

List No. 7

Bradford Ward	Application Number	Date of Appln	Committee Date
	085224/FU/2007/N2	25th Feb 2008	10th Apr 2008

Proposal Retrospective application for the change of use of former public house to mixed use grocers store (A1) and cafe (A3) with associated car parking

Location 1135 Ashton Old Road, Openshaw, Manchester, M11 1BU

Applicant Mrs Afshaw Irfan, 123 Wheeler Street, Openshaw, Manchester, M11 1DS

Agent Ivor Conway Harriet Lodge, 39 Foot Wood Crescent, Shawclough, Rochdale, OL12 6PB

Description

This application was withdrawn from the agenda of the Planning & Highways Committee on 14 February 2008, due to the fact that the certificate of ownership submitted with this application documentation was incorrect. This issue has now been resolved, as the application no longer seeks permission for the use of the forecourt area for retail purposes.

1135 Ashton Old Road is a detached property fronting Ashton Old Road and lies on the junction with Louisa Street. The previous use of the property was that of a public house, it has been subdivided and the building is currently being used as a grocery store and café. A car park exists at the rear of the property providing 8 car parking spaces. There are residential properties along the northern and eastern boundaries of the site.

The submitted retrospective application is for the change of use of former public house to mixed use grocers store (A1) and café (A3) with associated car parking.

RELEVANT HISTORY

084985 - Retrospective application for external alterations including installation of roller shutters Approved 24/12/07

084398 - Change of use of outbuilding to taxi base unit with associated car parking Withdrawn 21/12/07

085551 - Change of use of existing outbuilding to the rear of former public house to form a taxi base with associated car parking Pending Consideration

Consultations

Local Residents - 8 letters of objections received from local residents, the following concerns have been raised: -

- Shop trading without permission
- Noise pollution, due to cars pulling up and causing traffic chaos
- Cars parking where they can, also taking up residents parking spaces, obstructing the existing crossing on Ashton Old Road, existing car park to rear not being used
- Louisa Street is full of cars parked on either side of the road, causing tail backs, since the Council have put an island in, drivers finding it

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difficult to have a clear vision of the road as cars parked half on the road and pavement, vans parked on the pavement blocking other drivers view and causing a danger to pedestrians who are stepping into the road when the pavement is obstructed

- Unable to walk along the pavement, as stock is along the frontage of the shop, staff are moving pallets along the pavement with machinery causing obstruction to Louisa Street and the traffic flow along the road
- More rubbish since the shop and café have opened, rubbish being piled at the rear of the shop
- Since the shop and café have opened increasing number of vermin (rats/mice) around the site
- Storage of left over food (rotten fruit and vegetables), smells and odours
- Unofficial operation of business, residents feel it is not beneficial to their needs, there are two supermarkets within close proximity of the site, a number of cafes and take-away's are also within the area
- The current use above the shop and café is of flats, 'room to let' signs have been placed on the building
- Canopy on the front elevation of the property

HEAD OF ENGINEERING

- There is concern that the highway on Louisa Street & Ashton Old Rd is likely to be used to carry out loading/unloading functions to the detriment of the surrounding area. For this reason, commitment is required from the applicant that he uses his car park for this function. This needs to be conditioned.
- A pedestrian visibility splay must be provided at the exit point of the car park, condition to be applied.
- As this development is at a busy junction, a one-way system needs to be implemented through the car park to ensure that visitors are able to access & egress the site without impacting upon the existing highway. A set of 'Alligator teeth' road plates at the entrance & exit would normally be required however in this instance some road markings and signage within the site would be acceptable.

Due to re-consultation the following points have been raised: -

- Area of land directly outside the premises is classed as an area of adopted highway
- By relocation the red line plan, the operation of the shop no longer falls upon the adopted highway, therefore acceptable.
- Comments made previously still apply

HEAD OF REGULATORY & ENFORCEMENT SERVICES (CONTAMINATED LAND)

No objection in principle to this application. Due to re-consultation, no further comments were made.

HEAD OF REGULATORY & ENFORCEMENT SERVICES

Recommends that the following conditions be applied to any approval; externally mounted equipment, hours and deliveries, servicing and collections.

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Due to re-consultation, no further comments were made.

ENVIRONMENT & OPERATIONS (HIGHWAYS AUTHORITY)

No comments were initially received, however due to re-consultation the following points identified: -

The erected canopy appears to be on adopted highway, assume planning permission has not been granted, therefore necessary enforcement action to be pursued.

NEW EAST MANCHESTER

No objection to the retrospective application.

GREATER MANCHESTER POLICE

No objections to the application.

