

## List No. 8

<b>Northenden Ward</b>	<b>Application Number</b> 085750/JO/2008/S2	<b>Date of Appln</b> 6th Feb 2008	<b>Committee Date</b> 10 <sup>th</sup> April 2008
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**Proposal** Variation of Condition No. 2 attached to Application 048543 to open the premises between 1000 hrs to 2330 hrs Mondays to Wednesday. 1000 hrs to 0000hrs on Thursdays and Sundays and 0800 hrs to 00:30 hrs on Fridays and Saturdays for a temporary period of one year ending on the 28th March 2009.

**Location** Simply Delicious, 309 Palatine Road, Northenden, Manchester, M22 4HH

**Applicant** Ahmed Al-Zubaidy, 11 Ulverston Avenue, Withington, Manchester, M20 1DU

### **Agent**

### **Description**

The planning application was reported to the Wythenshawe Area Committee on the 27<sup>th</sup> March 2008. Members were *Minded to Refuse* the application on the grounds that the proposal will result in anti-social activity and will have a negative impact on residential amenity.

The application site is the "Simply Delicious" hot food takeaway which is situated towards the north of Northenden District Centre and fronts onto the busy Palatine Road. The premises is within a retail and commercial parade of 6 units which are occupied by a range of uses from restaurants to shops. Directly opposite the application site, on the other side of Palatine Road, is a row of residential terraces. Directly behind the takeaway is Allanson road, which is a large residential area.

Planning permission was approved in 1996 for the change of use of number 309 Palatine Road from a vacant shop unit to a hot food takeaway (048543/FU/SOUTH3/95). Condition 2 of the consent stated that the premises must operate Sunday to Thursday 08:00 to 11:30 pm and Friday and Saturday 08:00 to midnight.

In 2006 the applicants obtained approval from the licensing unit to open the premises to the public considerably later than as approved under the planning permission. The applicants sought planning permission in November 2007 to vary condition 2 of the original approval to operate the premises to the agreed licensing hours. The application was, however, withdrawn following officer concerns. The applicants have now reapplied to extend their hours of opening.

The table below shows the current hours, those approved by the licensing unit and those being applied for within this planning application.

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<b>Existing hours of operation</b> (Approved under planning permission 048543)	<b>Licensing</b>	<b>Proposed hours of operation (temporary 1 year)</b>
Sunday to Thursday 08:00 to 11:30 pm	Monday to Thursday 10:00 to 02:00	Monday to Wednesday 10:00 to 23:30
Fridays and Saturdays 08:00 to midnight	Friday and Saturday 10:00 to 04:00	Thursday and Sunday 10:00 to midnight
	Sunday 10:00 to midnight	Friday and Saturday 10:00 to 00:30

It is worth noting that the City Council's Planning and Highways Committee recently approved temporary planning permission for a period of one year for the Kazbar premises along Palatine Road to open their premises for the same period of time as Simply Delicious is applying for.

### **Consultations**

Local Residents/ Businesses - 1 letter of support has been received for this application. The comments can be summarised as follows:

1. The Palatine Road shopping and eating area of Northenden village would benefit from restaurants and takeaway and the extended opening hours in that we believe that it would offer a useful amenity to local residents;
2. There are problems later in the evenings in Northenden. As the area is quite quiet there is more risk of crime, particularly vehicle crime and robbery offences, being committed;
3. Didsbury is a very successful shopping/drinking/dining area which is thriving in the evening. This brings people out into the area in the evenings which helps deter criminal activity and helps to improve the amenity of the local area.

Northenden Civic Society – The closing hours should be restricted to 24:00 at the latest to respect the amenities of the residents living on Palatine Road and Allanson Road.

Head of Environmental Health – No adverse comments/objections to make.

Wythenshawe Regeneration Team – No comments received at the time of writing this report. Any comments will be reported to the committee.

Greater Manchester Police Architectural Liaison Officer - No comments received at the time of writing this report. Any comments will be reported to the committee.

Northenden Village Partnership - No comments received at the time of writing this report. Any comments will be reported to the committee.

Head of Engineering - No comments received at the time of writing this report. Any comments will be reported to the committee.

