

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
088848/FO/2009/S2		20th Aug 2009	Brooklands Ward

**Proposal** Retention of a single storey shop (A1) unit with ancillary first floor storage area. Retention of boundary wall to Wadebridge Avenue and CCTV, bin store and access to rear yard

**Location** Shop Unit Adjacent To 31 Petersfield Drive Shopping Centre, Wythenshawe, Manchester, M23 9PS,

**Applicant** Genesis Estates, 3 Keppel Road, Chorlton, Manchester, M20 0AT

**Agent** Mr DK Seddon, Howard And Seddon, 64 Washway Road, Sale, Cheshire, M33 7RE

### **Description**

This application was previously put before Members of the Wythenshawe Area Committee on 23rd July where Members were Minded to Refuse the application and to refer the application to the Planning and Highways Committee for determination. The Planning and Highways Committee to be advised that in the opinion of this Committee that the failure to construct the boundary walls to the approved building line significantly detracts from the development as originally proposed to the extent that it constitutes a visual disamenity. Prior to this Members of WAC will recall having a site visit at this property on 23rd April 2009 where it was later deferred at Wythenshawe Area Committee due to inaccurate plans. Prior to that, the application was previously put before Members of WAC on 26th March 2009, where it was deferred for site visit.

The application site comprises a newly built vacant shop unit on the corner of Wadebridge Avenue and Petersfield Drive, attached to 31 Petersfield Drive within the shopping parade on the north side of Petersfield Drive. A shop unit was approved under planning application reference 081821/FO/2007/S2, a solid boundary wall to Wadebridge Avenue was part of that permission. Unfortunately the development was not constructed as per the approved plans.

The Baguley Shopping Centre on Petersfield Drive is a local parade of nine units. The parade consists of a mini market (double unit); a chemist, an off licence and two hot food take aways (fish & chips and Indian), and a vacant beauty salon, and a vacant newly built premises at 41a Petersfield Drive. Petersfield Drive is located off Altrincham Road in an area of mixed residential accommodation. There are detached, semi detached, terraced and flatted accommodation with associated car parks for the residents. The Jolly Butcher Public House is located to the south of the shopping centre on the opposite side of Petersfield Drive.

Since the Committee site visit on the 23rd April 2009 the boundary wall has been completed which includes a sealed brick inset to allow access to the man hole. There is no fixed metal panel.

Permission is sought for the retention of the existing boundary wall, which measures 2.35 metres in height.

Retrospective planning permission is being sought for the retention of the first floor storage space as built. The first floor store provides 66.7 metres<sup>2</sup> storage space which is ancillary to the main shop unit. Visually the shop unit is no taller than approved and is the same height as other shops within the parade as this space has been created within what should have been a parapet wall.

Retrospective planning permission is also sought for the retention of the unit as a whole, as the development was not constructed as per the approved plans attached to 081821/FO/2007/S2.

### **Consultations**

Local Residents - There have been 8 letters of objection received from local residents, the points raised are as follows:

- i) Suspect that if this had been the original application, it would have been refused.
- ii) This developer has demonstrated that he has no regard for the wishes of local people to improve this area for the benefit of their families or the safety of children who now have no local green areas on which to play.
- iii) Questions whether the applicant will adhere to his word in regard to the Section 106 Agreement, without constant chiding by local people who are becoming frustrated with this situation.
- iv) Would like to know if the aperture made by the builder is the required size of the fixed metal panel, and if this can be made smaller?
- v) If it is necessary to have access to the sewer then why has the sewer which was in the centre of the green and has required regular unblocking, been allowed to have its accessibility restricted by this developer, when the occupants of 25 Wadebridge Avenue have their sewer outlet into this?
- vi) The sewage outlet and drain was approved and installed over 20 years ago, long before this developer acquired the land. Why was this not made apparent by surveyors before planning approval was granted.

A site visit with local Ward Members and residents has also taken place.

Head of Environmental Health - No adverse comment/no objection in principle to this application.

### **Issues**

Unitary Development Plan - There are no specific Unitary Development Plan policies that relate directly to this site. However, the relevant City Wide Proposals for 'Shopping' and 'Housing' and the Development Control Policies include DC9 for 'New Commercial and Industrial Development' are relevant in this case. Specifically relating to new commercial development, Policy DC9 states that all new commercial buildings should be accessible to disabled people.