Issues

UNITARY DEVELOPMENT PLAN

The site is presently unallocated within the Manchester Unitary Development Plan (adopted 1995). However the general policy for the area states: -

EM16 Lower and Higher Openshaw are mixed use areas made up of predominately local authority residential neighbourhoods with pockets of owner occupied housing and areas of existing industry in sectors such as chemicals, manufacturing and engineering and Openshaw District Centre. Within Lower and Higher Openshaw development will be permitted which includes:

- i) retail, community facilities and mixed use development within Openshaw District Centre
- ii) the redevelopment, improvement and modernisation of residential neighbourhoods
- iii) within the residential neighbourhoods a greater mix of housing types, sizes and tenures, particularly family accommodation and owner occupied housing
- iv) provision of a hierarchy of streets which is permeable to pedestrians and cyclists and connects to the residential neighbourhoods, employment areas, adjacent areas, Sportcity, proposed Metrolink stops along Ashton New Road and proposed quality bus corridor along Ashton Old Road
- v) Continued industrial development and improvement of the Parkhouse Street Industrial Estate comprising measures to protect the amenity of neighbouring residential areas
- vi) Mixed use developments along Ashton Old Road frontage

DC10.1 In determining planning applications for developments involving the sale of food and drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the council will have regard to:

- a) the general location of the proposed development, including any reference to the area in other policies in the plan
- b) the effect on the amenity of neighbouring residents
- c) the availability of safe and convenient arrangements for car parking and servicing

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- d) ease of access for all, including disabled people; and
- e) the storage and collection of refuse and litter

DC10.2 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.

DC10.3 Development will not normally be permitted where:

- a) it is proposed outside the general locations mentioned above, or
- b) there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway

DC10.4 Where, having regard to the preceding policies, the council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and collection of litter.

DC10.5 The council will consider on their individual merits proposals for larger, free standing restaurants, public houses, clubs etc. which require a main road location criteria set out in policy DC10.2.

Policy H2.2 states that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters which the Council will consider 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 S2.5 The Council will seek to ensure that shopping facilities are of a high standard of design with adequate parking provision and provide a safe and attractive environment for all shoppers.

ISSUES

The submitted retrospective application is for the change of use of former public house to mixed use grocers store (A1) and café (A3) with associated car parking.

The detached building fronts Ashton Old Road, and is located on the Junction with Louisa Street. The shop has a small forecourt area to the front where fruit and vegetables are placed and displayed. The property benefits from a car parking area to the rear of the site, providing 8 car parking spaces for both uses. The car park area has two access points, one used as an entry point (closest to Southsea Street) and the other as an exit point (closest to Ashton Old Road).

Along the eastern boundary of the site lies an open area of grassed land leading towards Turton Street, however there is no direct access or egress from Ashton Old Road. Along the north-eastern boundary of the site lies a

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large residential estate, set back from Ashton Old Road and accessed via Louisa Street and Turton Street.

The building was formerly used as a public house, however this use has ceased. The current owners have sub divided the building and use part as grocery shop (A1) and part as a café (A3). The current application relates to a retrospective application, the owner has been trading over 6 months without consent.

The applicant has also confirmed that the retrospective café element (class A3) of the proposal is currently not in use. This element is presently used as a shop (class A1), however the applicant has confirmed that the café use is still considered as part of the submitted application.

Previously two planning applications were submitted on the site, a retrospective application for external alterations including the installation of roller shutters, this application was approved (24/12/07) subject to conditions. The second application was for the change of use of outbuilding to taxi base unit with associated car parking to the rear, this application was withdrawn as concerns and issues were raised with regards to highways and residential amenity.

Although the proposed café is not within a District Centre or a parade of 8 shops given the previous use as a Public House, and also the relationship to residential properties, it is considered that a refusal of planning permission for the principle of this use at this location is not warranted.

As part of the submitted application a new revised red outlined location plan was received on 25 February 2008. The revised plan shows that the forecourt area to the front of the shop has now been omitted from the scheme, as the applicants has confirmed that the forecourt area is not within their ownership. All residents and consultees were re-consulted with regards to the revised location plan.

The applicant has been fully notified by the agent, that they have no authorisation to use the forecourt area to the front of the shop as it is adopted highway maintained by the City Council, therefore the erected structure is unauthorised and would require planning permission. The agent has made the applicant aware and requested the removal.

RESIDENTIAL AMENITY

In terms of residential amenity the proposal will pose no detrimental impact in terms of overlooking or privacy as the shop and café fronts Ashton Old Road.