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### Issues

Unitary Development Plan for the City of Manchester (Adopted 1995) -The application site is allocated within the Unitary Development Plan for the City of Manchester (Adopted 1995) as being within the Northenden District Centre. Despite the District Centre location of the application site, the premises is located in close proximity to residential properties. In terms of policies within the development plan which are relevant, policies H2.1, H2.2 and E3.5 within Part One of the UDP are relevant and policies DC10.1, DC10.2, DC10.4, DC26.1 and DC26.3 within Part Two of the UDP are relevant.

Policy H2.1 states that the Council will encourage environmental improvements to make residential areas safer and more attractive.

In giving effect to this, policy H2.2 states that the Council will not allow development that will have an unacceptable impact on residential areas. Matters which the Council will consider when determining such applications are the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Furthermore, measures will be promoted which will lead to a safer environment for all people living in and using the City (Policy E3.5).

In terms of specific policy which relegate specifically to food and drink uses, Policy DC10.1 (Food & Drink Uses) determines that planning applications for development involving the sale of hot food to be consumed off the premises the Council will have regard to, particularly in this instance:

- The general location of the proposed development;
- The effect on the amenity of neighbouring residents;
- The storage and collection of refuse and litter.

Policy DC10.2 states further that the Council will normally accept the principle of development of this kind in the City Centre, industrial and commercial area and, at ground level, in local shopping parades of more than 8 shops or offices.

Policy DC10.4 states that where the Council considers food and drink premises to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. Such conditions include limitations in terms of the hours of opening and the need to deal adequately with the storage of refuse and collection of litter.

Policy DC26.1 (Development & Noise) states that the Council intends to use the Development Control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider the effect of new development proposals which are likely to be generators of noise.

Policy DC26.3 states that development likely to result in unacceptably high levels of noise will not be permitted in residential, near schools, hospitals, nursing homes and similar institutions and near open land used frequently for recreational purposes.

Other Relevant Policies and Guidance-In considering development proposals, reference is not only made to the UDP, but also other policies and

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supplementary planning guidance. In this case, the Regional Spatial Strategy for the North West (Formerly RPG13).

RSS for the North West (RPG13) provides planning guidance for the North West region and is part of the development plan long with the Manchester UDP.

Policy DP2 (Enhancing the Quality of Life) seeks to ensure that developments provide a high quality of life for this and future generations.

Principle – The application site is a takeaway premises located to the north of Northenden District Centre. There are a number of commercial and retail premises surrounding the application site and there is a residential terrace opposite the application. Allanson Road, a residential street, sits behind the application site.

The principle of the ‘takeaway’ use has been established for many years. The purpose of the application is to vary the opening hours of the premises. As such, the Head of Planning has considered whether the new hours of operation are acceptable upon the existing level of residential amenity currently enjoyed by local residents, resulting noise implications, any crime and safety issues resulting from the development and resulting problems of refuse and waste.

Noise and disturbance – In the same parade as the application site there is a Persian and an Italian restaurant. These restaurants have the same opening hours as those currently held by the takeaway. This practical arrangement ensures that noise and disturbance is contained with a specific time period and thereafter provides the opportunity for people to be dispersed.

Allowing the takeaway to extend its hours will mean that it will attract people to the premises after the other licensed premises have closed. As such, a certain level of noise and disturbance will be created from patrons being attracted to the site. There will also be continued noise and disturbance from the premises itself from the cooking processes, the movement of staff and removal of rubbish from the premises.

However, despite these concerns, it is considered that given the recommendation is only for a temporary basis and that there will be only an extension of half an hour during the later part of the week and weekends, the proposal will not cause undue noise. In addition, the temporary period will provide the opportunity to test whether or not the extension to the hours will cause any problems.

Residential amenity - The takeaway is situated within a retail and commercial parade of 9 units. There is a bed shop and a barbershop either side of the application site.

However, directly opposite the application site is a row of 5 terrace houses. Behind the application site is Allanson Road, a residential street. In particular, the rear yards of a number of residential properties abut the rear yard of the application site.

Given the District Centre location of the application site it is considered that a certain level of noise and activity is expected for residents who choose to live in such close proximity to premises which operate in the night time economy. The

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limited extension to the opening hours is not considered to have a detrimental impact on the current level of amenity enjoyed by these residents.

Crime and Disorder – The proposals will inevitable cause the congregation of people outside the premises late at night. This is a real concern and needs to be managed effectively with the new hours. It is recommended that the extended hours would need to be carefully managed and some form of CCTV coverage introduced to ensure any problems that may arise are observed and recorded. This has been conditioned as part of the approval.

