

<b>Northenden Ward</b>	<b>Application Number</b> 086140/FU/2008/S2	<b>Date of Appln</b> 31st Mar 2008	<b>Committee Date</b> 26 <sup>th</sup> June 2008
<b>Proposal</b>	Change of use from shop (A1) to Cafe/Restaurant (A3) with opening hours of 8.30 a.m to 10.30 p.m Monday to Friday, 8.30 a.m to 11.30 p.m Saturdays and 11.30 a.m to 10.30 p.m Sundays and Bank Holidays		
<b>Location</b>	401 Palatine Road, Northenden, Manchester, M22 4JS		
<b>Applicant</b>	Mr Cuong Manh Le, 1 Gloucester Road, Urmston, Greater Manchester, M41 9AF		

**Agent**

**Description**

The application was reported to the Wythenshawe Area Committee on the 22<sup>nd</sup> May 2008. The Committee was *Minded to Refuse* the application on the grounds of residential disamenity and the cumulative impact of an additional food and drink use within the District Centre.

The application site is a vacant shop unit towards the south of Northenden District Centre. The shop is within Hatro House on the corner of Palatine Road and Chapel Road within a retail parade of 3 shops – one a beauty parlour the other a vacant shop. Directly opposite the site are other shops and amenities, namely the Tesco Metro store. There is office above the application site and an office block, 'Anglo House', at the rear before the transition into the residential properties along Chapel Road.

The applicants are seeking planning permission for a change of use of the shop to a café/restaurant. The site is within the Northenden District Centre boundary where there are a variety of shops, cafes and other licensed premises. The opening hours are weekdays 08:30 to 10:30pm, Saturdays 0:30 to 11:30pm and Sundays 11:30 to 10:30 pm. An application has been submitted to the City Council's Licensing Unit, however, this has yet to be determined.

**Consultations**

Local Residents/ Businesses - 4 letter of objection have been received for this application. The comments can be summarised as follows:

1. There are too many restaurants and bars in the village;
2. The local area is in decline;
3. Crime and 'yobish' behaviour will increase as a result of the proposal;
4. There should be an encouragement of more shops and not bars and restaurants;
5. The proposal will cause problems for the residents of Chapel Road i.e. parking, litter, noise and other problems associated with food and drink uses;
6. Chapel Street is a one-way street with very limited parking for residents. The increase in people visiting a restaurant/takeaway would mean they would have no where to park;

7. Traffic from Palatine Road can be heard from the properties along Chapel Road this will mean noise from the restaurant e.g. cooking in the kitchen and people smoking outside will be heard.

Northenden Civic Society – We object to the proposal on the grounds of over supply of food outlets in the village. There would also be the problem of eaters parking there cars on Chapel Road aggregating the amenities of residents living in that road.

Head of Environmental Health – The opening hours are acceptable. Conditions should also be applied in respect of deliveries, fume extraction, lighting, noise, external equipment and refuse.

Licensing Unit – The applicants have applied for a licence. The hours are as follows:

Proposed trading hours for the supply of alcohol for consumption on the premises:

Sun to Thurs 1200 to 2300

Fri & Sat 1200 to 2330

Proposed opening hours for the premises:

Sun to Thurs 1100 to 2300

Fri & Sat 1100 to 2330

No decision has been made on the licence application. It will be reported to the Licensing Committee on the 5<sup>th</sup> June 2008.

Greater Manchester Police Architectural Liaison Officer – No comments on this occasion.

Head of Engineering – Most of the traffic will be off peak hours which is when residents of Chapel Road are likely to park on the road. However, the restaurant is within a district centre which is precisely where such uses should be accommodated. The private forecourt at the rear could be used for parking spaces. However, reversing onto Chapel Road may be difficult. A swept path analysis of the bays would help clarify whether on site parking is possible.

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 on Chapel Road. 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 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.

### **Issues**

Principle – The application site is a vacant shop unit located to the south of Northenden District Centre. Policy DC10.1 states that account must be had for the general location of food and drink uses and their impact on residential amenity. Given the District Centre location of the site, in an established retail parade, it is considered that the location is appropriate. Whilst it is accepted that the proposal is in close proximity to residential properties on the Chapel Road, the commercial premises behind the site will provide a buffer. The principle of the use in the location is therefore considered to be appropriate.

Other issues which require consideration as part of the assessment of the application are the potential for noise and disturbance from the opening hours any odour and smells from the premises and the resulting potential for impact on residential amenity. In addition, crime and safety implications will be assessed, how the handling of waste and refuse will be managed and impact on car parking.