The applicant states the following hours of operation: -

SHOP 0800 - 2200 Monday to Sunday

CAFÉ 1000 - 2000 Monday to Sunday

The above hours of operation applied for are considered to be acceptable, however a condition has been requested from Environmental Health stating that the hours of operation will be restricted to those being applied for.

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Therefore a condition shall be applied to any approval restricting the hours of use. However, neither of the uses will operate at unsociable hours, which would cause undue disturbance to the local residents.

The previous use as a public house would have operated on late opening hours (past the hours of 2200), therefore when compared with the current proposals, the hours of opening are considered appropriate and will pose no undue disturbance to the local residents.

In terms of noise and disturbance the shop and café will pose no significant impact, as the residential properties are set back from Ashton Old Road.

It is considered that the proposal complies with policy DC10.1, DC10.3 and DC104 of the Councils unitary development plan and poses no unduly detrimental impact upon the local residents or amenities within the street scene. However, conditions will be applied to any approval controlling the use.

GENERAL AMENITIES

A number of objections received relate to the obstruction of the highway, due to the produce displayed on the forecourt area to the front of the shop, rubbish, erected canopy and vermin.

Council policy S2.5 seeks to ensure that 'shopping facilities are of a high standard of design with adequate parking provision and provide a safe and attractive environment for all shoppers'. The applicant provides a car parking area to the rear of the site for customers to both the shop and café, in terms of providing a safe and attractive environment. However, the forecourt area is used to display produce, causing obstructions on the pavement. A condition shall be applied to any approval restricting any produce to be displayed within the forecourt area to the front of the shop, in order to protect visual amenities and to avoid obstruction.

Issues were raised with regards to the increased levels of vermin (rats/mice) within the local area. Objectors state that this has been caused by the result of the shop and café use, this complaint has now been forwarded to Environmental Health for investigation. A condition requesting a scheme for waste management will be applied to any approval.

A canopy structure has been erected to the front elevation of the building without prior consent from the City Council. The canopy is considered to be unacceptable and action is being pursued to secure its removal.

WASTE MANAGEMENT

A waste management strategy has been submitted and the plans show a bin storage area to the rear, closest to the shop use. The store provides an area for 4 industrial, wheel bin units; the bins will accommodate packaging, food waste, bottles/jars and non-recyclable materials. The collections will be by a specialist trade waste collection company on specified days.

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However, a condition shall be applied to any approval with regard to agreed measures and details of the bin storage area and waste.

HIGHWAYS

A number of objections have been received regarding parking and traffic problems, which have occurred during the existence of the shop and café.

The applicant provides a car parking area to the rear of the site providing 8 car parking spaces for customers to the shop or café. The car park is accessed off Louisa Street. With regards to policy DC10.1(c) 'the availability of safe and convenient arrangements for car parking and servicing' the applicant has taken this into consideration and has provided a facility for the customers.

Traffic Engineers concerns relate to the highway on Louisa Street & Ashton Old Road is likely to be used to carry out loading/unloading functions to the detriment of the surrounding area. Therefore a condition shall be applied to any approval that the applicant uses the car park for this function.

Secondly a condition shall be applied to any approval with regards to a pedestrian visibility splay to be provided at the exit point of the car park.

As this development is at a busy junction, a one-way system needs to be implemented through the car park to ensure that visitors are able to access & egress the site without impacting upon the existing highway. A condition shall be applied regarding a set of 'alligator teeth' road plates are installed or road markings and signage within the site, to ensure one way flow through the site and will eliminate the possibility for vehicles to reverse out onto the highway. The direction of flow would need to be 'IN' from the access closest to Southsea Street and 'OUT' only from the access closest to Ashton Old Road.

DISABLED ACCESS

The access to the shop and café from the pavement off Ashton Old Road provides level access to the premises.

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)/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. He believes that any restriction on these rights

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posed by the 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

Approve on the basis that the proposal is in accordance with policies, DC10, S2.5 and H2.2 of the Manchester City Councils Unitary Development Plan, and poses no unduly detrimental impact upon the local residents or amenities within the character of the street scene.

Conditions and/or Reasons

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: location plan dated 3 December 2007, drawing no.004 Issue A (car parking, bin store and traffic movement) dated 21 December 2007, drawing no. 002 Issue B (elevations) dated 3 December 2007, drawing no.001 Issue B (alterations to ground floor retail facilities) dated 3 December 200, waste management strategy dated 21 December 2007.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policy DC10, H2.2 and EM16 of the Manchester City Councils Unitary Development Plan.