As part of the provision of the licensing agreement staff are expected to ensure that customers do not congregate outside of the premises. If patrons congregating become a real issue then the premise licence will be revoked.

Refuse and litter – It is not considered that the additional half an hour opening will result in an excessive increase in litter and refuse at the premises. Having said that, provision needs to be in place to ensure that any litter is cleared up so as to not have a detrimental impact on the appearance of the local area. As such, a condition has been imposed on the application to ensure that adequate refuse arrangements are put in place. In addition, as part of the provisions of the licensing agreement the owners are expected to remove litter from the front of the premises at regular intervals and after closing. Furthermore, commercial refuse must also be removed regularly or the premises licence will be revoked.

Conclusion- The Head of Planning believes allowing the variation of the condition to extend the hours will not lead to unacceptable levels of noise and disturbance given that it will only result in a extra half and hour on Sundays and Thursday and Friday and Saturdays. In addition, by only allowing the operation for a temporary period the City Council will have the opportunity to observe whether or not the proposal will have a negative impact.

Whilst it is noted that the premises is in close proximity to residential properties along Palatine Road and Allanson Road, it is not expected that the extended opening hours will increase the number of patrons visiting the site. Appropriate conditions will be used to control issues of litter, crime and noise. In addition, the business will help support the evening economy and will be consistent with the hours approved by the Planning and Highways Committee recently at Kazbar.

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 posed by

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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 TEMPORARY APPROVAL for 12 months subject to conditions**

**The application will see the variation of the opening hours for the premises. Given the premises location within the heart of the District Centre it is not considered that the modest lengthening of the hours will cause unnecessary noise and disruption. Whilst there are residential properties in close proximity to the application site, conditions will be imposed which will help control the use of the premises and contain any noise within the building. In addition, given that the proposal is only for a temporary period, it will provide the opportunity to monitor the new opening hours.**

**Wythenshawe Area Committee      Minded to Refuse**

### **Conditions and/or Reasons**

1) The permission hereby granted is for a limited period only (for one year), expiring on 28th March 2009; and the hours hereby granted are required to be respectively discontinued. The opening of the premises must then revert back to the previous hours approved under planning permission (048543/FU/SOUTH3/95).

Reason - The application is approved on a temporary basis for a period of one year.

2) 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 Wednesday 10:00 to 23:30

Thursdays and Sundays 10:00 to 00:00

Fridays and Saturdays 10:00 to 00:30

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.

3) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse shall be submitted to and

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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 surrounding environmental and health safety, pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester (Adopted 1995).

4) A notice shall be placed at all exits to the premises reminding patrons to leave quietly and in an orderly fashion.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

5) No externally mounted speaker system shall be operated on the premises unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

6) All windows and doors, at the rear of the premises, are to remain closed after 7pm unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

7) A scheme shall be submitted to and approved by the City Council relating to the delivery arrangements to the site, which will include no deliveries to the rear of the premises on Sundays and Bank Holidays.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

8) Prior to the commencement of the hours hereby approved, details of an external CCTV system at the premises, including their location, shall be submitted to the City Council as Local Planning Authority.

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Reason - To ensure that there are adequate measures in place for crime and safety reasons pursuant to policy E3.5 of the Unitary Development Plan for the City of Manchester (Adopted 1995).

9) No windows at the front of the premises shall be open after 7pm and the front door must incorporate a self closing mechanism to restrict the outbreak of noise into the street unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason - To protect the current levels of residential amenity enjoyed by local residents, particularly those on Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

## **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: 085750/JO/2008/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 held by the Planning Division.