Policy S2.1 states that the Council recognises the importance of good quality local and convenient shopping facilities within easy reach of people's homes and will seek to ensure that all parts of the City are well provided for and that facilities are accessible to disabled people.

Policy H2.2 ensures that existing residential properties are protected from development. The policy states that the council will not allow development that will have an unacceptable impact on residential areas. The City Council must consider the scale and appearance of the development and impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Guide to Development in Manchester (Adopted April 2007) - Different parts of the City, its neighbourhoods and streets have distinct or individual characters which are a product of the design of their buildings, the nature of the streets, the quality of the landscape or the nature of their activities. Such positive characteristics should be recognised and enhanced by new development. Each new development should be designed having full regard to its context and the character of the area.

Wythenshawe Strategic Regeneration Framework (SRF) - The SRF provides a detailed policy framework to drive forward the transformation of Wythenshawe. This will seek to capitalise on current economic assets, investing in the future, providing neighbourhood regeneration and improving quality of life.

In giving effect to this, section 12 'shopping and local facilities' outlines the importance of providing services within a walkable distance. Centres need to provide a rich mix of services which will ensure there is sufficient activity throughout the day and night. By providing these services within convenient and comfortable walking distances from homes and public transport, will reduce the level of car use and promote sustainable local neighbourhoods.

North West of England Plan Regional Spatial Strategy (RSS) to 2021 - Outlines the strategic objectives for the North West Region until 2021.

Policy DP1 outlines the key principles which underpins the RSS. Such principles includes:

- Promoting sustainable communities;
- Promote sustainable economic development;
- Manage travel demand, reduce the need to travel and increase accessibility;
- Promote environmental quality.

Planning Policy Statement Note 1 (PPS1): Creating Sustainable Communities

PPS1 encourages the promotion of urban and rural regeneration to improve the well-being of communities, improve facilities, promote high quality and safe development and create new opportunities for the people living in those communities. In addition to this PPS1 clearly outlines the importance of creating sustainable communities

Principle - The principle of building a new retail unit to the side of an existing parade of shops is acceptable subject to the impact of the development on surrounding residents being controlled by condition.

The applicant has also offered to undertake various works to the site to alleviate some of the concerns and issues raised by way of a signed Section 106 Agreement, offering:

- Barrier control to car park
- Landscaping in the form of 3 x one metre wide pots to the front of the parade with suitable planting
- Provision of 4 no. CCTV cameras located at each of the principle corners of the parade with control centre within new unit.
- Making good the flags to the front of the parade to the footpath to tidy up
- Provide lighting under the canopy to the front elevation over its entire length
- Provide floodlights to the rear car park
- Redecorate entire parade

Works commenced on site without compliance with the terms of this Section 106 Agreement and without compliance with the approved plans.

This new application seeks permission for the retention of the unit and the Section 106 Agreement must be redrafted to apply to this application. It has also been requested that it is redrafted to include timescales for the applicant to comply with the obligations of the Section 106 Agreement. This seems necessary given the breaches of planning control committed by the applicant.

If works are not completed under the Section 106 Agreement this can lead to prosecution. Works can also be carried out by Enforcement and the applicant charged for the works.

Use of premises - A condition is proposed to limit the use of the premises and shop so they can only be used in conjunction with Class A1 uses as defined by the Use Classes Order.

**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 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 MINDED TO APPROVE**

subject to the variation of the Section 106 Agreement attached to the previous consent to ensure improvement works in the form of security and environmental works, these must be completed within set timescales in accord with the City

Council's Unitary Development Plan in particular policies H2.2 and S2.1 and there are no material considerations of sufficient weight to indicate otherwise.

WAC - Minded To Refuse due to the boundary walls projecting beyond the approved building line, which significantly detracts from the development as originally proposed to the extent that it constitutes a visual disamenity, which is contrary to policy H2.2 of the adopted UDP for the City of Manchester.

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

1) The ground floor shop unit and first floor storage area, which shall remain ancillary to ground floor shop unit, shall be used for Class A1 only and for no other purposes, including any other purpose listed in the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005.

#### **Reason**

In the interests of residential amenity pursuant to Policies DC9, H2.2 and S2.1 of the adopted UDP for the City of Manchester.

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 Saturday 8:30am to 5:30pm

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 adopted UDP.

3) No development shall commence until details of the measures to be incorporated into the development (or phase thereof) to demonstrate how secure by design accreditation will be achieved have been submitted to and approved in writing by the City Council as local planning authority. The development shall only be carried out in accordance with these approved details. The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of a secure by design accreditation.