Need and Cumulative Impact – Several objections have been received which have questioned the overall need for the proposal. It is perceived that there are too many licensed premises in the vicinity and instead there should be the encouragement of more shops.

Firstly, it should be noted that the application site, a shop unit and the one adjacent, are currently vacant. It would therefore appear that the demand for the unit, in its retail form, is limited. For the vitality and viability of the centre not to be undermined, the building's occupation is welcomed. This will prevent the current situation where the roller shutters are down all day which has a negative impact on appearance of the centre.

The objections have also questioned the cumulative impact of this type of use in the centre. Whilst it is excepted that there are a number of A3 and A5 uses in the centre, it is not considered that there is an over concentration for the size of a District Centre like Northenden. They are dispersed throughout the centre and add to the evening economy.

Noise and Disturbance – Policy DC10.2 requires the careful scrutiny of development proposal which are likely to be noise generators. As the proposal is a restaurant, there will be noise from people movement, both staff and patrons, and from the cooking processes. This will create disturbance from the premises. However, the degree of disamenity is not considered to be unreasonable.

It is the applicant's intention to open the premises from 8:30 in the morning to 10:30 in the evenings, during weekdays, and 11:30 on Saturdays. The Head of Environmental Health supports these opening hours and it is the opinion of the Head of Planning that the hours are sensible and will ensure patrons are dispersed prior to the onset of the early hours of the morning.

Furthermore, with patrons entering and exiting through the door at the front of the premises, it will help minimising the level of disturbance. At the rear, it is considered that the kitchen may cause some degree of disturbance if doors are left open and refuse is removed at anti-social hours which may lead to noise emanating into the residential area.

Policy DC10.4 provides the power to impose conditions on planning permission where food and drink uses are acceptable in principle but could lead to disamenity. At the request of the Head of Environmental Health, conditions have been imposed which will ensure a sign is placed at the entrance asking patrons to leave quietly during the evening. In addition, all windows and doors at the rear must remain closed after 7pm. Deliveries have also been limited.

The Head of Environmental Health has recommended that the building and any externally mounted equipment is adequately noise insulated to prevent the outbreak of noise.

Fumes and Odours – It is the applicant's intention to install a flue at the side of the property which fronts onto Chapel Road. Although this will be visible it will be painted black to blend into the building. A condition has been placed on the permission which states that the exact flue system and manufactures specification must be approved prior to commencement of the development to ensure that the odours and smells are properly dispersed and do not impact on residential amenity.

Residential Amenity – It is noted that the application site abuts onto the residential street of Chapel Road. However, the first series of properties along Chapel Road i.e. at the back of the application site, is an office block. As such, this will act as a buffer to the residential properties. In addition, given the sensible opening hours it is not considered that any noise and disturbance will be contained within an appropriate time frame and will not be antisocial.

Crime and Disorder – The Architectural Liaison officer at the police has no objection to the proposal. It is not considered that the proposal will impact negatively on the surrounding area. The proposal is a restaurant and not a takeaway or drinking establishment. As such, the way the premises will operate will mean that it is unlikely that people will congregate outside of the premises and cause trouble.

Should the Licensing Unit approve the proposal then part of the provisions of the approval will be that the premises is managed properly. Any problems and the licence will be revoked.

Refuse and litter – The bin storage area of the proposal will be located at the rear of the premises. Condition of any approval would be that the applicants submit a waste

management strategy so an understanding can be gained as to how many bins will be required and the removal of rubbish.

Car Parking- Concerns have been raised regarding the impact of the proposal on on-street parking. Given the District Centre location of the site it is considered that there is sufficient public car parking for the proposal within surrounding area. Given the number of patrons will be greatest, outside of peak hours, it is considered that the these public car parks will be fully utilised rather than parking on the street. The site is also well served by public transport.

The Head of Engineering considers that there may be a possibility of accommodating parking at the rear of the site. This area for car parking is clearly not up to standard, however, may provide provision for 1 or two cars.

Conclusion – The application site falls within the District Centre of Northenden. As such, the principle of class A3 uses are considered to be acceptable in principle. The proposal will see the occupation of a vacant shop unit which will improve the vitality of the centre. The premises will operate under sensible opening hours and the building together with any external equipment will be adequate insulated to prevent the outbreak of noise. The residential properties along Chapel Road will be protect from noise by the buffer of office building separating the application site from the residential properties.