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

South Manchester Regeneration  
Greater Manchester Police  
Northenden Civic Society  
Northenden Village Partnership  
Flat 1, 310 Palatine Road, Manchester, M22 4FW  
Flat 2, 310 Palatine Road, Manchester, M22 4FW  
Flat 3, 310 Palatine Road, Manchester, M22 4FW  
285a, Palatine Road, Manchester, M22 4ET  
Flat 4, 310 Palatine Road, Manchester, M22 4FW  
323a, Palatine Road, Manchester, M22 4HH  
Double Life Films Ltd, 321 Palatine Road, Manchester, M22 4HH  
291a, Palatine Road, Manchester, M22 4ET  
Tpau Chinese Take Away, 275 Palatine Road, Manchester, M22 4ET  
277 Palatine Road, Manchester, M22 4ET  
279 Palatine Road, Manchester, M22 4ET  
Golfmaster, 281 Palatine Road, Manchester, M22 4ET  
Odds & Sods, 285 Palatine Road, Manchester, M22 4ET  
M T M Promotional, 287 Palatine Road, Manchester, M22 4ET  
Shabnam Restaurant, 289 Palatine Road, Manchester, M22 4ET  
Oriental Express, 291 Palatine Road, Manchester, M22 4ET  
1 Brett Street, Manchester, M22 4EY  
11 Brett Street, Manchester, M22 4EY  
13 Brett Street, Manchester, M22 4EY  
15 Brett Street, Manchester, M22 4EY  
3 Brett Street, Manchester, M22 4EY  
5 Brett Street, Manchester, M22 4EY  
7 Brett Street, Manchester, M22 4EY  
9 Brett Street, Manchester, M22 4EY  
286 Palatine Road, Manchester, M22 4FW

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292 Palatine Road, Manchester, M22 4FW  
294 Palatine Road, Manchester, M22 4FW  
296 Palatine Road, Manchester, M22 4FW  
298 Palatine Road, Manchester, M22 4FW  
300 Palatine Road, Manchester, M22 4FW  
302 Palatine Road, Manchester, M22 4FW  
St. Hildas Service Station, 304-308, Palatine Road, Manchester, M22 4FW  
312 Palatine Road, Manchester, M22 4FW  
314 Palatine Road, Manchester, M22 4FW  
316 Palatine Road, Manchester, M22 4FW  
Parry Wood Ophthalmic Opticians, 318 Palatine Road, Manchester, M22 4FW  
Quidds In Discount, 322-326, Palatine Road, Manchester, M22 4HE  
Northenden Dry Cleaners, 328 Palatine Road, Manchester, M22 4HE  
K F C, 338 Palatine Road, Manchester, M22 4HE  
Bargain Booze, 340 Palatine Road, Manchester, M22 4HE  
293 Palatine Road, Manchester, M22 4HH  
295 Palatine Road, Manchester, M22 4HH  
299 Palatine Road, Manchester, M22 4HH  
303 Palatine Road, Manchester, M22 4HH  
305 Palatine Road, Manchester, M22 4HH  
307 Palatine Road, Manchester, M22 4HH  
309 Palatine Road, Manchester, M22 4HH  
323 Palatine Road, Manchester, M22 4HH  
331 Palatine Road, Manchester, M22 4HH  
The Battered Cod, 333 Palatine Road, Manchester, M22 4HH  
337 Palatine Road, Manchester, M22 4HH  
11 Mill Lane, Manchester, M22 4HJ  
13 Mill Lane, Manchester, M22 4HJ  
10 Allanson Road, Manchester, M22 4HL  
12 Allanson Road, Manchester, M22 4HL  
2 Allanson Road, Manchester, M22 4HL  
22 Allanson Road, Manchester, M22 4HL  
24 Allanson Road, Manchester, M22 4HL  
26 Allanson Road, Manchester, M22 4HL  
28 Allanson Road, Manchester, M22 4HL  
30 Allanson Road, Manchester, M22 4HL  
32 Allanson Road, Manchester, M22 4HL  
4 Allanson Road, Manchester, M22 4HL  
6 Allanson Road, Manchester, M22 4HL  
8 Allanson Road, Manchester, M22 4HL  
11 Allanson Road, Manchester, M22 4HN  
13 Allanson Road, Manchester, M22 4HN  
15 Allanson Road, Manchester, M22 4HN  
17 Allanson Road, Manchester, M22 4HN  
19 Allanson Road, Manchester, M22 4HN  
21 Allanson Road, Manchester, M22 4HN  
23 Allanson Road, Manchester, M22 4HN  
25 Allanson Road, Manchester, M22 4HN  
27 Allanson Road, Manchester, M22 4HN  
29 Allanson Road, Manchester, M22 4HN  
3 Allanson Road, Manchester, M22 4HN  
31 Allanson Road, Manchester, M22 4HN  
33 Allanson Road, Manchester, M22 4HN  
5 Allanson Road, Manchester, M22 4HN  
7 Allanson Road, Manchester, M22 4HN

