

Application Number	Date of Appln	Committee Date	Ward
088784/FU/2009/S2	5th Feb 2009	28 th May 2009	Northenden Ward

Proposal Change of use from shop (A1) to hot food take-away (A5) Monday to Sunday 9:00 a.m. to 11:00 p.m.

Location 109 Sale Road, Northern Moor, Manchester, M23 0BU,

Applicant Mr Maogie Xiao, 2 Butterstile Avenue, Prestwich, Lancashire,

Agent Mr Douglas Heslop, 4 Wheatfield Crescent, Royton, Lancashire, OL25 5LX

Description

The application was reported to the Wythenshawe Area Committee on the 26th March 2009. The Committee was *Minded to Refuse* the application on the grounds of residential disamenity.

This application relates to the proposed change of use from a sandwich shop (Class A1) to hot food take-away (Class A5). The property is situated on the south west side of Sale Circle on Sale Road at the junction with Carloon Road, which is a local centre within Northern Moor. There are a number of similar uses within the locality. The applicant seeks to change the use of the ground floor without any building work to a hot food take-away (class A5) except for the installation of an extraction system with associated flue to the rear of the premises.

Whilst the premises has a frontage within the commercial/retail area, the rear (south west) of the site is residential. The proposed hours of opening would be 9am until 11pm, 7 days per week.

Consultations

Local Residents/ Businesses- No letters of objection have been received from local residents/businesses.

Rackhouse Road Residents Association - This hot food takeaway would create more parking in the Circle and result in causing further parking problems. At present we have an abundance of vehicles with illegal parking.

It would create more rubbish and the Circle suffers at present. There will also an increase if rubbish being thrown into local gardens that cause problems for the many senior citizens living locally.

It would create more noise in the area especially late at night. There are many senior citizens living in the area and would suffer nuisance. There are present problems and this would only increase the same.

Whilst we are aware competitiveness is not an issue but from a residents aspect there are sufficient outlets that meet their needs and are concerned if there is a further outlet it could affect the Circle and cause closure thus creating

empty shops. With the leaflets that are received through the local area these are from Sale, Northenden, and Baguley that offer hot food door to door delivery besides the present 4 outlets in Sale Circle.

Northenden Civic Society - No comments were received at time of writing this report.

Head of Regulatory and Enforcement Services - No objections subject to the attachment of conditions relating to noise, fumes, hours, servicing and refuse.

Highway Services- Do not have any objections to this development. There are existing enforceable waiting and loading restrictions in the area and if there are any issues of illegal parking currently taking place, these should be reported to Manchester Parking.

Greater Manchester Police Architectural Liaison Officer- Highly recommend that all new external fittings be to the standards set by 'Secured by Design'.

Greater Manchester Police Crime Prevention Unit - No comments received at time of writing this report any comments received will be reported as a late representation.

Greater Manchester Police Neighbourhood Policing - No comments received at time of writing this report any comments received will be reported as a late representation.

Issues

Unitary Development Plan- There are no site specific policies that are applicable to this site, however, the following City wide policies apply:

DC10 Food and Drink Uses - Requires that reference is made to:

- (i) The general location of the development;
- (ii) The provision of safe and convenient car parking arrangements;
- (iii) Ease of access for all;
- (iv) Measures to address the extraction of fume and vapours.

It should be noted that the above policy generally presumes in favour of such development within parades of more than 8 units. But does not normally permit them where there is ground floor residential accommodation next door or at the side separated by a narrow passageway.

H2.2- States that the Council will not allow developments which have an unacceptable impact on residential areas. In particular reference has been made to noise, 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 of the Use - The proposal meets the requirements of policy DC10 in terms of its location within an established shopping area.

It is considered that whilst there are other food and drink uses in this locality, the area still fulfils the role of a local shopping area, providing a choice of shops to meet people's needs. Hence, it is not believed that there is an over concentration of food uses to the detriment of its viability or vitality as a local shopping centre.

Noise and Disturbance - It is not considered that the change of use of the ground floor would have a detrimental impact upon the residential amenity of the occupants of the nearby residential accommodation. It is considered that any impact upon these residents can be controlled by the imposition of conditions relating to noise, refuse, opening hours and hours of servicing and operation.

Fumes and Odours - The proposed flue will ensure that odours and smells are dealt with in a satisfactory manner and located as proposed the flue will not be unduly visible.

Highways and Parking – It is not considered that the proposal will cause and highway or parking problems. There are currently adequate, legal parking arrangements available near the application premises, which serve the premises. Highway Services are satisfied with this arrangement and do not object to the proposal.

Designing out Crime- In light of the comments made by Greater Manchester Architectural Liaison Officer, it is considered that a condition be imposed that the applicant agrees suitable measures to design out crime at the premises. Any agreed measures should then be in place prior to the first use of the premises.

Shutters – Following concern at Wythenshawe Area Committee, it is confirmed that a condition can be imposed which will ensure that any external roller shutters are approved prior to the commencement of the development and that the shutters are raised during the day to seek to ensure that the visual amenity of the area is not harmed.

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

on the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies DC10 and H2.2 and there are no material considerations of sufficient weight to indicate otherwise.