**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**

**Head of Planning      APPROVE**

**The application site falls within the District Centre of Northenden. As such, the principle of class A3 uses are considered to be acceptable in principle. The proposal will see the occupation of a vacant shop unit which will improve the vitality of the centre. The premises will operate under sensible opening hours and the building together with any external equipment will be adequate insulated to prevent the outbreak of noise. The residential properties along Chapel Road will be protect from noise by the buffer of office building separating the application site from the residential properties.**

**The proposal accords with the Council's UDP in particular policies H2.1, H2.2, E3.5, DC101, DC10.2, DC10.4, DC26.1 and DC26.3, Regional Spatial Strategy for the North West, and there are no material considerations of sufficient weight to indicate otherwise.**

**Wythenshawe      REFUSE for the reason set out at the beginning of  
Area Committee      the report.**

**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: Drawings 806.01 stamped as received by the City Council, as Local Planning Authority, on the 31st March 2008.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy H2.2; 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:-

Monday to Friday 08:30 to 22:30

Saturday 08:30 to 23:30

Sunday and Bank Holidays 11:30 to 22:30

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.

4) Deliveries, servicing and collections, including waste collection, shall not take place outside of the following hours:

Monday to Saturday: 07:30 to 20:00

Sunday and Bank Holidays: no deliveries/waste collections on Sundays/Bank Holidays

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 (1995).

5) 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 H2.2; of the Unitary Development Plan for the City of Manchester.

6) The development hereby approved shall include a building lighting scheme and a scheme for the illumination of external areas during the period between dusk and dawn, or as may be otherwise agreed in writing by the City Council as local planning authority. Full details of such a scheme shall be submitted to and approved in writing by the local planning authority before the development commences. The approved scheme shall be implemented in full before the development is first occupied unless otherwise agreed in writing by the local planning authority and shall remain in operation for so long as the development is occupied.

Reason - In the interests of amenity, crime reduction and the personal safety of those using the proposed development in order to comply with the requirements of government guidance in Planning Policy Statement 1 and Policies H2.2, E3.3 and E3.5 of the Unitary Development Plan for the City of Manchester.

7) Before any use hereby approved commences, the premises shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study

of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

8) Before the development hereby commences, the building, together with any externally mounted 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 property.

Externally mounted ancillary plant equipment and servicing shall be acoustically treated in accordance with a scheme designed so as to achieve a noise level of 5dB below the existing background (LA90) in each octave band at the nearest noise sensitive location.

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 (Adopted 1995).

9) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse has been 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 Unitary Development Plan for the City of Manchester (1995).

10) 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 Chapel 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).

11) 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 Chapel 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: 086140/FU/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:**

Environmental Health  
Licensing Unit  
South Manchester Regeneration  
Greater Manchester Police  
Steve Hobson, Crime Reduction Officer  
Northenden Civic Society  
5 Chapel Road, Manchester, M22 4JN  
10 Chapel Road, Manchester, M22 4JW  
12 Chapel Road, Manchester, M22 4JW  
Express Solicitors, Hatro House 397-401, Palatine Road, Manchester, M22 4JS  
3 Chapel Road, Manchester, M22 4JN  
407 Palatine Road, Manchester, M22 4JS  
6 Chapel Road, Manchester, M22 4JW  
8 Chapel Road, Manchester, M22 4JW  
407a, Palatine Road, Manchester, M22 4JS  
Roche Spares, 414-416, Palatine Road, Manchester, M22 4JT  
2b, Church Road, Manchester, M22 4WL  
Comcare Technology Ltd, Anglo House, Chapel Road, Manchester, M22 4JN  
Tesco Stores Ltd, 404-406, Palatine Road, Manchester, M22 4JT  
1 Chapel Road, Manchester, M22 4JN  
Wolfsons, 405 Palatine Road, Manchester, M22 4JS  
Barclays Bank Plc, 402 Palatine Road, Manchester, M22 4FZ  
Northenden Social Club, 412 Palatine Road, Manchester, M22 4JT  
Natwest, Customer Service Centre, 2 Church Road, Manchester, M22 4NE  
Franco Fire Detection Ltd, Fern Lodge, 4 Chapel Road, Manchester, M22 4JW  
National Autistic Society, Anglo House, Chapel Road, Manchester, M22 4JN  
Colonnade Insurance Brokers Ltd, 2a, Church Road, Manchester, M22 4WL

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

Mr J.C.Price, 9,Chapel Road,, Northenden,, Wythenshawe,, Manchester.  
Ms Claire Norton, 1, Chapel Road, Northenden, Wythenshawe, ,Manchester

**Relevant Contact Officer :** Jennifer Atkinson  
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**Email :** j.atkinson@manchester.gov.u