

Application Number	Date of Appln	Committee Date	Ward
087918/FO/2008/S2	6th Nov 2008	28 th May 2009	Northenden Ward

Proposal Change of use from Estate Agent (A2) to hot food takeaway (A5) opening Monday to Friday 11.30 to 23.00, Saturdays 16.30 to 23.00 and Sundays and Bank Holidays 17.30 to 23.00 .

Location 373 Palatine Road, Northenden, Manchester, M22 4FY

Applicant Mr Denis Khan, 373 Palatine Road, Northenden, Manchester, M22 4FY

Agent Mr Alan Hunter 21 Spinney Road, Northenden, Manchester, M23 1AD

Description

The application was reported to the Planning and Highways Committee on the 12th March 2009 following a site visit to the application property earlier that day. The application was deferred for determination in order that officers could investigate whether there are any opening hour's restrictions for roller shutters on premises within the District Centre. This was in particular reference to hot food takeaways and restaurants whose operating hours tend to fall in the evening resulting in roller shutters being closed in the daytime which can have a negative impact on the street scene and vitality of the centre.

The results of this investigation have revealed that there are three premises within the District Centre where there is control over the opening hours of the roller shutters. Only one of these premises is currently operating as a restaurant (the others were in A1 retail use). In addition, there are no planning control/restrictions over roller shutters within the bank of shops that the application site falls within i.e. 341-377 Palatine Road.

Further site observations have revealed that the largest premises within the application site bank of shops (341-377 Palatine Road) "The Palatine" (previously "The Kazbar"), which occupies 5 units, now appears to be opening in the afternoons. This has substantially improved the visual amenity of this section of the District Centre.

Officers have also enquired whether any conditions could be attached to a licensing approval for A3, A4 and A5 to the effect that roller shutters had to be raised during day time hours. Unfortunately, conditions related to a licensing approval have to be relevant to crime and disorder and/or public nuisance. Visual amenity of the parade is not a relevant consideration.

Further work is also underway by officers to review the current policy context for assessing planning applications of this nature, and those involving shutters. This work involves an analysis of the current number of takeaways within the District Centre, any enforcement issues (both from a planning and licensing perspective) and what type of policy could be introduced in the review of the LDF.

Since the submission of this planning application the application site has become occupied as a mobile phone shop. The applicant, however, has indicated that he would still wish to pursue this planning application for a hot food takeaway.

In summary, whilst there are a number of takeaways within the District Centre it is not considered that, given the percentage (11%) allowing this proposal will affect its viability and the availability of other types of uses within the Centre.

The concerns regarding the impact of 'shuttered' façade during the day is, however, fully recognised. If Members are minded to approve this application, it is reasonable to request that any shutters be open during the day. In addition, to assist with visual impact, such shutters ought to be of a design that is perforated and not reliant on a large external housing box.

Background

The application was previously reported to the Planning and Highways Committee on the 12th February 2008 where the application was deferred for determination in order for Members to undertake a site visit.

Since the application was reported to the Committee on the 12th February, a petition containing 258 signatures has been submitted to the City Council. The petition opposes the conversion of the Estate Agents conversion to a takeaway outlet on the grounds that Northenden is already blighted by a number of fast food outlets, which area a threat to the amenity of the village. Further business of this kind will add to the already severe problems of late night disturbance, added litter and car parking.

The application was also reported to the Wythenshawe Area Committee on the 22nd January 2009. The Members were *Minded to Refuse* the application on the grounds that there are too many takeaways in Northenden and the proposal will result in disamenity for surrounding residential properties.

The application site was previously Glenthorpe Estate Agents which, up until recently, was vacant before becoming occupied as a mobile phone shop. The unit is located towards the south of Northenden District Centre on Palatine Road. To the north of the site is no. 371 Palatine Road, to the west is no. 370 Palatine Road, to the east is the rear yard belonging to the site property and properties on Allanson Road beyond and to the south is no. 375 Palatine Road.

