Manchester Police  
456-458 Barlow Moor Road, Manchester, M21 0BQ  
454 Barlow Moor Road, Manchester, M21 0BQ  
456A Barlow Moor Road, Manchester, M21 0BQ  
Flat 1, 1 Selborne Road, Manchester, M21 0BL  
3 Selborne Road, Manchester, M21 0BL  
4 Selborne Road, Manchester, M21 0BL  
6 Selborne Road, Manchester, M21 0BL  
Flat 2, 1 Selborne Road, Manchester, M21 0BL  
Flat 3, 1 Selborne Road, Manchester, M21 0BL  
30A Manchester Road, Chorlton, Manchester, M21 9PH  
30B Manchester Road, Chorlton, Manchester, M21 9PH  
32A Manchester Road, Chorlton, Manchester, M21 9PH  
Co-Operative Funeral Directors, Manchester Road, Chorlton, Manchester, M21 9PN  
32 Manchester Road, Chorlton, Manchester, M21 9PH  
Graeme House, Wilbraham Road, Manchester, M21 9AS  
Flat 1, 3 Selborne Road, Manchester, M21 0BL  
Flat 2, 3 Selborne Road, Manchester, M21 0BL  
32A Manchester Road, Chorlton, Manchester, M21 1PH  
1 Selborne Road, Manchester, M21 0BL  
Flat 2, 7 Selborne Road, Manchester, M21 1BP  
Flat 3, 7 Selborne Road, Manchester, M21 1BP  
Quality Save, 23-27, Chorlton Place, Manchester, M21 9AQ  
Manchester Institute For Psychotherapy, Lifestream House, 454 Barlow Moor Road, Manchester, M21 0BQ  
456a, Barlow Moor Road, Manchester, M21 0BQ  
D W P, Graeme House, Wilbraham Road, Manchester, M21 9BU  
Department Of Social Security, Graeme House, Wilbraham Road, Manchester, M21 9AS  
Training Wise Ltd, 456-458, Barlow Moor Road, Manchester, M21 0BQ  
32b, Manchester Road, Manchester, M21 9PH

### **Representations were received from the following third parties:**

Personal details withheld at the request of individual

<b>Relevant Contact Officer:</b>	: Dave Morris
<b>Telephone No.</b>	: (0161) 234 4539
<b>Email</b>	: d.morris@manchester.gov.uk