Reason - To reduce the risk of crime pursuant to Policy E3.5 of the Unitary Development Plan of the City of Manchester and to reflect the guidance contained in Planning Policy Statement "Delivering Sustainable Development".

4) 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.

**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: 088848/FO/2009/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:**

Environmental Health

805 Altrincham Road, Manchester, M23 9AH  
Seasons Guest House, 803 Altrincham Road, Manchester, M23 9AH  
801 Altrincham Road, Manchester, M23 9AH  
9 Wadebridge Avenue, Manchester, M23 9LS  
15 Wadebridge Avenue, Baguley, Manchester, M23 9LS  
11 Wadebridge Avenue, Manchester, M23 9LS  
17 Wadebridge Avenue, Manchester, M23 9LS  
19 Wadebridge Avenue, Manchester, M23 9LS  
25 Wadebridge Avenue, Manchester, M23 9LS  
21 Wadebridge Avenue, Baguley, Manchester, M23 9LS  
23 Wadebridge Avenue, Manchester, M23 9LS  
23 Petersfield Drive, Manchester, M23 9PS  
46 Petersfield Drive, Manchester, M23 9PS  
48 Petersfield Drive, Manchester, M23 9PS  
25 Petersfield Drive, Manchester, M23 9PS  
54 Petersfield Drive, Manchester, M23 9PS  
27 Petersfield Drive, Manchester, M23 9PS  
56 Petersfield Drive, Manchester, M23 9PS  
29 Petersfield Drive, Manchester, M23 9PS  
58 Petersfield Drive, Manchester, M23 9PS  
60 Petersfield Drive, Manchester, M23 9PS  
62 Petersfield Drive, Manchester, M23 9PS  
64 Petersfield Drive, Manchester, M23 9PS  
66 Petersfield Drive, Manchester, M23 9PS  
Momotaz Indian Take Away, 31 Petersfield Drive, Manchester, M23 9PS  
Booze Buster, 33 Petersfield Drive, Manchester, M23 9PS  
Regans Fish Bar, 35 Petersfield Drive, Manchester, M23 9PS  
Peel Street Pharmacy, 37 Petersfield Drive, Manchester, M23 9PS  
Londis Supermarket, 39 Petersfield Drive, Manchester, M23 9PS  
La Tanza, 41 Petersfield Drive, Manchester, M23 9PS  
Jolly Butcher, Petersfield Drive, Manchester, M23 9PS  
11 Butcher Lane, Manchester, M23 9GN  
9 Butcher Lane, Manchester, M23 9GN  
7 Butcher Lane, Manchester, M23 9GN  
1 Butcher Lane, Manchester, M23 9GN  
5 Butcher Lane, Manchester, M23 9GN

3 Butcher Lane, Manchester, M23 9GN  
2 Thorngrove Avenue, Manchester, M23 9PQ  
4 Thorngrove Avenue, Manchester, M23 9PQ  
44 Petersfield Drive, Manchester, M23 9PS  
19 Petersfield Drive, Manchester, M23 9PS  
1 Wadebridge Avenue, Manchester, M23 9LS  
43 Petersfield Drive, Manchester, M23 9PS  
3 Wadebridge Avenue, Manchester, M23 9LS  
5 Wadebridge Avenue, Manchester, M23 9LS  
40 Petersfield Drive, Manchester, M23 9PS  
38 Petersfield Drive, Manchester, M23 9PS  
21 Petersfield Drive, Manchester, M23 9PS  
7 Wadebridge Avenue, Manchester, M23 9LS  
42 Petersfield Drive, Manchester, M23 9PS

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

9 Wadebridge Avenue, Manchester, M23 9LS  
15 Wadebridge Avenue, Baguley, Manchester, M23 9LS  
11 Wadebridge Avenue, Manchester, M23 9LS  
25 Wadebridge Avenue, Manchester, M23 9LS  
21 Wadebridge Avenue, Baguley, Manchester, M23 9LS  
23 Wadebridge Avenue, Manchester, M23 9LS  
29 Petersfield Drive, Manchester, M23 9PS  
5 Wadebridge Avenue, Manchester, M23 9LS  
7 Wadebridge Avenue, Manchester, M23 9LS  
27 Petersfield Drive, Baguley, Manchester

**Relevant Contact Officer :** Melanie Tann  
**Telephone number :** 0161 234 4538  
**Email :** m.tann@manchester.gov.uk