The applicants are seeking planning permission for a change of use of the A1 retail unit to a hot food takeaway. The site is within the Northenden District Centre boundary where there are a variety of shops, cafes and other licensed premises. The opening hours proposed are weekdays 11.30hrs to 23.00hrs, Saturdays 16.30hrs to 23.00hrs and Sundays 17.30hrs to 23.00hrs. A Licensing application will be required, but no application has been submitted to the City Council's Licensing Unit to date.

Consultations

Local Residents/ Businesses - 2 letter of objection have been received for this application. The comments can be summarised as follows:

- Too many takeaways already in the vicinity;
- Increased competition;
- There is already too much traffic congestion in the village and parking spaces are now becoming sparse;
- The proposal will exacerbate existing problems of litter and odours;
- The area already suffers from anti-social activity, especially late at night – this proposal will make things worse.

As outlined above, a petition has also been received which contains 258 signatures. The grounds for the petition is that Northenden is already blighted by a number of fast food outlets, which area a threat to the amenity of the village. Further business of this kind will add to the already severe problems of late night disturbance, added litter and car parking.

Northenden Civic Society – Object to the proposal on the grounds of over supply of food outlets in the village.

Wythenshawe Regeneration – Do not support the application on the basis that there are a proliferations of this kind of use in the vicinity, although they do appreciate that it may be considered appropriate in policy terms.

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

Greater Manchester Police Architectural Liaison Officer – No objections, subject to the bin storage area being enclosed, gated and lockable.

Greater Manchester Police Crime Reduction Advisor – No objections

Highway Services – No objections, but the applicant must be mindful that there are waiting and loading restrictions on the frontage of Palatine Road.

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. 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.

Principle – The application site is a vacant 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. 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 – Concerns have been raised 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.

Although the application site had been vacant when originally submitted,, it is now let as a mobile phone shop. A suggestion at that time was that for the vitality and viability of the centre not to be undermined, the building's occupation would be welcomed, particularly as this would prevent the previous situation where it had 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 accepted 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 generally dispersed throughout the centre, although there is a larger concentration within the immediate setting of the application site. .

Currently, approximately 11% of the retail units within Northenden district centre are hot food takeaways. A total of 25% of the district centre is occupied by food and drink uses (A3, A4 and A5 uses). What amounts to an over-concentration is difficult to quantify, however, in this instance this does not seem to be an unreasonable balance between A3, A4 and A5 uses and the other retail uses (A1 & A2) and does not mark an over concentration of hot food takeaways within Northenden village at the present time.

Noise and Disturbance – Policy DC10.2 requires the careful scrutiny of development proposal that are likely to be noise generators. As the proposal is a hot food takeaway, there will be noise from people movement, both staff and patrons, and from the cooking processes. However, the degree of noise generation is not considered to be unreasonable and would not cause disamenity.

It is the applicant's intention to open the premises from 11:30hrs to 23.00hrs during weekdays, 16.30hrs to 23.00hrs on Saturday and 17.30hrs to 23.00hrs on Sundays and Bank Holidays. The Head of Environmental Health supports these opening hours and it is considered that the hours are acceptable and will ensure patrons are dispersed at a reasonable hour.

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. 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. Deliveries have also been limited.

Fumes and Odours – It is the applicant's intention to install a flue at the rear of the property. This will not be clearly visible from the street and 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. This will ensure that odours are properly dispersed into the air and not cause disamenity. This will address the concern raised by one of the objectors.

Residential Amenity – The nearest residential properties are located on Allanson Road over 30 metres away. Therefore, due to the distances maintained this would act as a buffer to the residential properties. In addition, given the 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 – An objection has been received based on concerns that anti-social behaviour will increase as a result of the proposal. The Greater Manchester Police Architectural Liaison officer and The Crime Reduction Advisor have raised no objection to the proposal. It is not considered that the proposal will impact negatively on the surrounding area.

Refuse and litter – The bin storage area of the proposal will be located at the rear of the premises in a store at the rear of an enclosed yard, and a waste management strategy has been submitted, which is considered acceptable by The Head of Environmental Health.

Highways and Parking – Highway Services have raised no objection to the proposal. An objector has raised concern that the proposal will increase traffic congestion and reduce parking provision. However, given the application sites District Centre location, it is considered the most accessible location for such a use. It is considered that the majority of patrons will visit on foot, from the surrounding residential catchment.