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9 Allanson Road, Manchester, M22 4HN  
10 Queenhill Road, Manchester, M22 4HW  
12 Queenhill Road, Manchester, M22 4HW  
14 Queenhill Road, Manchester, M22 4HW  
16 Queenhill Road, Manchester, M22 4HW  
18 Queenhill Road, Manchester, M22 4HW  
2 Queenhill Road, Manchester, M22 4HW  
20 Queenhill Road, Manchester, M22 4HW  
22 Queenhill Road, Manchester, M22 4HW  
24 Queenhill Road, Manchester, M22 4HW  
26 Queenhill Road, Manchester, M22 4HW  
28 Queenhill Road, Manchester, M22 4HW  
4 Queenhill Road, Manchester, M22 4HW  
6 Queenhill Road, Manchester, M22 4HW  
8 Queenhill Road, Manchester, M22 4HW  
Flat 5, 310 Palatine Road, Manchester, M22 4FW  
Flat 6, 310 Palatine Road, Manchester, M22 4FW  
321a, Palatine Road, Manchester, M22 4HH  
320a, Palatine Road, Manchester, M22 4HF  
320b, Palatine Road, Manchester, M22 4HF  
322a, Palatine Road, Manchester, M22 4HF  
324a, Palatine Road, Manchester, M22 4HF  
326a, Palatine Road, Manchester, M22 4HF  
328a, Palatine Road, Manchester, M22 4HF  
330a, Palatine Road, Manchester, M22 4HF  
330b, Palatine Road, Manchester, M22 4HF  
332a, Palatine Road, Manchester, M22 4HF  
334a, Palatine Road, Manchester, M22 4HF  
336a, Palatine Road, Manchester, M22 4HF  
338a, Palatine Road, Manchester, M22 4HF  
340a, Palatine Road, Manchester, M22 4HF  
340b, Palatine Road, Manchester, M22 4HF  
307a, Palatine Road, Manchester, M22 4HH  
309a, Palatine Road, Manchester, M22 4HH  
333a, Palatine Road, Manchester, M22 4HH  
9a, Millweir Chase, Mill Lane, Manchester, M22 4HJ  
9b, Millweir Chase, Mill Lane, Manchester, M22 4HJ  
1a, Millweir Chase, Allanson Road, Manchester, M22 4HN  
1b, Millweir Chase, Allanson Road, Manchester, M22 4HN  
1c, Millweir Chase, Allanson Road, Manchester, M22 4HN  
1d, Millweir Chase, Allanson Road, Manchester, M22 4HN  
1e, Millweir Chase, Allanson Road, Manchester, M22 4HN  
Otten Penna & Co, 339 Palatine Road, Manchester, M22 4HH  
Beds & Pine Direct Ltd, 311-313, Palatine Road, Manchester, M22 4HH  
295a, Palatine Road, Manchester, M22 4HH  
Lloyds Tsb Bank Plc, 332-334, Palatine Road, Manchester, M22 4HE  
Spar Stores, 330 Palatine Road, Manchester, M22 4HE  
Palatine News, 327-329, Palatine Road, Manchester, M22 4HH  
Flat 1, 317 Palatine Road, Manchester, M22 4HH  
Flat 2, 317 Palatine Road, Manchester, M22 4HH  
Flat 3, 317 Palatine Road, Manchester, M22 4HH  
Fortuna Restaurant, 297 Palatine Road, Manchester, M22 4HH  
318a, Palatine Road, Manchester, M22 4FW  
281a, Palatine Road, Manchester, M22 4ET  
279a, Palatine Road, Manchester, M22 4ET

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277a, Palatine Road, Manchester, M22 4ET

309b, Palatine Road, Manchester, M22 4HH

299a, Palatine Road, Manchester, M22 4HH

2 St. Hildas Close, Manchester, M22 4EP

3 St. Hildas Close, Manchester, M22 4EP

Transformulas International Ltd, Transformulas House 1a, Brett Street,  
Manchester, M22 4EY

Manchester Trophy Market, 287 Palatine Road, Manchester, M22 4ET

Express Solicitors, 317-319, Palatine Road, Manchester, M22 4HH

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

Mr James Maxey, Express Solicitors, 317-319, Palatine Road, Manchester,  
M22 4HH

**Relevant Contact Officer :** Jennifer Atkinson  
**Telephone number :** 0161 234 4517  
**Email :** j.atkinson@manchester.gov.uk