Wythenshawe Area Committee – Minded To Refuse

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 premises shall not be open outside of the following hours, unless otherwise agreed in writing by the City Council as Local Planning Authority

Monday to Sunday 9:00 am to 11:00 pm

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation once the development is completed pursuant to policy H2.2 of the adopted UDP for the City of Manchester.

3) 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.

4) There shall be no deliveries or waste collections on Sundays or Bank Holidays. Deliveries, servicing and collections, including waste collections shall not take place outside the following hours

07:30 to 20:00 Monday to Saturday

Reason

To safeguard the amenities of the occupants of the building and nearby residential accommodation pursuant to policy H2.2 of the adopted UDP for the City of Manchester.

5) Before the development hereby approved commences a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as Local Planning Authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - In the interests of amenity and public health, pursuant to policy H2.2 of the adopted UDP.

6) 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.

7) 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 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).

8) 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".

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: 088784/FU/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
Wythenshawe Regeneration Team
Greater Manchester Police
Dave Taylor, Crime Reduction Officer
Rackhouse & Northern Moor Tenants & Residents Association
Northenden Civic Society
16 Yarmouth Drive, Manchester, M23 0BT
18 Yarmouth Drive, Manchester, M23 0BT
20 Yarmouth Drive, Manchester, M23 0BT
22 Yarmouth Drive, Manchester, M23 0BT
24 Yarmouth Drive, Manchester, M23 0BT
26 Yarmouth Drive, Manchester, M23 0BT
27 Newhall Drive, Manchester, M23 0LB
25 Newhall Drive, Manchester, M23 0LB

23 Newhall Drive, Manchester, M23 0LB
21 Newhall Drive, Manchester, M23 0LB
19 Newhall Drive, Manchester, M23 0LB
17 Newhall Drive, Manchester, M23 0LB
121 Sale Road, Manchester, M23 0LA
123 Sale Road, Manchester, M23 0LA
125 Sale Road, Manchester, M23 0LA
127 Sale Road, Manchester, M23 0LA
31 Newhall Drive, Manchester, M23 0LB
29 Newhall Drive, Manchester, M23 0LB
128a, Sale Road, Manchester, M23 0BX
126a, Sale Road, Manchester, M23 0BX
126 Sale Road, Manchester, M23 0BX
Target Supermarket, 128 Sale Road, Manchester, M23 0BX
1 Carloon Road, Manchester, M23 0BR
103 Sale Road, Manchester, M23 0BQ
4 Carloon Road, Manchester, M23 0BS
101 Sale Road, Manchester, M23 0BQ
101a, Sale Road, Manchester, M23 0BQ
2 Carloon Road, Manchester, M23 0BS
Mak Grocers, 105 Sale Road, Manchester, M23 0BU
107 Sale Road, Manchester, M23 0BU
111 Sale Road, Manchester, M23 0BU
113 Sale Road, Manchester, M23 0BU
115a, Sale Road, Manchester, M23 0BU
115b, Sale Road, Manchester, M23 0BU
R & S News, 115 Sale Road, Manchester, M23 0BU
J F Thompson Funeral Directors, 110 Sale Road, Manchester, M23 0BX
Post Office, 112 Sale Road, Manchester, M23 0BX
114a, Sale Road, Manchester, M23 0BX
Royal Balti, 114 Sale Road, Manchester, M23 0BX
122a, Sale Road, Manchester, M23 0BX
122 Sale Road, Manchester, M23 0BX
Transters Solicitors, 116-120, Sale Road, Manchester, M23 0BX
Domestic Appliances Services, 124 Sale Road, Manchester, M23 0BX
124a, Sale Road, Manchester, M23 0BX
98c, Sale Road, Manchester, M23 0BX
100c, Sale Road, Manchester, M23 0BX
100b, Sale Road, Manchester, M23 0BX
98b, Sale Road, Manchester, M23 0BX
98a, Sale Road, Manchester, M23 0BX
Big Saver, 100-102, Sale Road, Manchester, M23 0BX
Rooms Bros, Lancaster House, 102 Sale Road, Manchester, M23 0BX
Sale Circle Pharmacy, 104 Sale Road, Manchester, M23 0BX
Transters Solicitors, 106 Sale Road, Manchester, M23 0BX
Victoria Wine Co Ltd, 108 Sale Road, Manchester, M23 0BX
20 Carloon Road, Manchester, M23 0BS
18 Carloon Road, Manchester, M23 0BS
16 Carloon Road, Manchester, M23 0BS
14 Carloon Road, Manchester, M23 0BS
12 Carloon Road, Manchester, M23 0BS
10 Carloon Road, Manchester, M23 0BS
8 Carloon Road, Manchester, M23 0BS

6 Carloon Road, Manchester, M23 0BS
19 Carloon Road, Manchester, M23 0BR
17 Carloon Road, Manchester, M23 0BR
15 Carloon Road, Manchester, M23 0BR
13 Carloon Road, Manchester, M23 0BR
11 Carloon Road, Manchester, M23 0BR
9 Carloon Road, Manchester, M23 0BR
7 Carloon Road, Manchester, M23 0BR
5 Carloon Road, Manchester, M23 0BR
Carloon Butty Bar, 3 Carloon Road, Manchester, M23 0BR
12 Yarmouth Drive, Manchester, M23 0BT
14 Yarmouth Drive, Manchester, M23 0BT

Representations were received from the following third parties:

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