3) Notwithstanding the submitted plans the access 'IN' to the site shall be provided from the access point closest to Southsea Street and exit 'OUT' from the site closest to Ashton Old Road. Prior to commencement detailed measures (a set of 'alligator teeth' road plates are installed or road markings and signage within the site) are required to ensure the one-way flow of traffic through the site. Full details and plans should be submitted within 28 days of the date of decision and approved in writing by the City Council as the Local Planning Authority. The approved scheme shall be implemented within 14 days of approval, and retained at all times thereafter.

Reason - In the interests of highway safety, pursuant to policy H2.2 of the Manchester City Councils Unitary Development Plan.

4) Notwithstanding the approved drawings, within 28 days of the date of this permission a scaled drawing shall be submitted to and approved in writing by the City Council as the Local Planning Authority showing pedestrian visibility splays for the car park 'EXIT'. The approved scheme shall be implemented

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within 14 days of the date of this approval and shall be retained at all times thereafter.

Reason - To ensure pedestrian and vehicle visibility in the interests of highway safety, pursuant to Policy H2.2 of the Manchester City Councils Unitary Development Plan.

5) Notwithstanding the submitted plans, this permission does NOT give consent for any advertisements or signage.

Reason - For the avoidance of doubt.

6) No produce shall be displayed on the forecourt area to the front of the shop or be used for any trade or business purposes at any time.

Reason - In the interests of the appearance of the locality and to safeguard the unobstructed passage of pedestrians along the adjacent public highway, in accordance with policies H2.2 and S2.5 of the Manchester City Councils 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 - In the interest of residential amenity and public health, pursuant to policy H2.2 of the Manchester City Councils Unitary Development Plan.

8) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 22:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

Reason - In the interest of residential amenity and public health, pursuant to policy H2.2 of the Manchester City Councils Unitary Development Plan.

9) This permission does not give consent to the canopy structure erected on site, this requires consent under a separate planning application.

Reason - For the avoidance of doubt and in the interests of visual amenity, pursuant to policy H2.2 of the Manchester City Councils Unitary Development Plan

10) Within 28 days of the date of this permission, 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 Local Planning Authority in order to secure a reduction in the level of noise emanating from the site/property.

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

11) The hours of operation hereby permitted are: -

Shop 08:00 - 22:00 Monday to Sunday

Café 10:00 - 20:00 Monday to Sunday

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

12) Any loading and unloading of goods for the shop and café, shall be carried out in the rear car park area only.

Reason - In the interests of highway safety, pursuant to policy H2.2 of the Manchester City Councils Unitary Development Plan.

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: 085224/FU/2007/N2 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 held by the Planning Division.

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

Greater Manchester Police
Engineering Services
Environmental Health
Contaminated Land Section
Environment & Operations (Highway Authority)
New East Manchester
Greater Manchester Police
Engineering Services
Environmental Health
Contaminated Land Section
Environment & Operations (Highway Authority)
New East Manchester
10 Sandywell Close, Manchester, M11 1EF
12 Sandywell Close, Manchester, M11 1EF
14 Sandywell Close, Manchester, M11 1EF
16 Sandywell Close, Manchester, M11 1EF
18 Sandywell Close, Manchester, M11 1EF
20 Sandywell Close, Manchester, M11 1EF
22 Sandywell Close, Manchester, M11 1EF

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6 Sandywell Close, Manchester, M11 1EF
8 Sandywell Close, Manchester, M11 1EF
1135 Ashton Old Road, Manchester, M11 1BU
2 Southsea Street, Manchester, M11 1FE
4 Southsea Street, Manchester, M11 1FE
6 Southsea Street, Manchester, M11 1FE
19 Southsea Street, Manchester, M11 1FE
21 Southsea Street, Manchester, M11 1FE
18 Stenson Square, Manchester, M11 1FW
20 Stenson Square, Manchester, M11 1FW
1123 Ashton Old Road, Manchester, M11 1AA

Representations were received from the following third parties:

Environmental Health
Contaminated Land Section
New East Manchester
M Broome, 12 Sandywell Close, Manchester, M11 1EF
D Andrews, 8 Sandywell Close, Manchester, M11 1EF
Personal details withheld at the request of individual
Sharon Grimes, 4 Southsea Street, Manchester, M11 1FE
Mrs C Broome, 19 Southsea Street, Manchester, M11 1FE
B & G Carey, 11 Southsea Street, Openshaw, Manchester , M11 1BJ
Emma Thomond, 2 Stenson Square, Openshaw, Manchester, M11 1FW
Pamela Mcgurk,

Relevant Contact Officer : Nasira Farooq
Telephone number : 0161 234 4165
Email : n.farooq2@manchester.gov.uk