Conclusion – The application site falls within the District Centre of Northenden. As such, the principle of class A3 uses is considered to be acceptable. The premises will operate under acceptable opening hours and the building together with any external equipment will be adequate insulated to prevent the outbreak of noise.

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 APPROVE

The application site falls within the District Centre of Northenden. As such, the principle of class A5 uses are considered to be acceptable in principle. The premises will operate under acceptable opening hours and the building together with any external equipment will be adequate insulated to prevent the outbreak of noise. The nearby residential properties will be protected from noise by the distance maintained from the site.

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
Area Committee**

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: Drawing no. AH/DK001, 002 and 003 date stamped as received 10th October 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:-

11.30hrs to 23.00hrs Mon to Fri, 16.30hrs to 23.00hrs Saturdays and 17.30hrs to 23.00hrs Sundays and Bank Holidays

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) No loading or unloading shall be carried out on the site outside the hours of 07.30hrs to 20.00hrs Monday to Saturday daily.

Reason - In order to protect the amenity of local residents and in accordance with Policy H2.2 in accordance with the Unitary Development plan for the City of Manchester.

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, DC10 and DC26 of the Unitary Development Plan for the City of Manchester.

6) 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.

7) Before the building hereby approved is first occupied it shall be insulated in accordance with a scheme submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the property.

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

8) 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);

9) Prior to the commencement of the use hereby approved, details of any roller shutters to be fitted externally to the shop front shall be submitted to and approved in writing by the City Council. The scheme approved shall then be

implemented prior to the first use of the premises and remain in situ for as long as the development remains in use.

Any security shutters approved (or existing) shall remain open during daytime hours (between 09:00 to 17:00 Monday to Sunday), unless otherwise agreed in writing by the City Council, as Local Planning Authority.

Reason - To ensure that the visual appearance of the shop front is acceptable, pursuant to policy S2.5 and H2.2 of 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: 087918/FO/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
Engineering Services
Wythenshawe Regeneration Team
Northenden Civic Society
Steve Hobson, Crime Reduction Officer
Greater Manchester Police
William Hill Bookmakers, 369-371, Palatine Road, Manchester, M22 4FY
375 Palatine Road, Manchester, M22 4FY
373 Palatine Road, Manchester, M22 4FY
373a, Palatine Road, Manchester, M22 4FY
Cafe Issano Pizzeria, 367 Palatine Road, Manchester, M22 4FY
60 Allanson Road, Manchester, M22 4WW
58 Allanson Road, Manchester, M22 4WW
56 Allanson Road, Manchester, M22 4WW
54 Allanson Road, Manchester, M22 4WW
52 Allanson Road, Manchester, M22 4WW
62 Allanson Road, Manchester, M22 4WW
376 Palatine Road, Manchester, M22 4FZ
374a, Palatine Road, Manchester, M22 4FZ
Barnardos, 374 Palatine Road, Manchester, M22 4FZ
Rains & Son, 372 Palatine Road, Manchester, M22 4FZ
372a, Palatine Road, Manchester, M22 4FZ
New World House 372a, Palatine Road, Manchester, M22 4FZ
370 Palatine Road, Manchester, M22 4FZ
368 Palatine Road, Manchester, M22 4FZ
Acorn Veterinary Surgery, 366 Palatine Road, Manchester, M22 4FZ
1 Heyridge Drive, Manchester, M22 4HB
364b, Palatine Road, Manchester, M22 4HD
364a, Palatine Road, Manchester, M22 4HD
364 Palatine Road, Manchester, M22 4HD
Café Issano Pizzeria, 367 Palatine Road, Manchester, M22 4FY

Northenden Civic Society, 5 Corda Avenue, Longley Lane, Northenden,
Manchester, M22 4JX

Representations were received from the following third parties:

Mr H. Tabib, Café Issano Pizzeria, 367 Palatine Road, Manchester, M22 4FY
David Farwell, Northenden Civic Society, 5 Corda Avenue, Longley Lane,
Northenden, Manchester, M22 4JX
J.Roberts 18 Heyridge Drive Northenden Manchester M22 4HB

Relevant Contact Officer : Jennifer Atkinson
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