

Application Number	Date of Appln	Committee Date	Ward
091424/JO/2009/N2	15th Dec 2009	11th Mar 2010	Ancoats And Clayton Ward

Proposal Variation of condition 7 of planning approval 084018/FO/2007/N2 to allow premises to open from 7.30am to 10.00pm Monday to Saturday and 8.00am to 10.00pm on Sunday

Location Unit 2 (Subway), 998 Ashton New Road, Clayton, Manchester, M11 4PD,

Applicant Jiten Makan , Unit 2, 998 Ashton New Road, Manchester, M11 4PD,
Agent

Description

The application site is located within the Ashton New Road / Manchester Road local shopping centre as defined by the Unitary Development Plan. The redevelopment of the site has been completed. The application site is located adjacent to the vehicular access road and car parking relating to the detached A1 uses and the Aldi foodstore. Residential houses are located on the opposite (north) side of Ashton New Road. The nearest residential uses are located on the opposite (north) side of Ashton New Road (approximately 27 metres away) with residential uses also located to the east of the site at the junction of Ashton New Road and Transvaal Street (approximately 41 metres away).

This application relates to a detached retail unit that has been sub-divided between a Greggs sandwich shop and adjoining Subway sandwich shop. The site was the subject of the following planning application:

084018/FO/2007/N2 - Erection of one Class A1 foodstore unit (1552sqm) and one Class A1 retail unit (255sqm) with associated landscaping.
Approved on 29th October 2007 (in relation to the former site of A Mayne and Son, Ashton New Road, Clayton, Manchester).

The authorised opening hours to the entire site were conditioned to the following as part of the originally approved scheme:

Monday to Saturday 8:00am - 8:00pm, Sundays 10:00am - 5:00pm.

A further condition was imposed, which ensures that deliveries, servicing and collections, including waste collections, shall not take place outside the following hours:

Mondays to Friday 7:00am to 10:00pm
Saturdays 7:30am to 10:00pm
Sundays and Bank Holidays 9:00am to 8:00pm

The Subway store (Unit 2) was subsequently the subject of the following planning application, which was approved: 15 May 2009.

089206/JO/2009/N2 - Variation of Condition 7 of planning approval 084018 to extend the authorised hours of opening to 8.00 a.m to 9.00 p.m Monday to Saturday and 10.00 a.m to 9.00 p.m on Sunday.

This application relates solely to the extension of the opening hours to Unit 2, with the existing operation of Unit 1 (Greggs) and Aldi being unaffected by the development. The proposed development does not involve any external alterations to the building and its access to car parking remains unchanged.

Consultations

Local Residents - Two e-mails objecting to the proposals have been received and are summarised below:

- i. The opening hours have been the subject of review since the premises have opened. The objector maintains that a previous application was refused to allow Unit 2 to operate between the hours of: 8am to 10pm Monday to Saturday and 9am to 10pm on Sunday. This was followed by a further application, which was approved to allow the following opening hours: 8am to 10pm Monday to Saturday and 10am to 9pm Sunday.
- ii. The area is considered to be over served by hot food take-aways. The objector expresses concern regarding the accumulative impact of the noise, disturbance and litter, which is attributed to these uses.
- iii. Further concerns are expressed regarding the light disturbance from advertisements to the front of the Subway store, which are displayed into the late evening period. It is considered that the development will exacerbate these existing problems and thereby further diminish residential amenity.

Councillor Jim Battle - Has requested additional information in relation to the application. A copy of a representation he received from a neighbouring resident, who objects to the proposed development, has been received.

Head of Regulatory and Enforcement Services (Environmental Health) - No objection.

Issues

Unitary Development Plan - The following policies are considered to be relevant:

E3.3 - The Council will upgrade the appearance of the City's major radial and orbital roads and rail routes. This will include improvements to the appearance of adjacent premises; encouraging new development of the highest quality; and ensuring that landscape schemes are designed to minimise litter problems.

E3.5 - The Council will promote measures, which will lead to a safer environment for all people living in and using the City. These measures will include:-

- a) ensuring that the layout of new development is designed with safety in mind and does not lead to the creation of isolated areas;
- b) designing landscaping schemes so as to minimise the risk of attack;
- c) that community facilities are located where they are easy and safe to get to;

- d) providing safe places for children to play;
- e) improving road safety.

H2.2 - States that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters that the Council will consider, amongst other things, the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Part 2 Policies:

Policy EM3: District and neighbourhood Centres - This policy states that within the district centre in Sportcity, Openshaw and Newton Heath District Centres the following development will be permitted, to support their vitality and viability:

- i. retail A1, A2 and A3 of a scale and function consistent with a district centre;
- ii. mixed use development;
- iii. employment B1, leisure and community facilities.

The policy goes on to say that where suitable sites or buildings suitable for conversion to retail or leisure are not available within the above centres, then sites on the edge of centres will be permitted, provided that a need for the development has been demonstrated.

Also, within the residential neighbourhoods additional shopping to meet local needs will be permitted within local neighbourhood shopping centres and individual small retail units will be permitted within residential areas. Retail development, which conflicts with vitality and viability of existing centres, will not be permitted.

Policy EM16 - Lower and Higher Openshaw are mixed use areas made up of predominantly local authority residential neighbourhoods with pockets of owner occupied housing and areas of existing industry in sectors such as chemicals, manufacturing and engineering and Openshaw District Centre.

DC26.1 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 both:

- a. the effect of new development proposals which are likely to be generators of noise; and
- b. the implications of new development being exposed to existing noise sources, which are effectively outside planning control.

DC26.5 The Council will control noise levels by requiring, where necessary, high levels of noise insulation in new development as well as noise barriers where this is appropriate.

Guide to Development in Manchester: Supplementary Planning Document and Planning Guidance - The Guide aims to support and enhance the on going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of development we all want to see in Manchester.

Planning Policy Statement 1: Delivering Sustainable Development (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.

The Regional Spatial Strategy (RSS) for North West England - The RSS was adopted in September 2008 and replaces the previously published Regional Planning Guidance. The RSS provides a framework for development and investment in the region over the next fifteen to twenty years.

Policy DP 1 - Spatial Principles - Identifies the principles underpinning RSS (incorporating RTS). All may be applicable to development management in particular circumstances: promote sustainable communities; promote sustainable economic development; make the best use of existing resources and infrastructure; manage travel demand, reduce the need to travel, and increase accessibility; marry opportunity and need; promote environmental quality; mainstreaming rural issues; reduce emissions and adapt to climate change.

The following principles are considered to be relevant to the proposals:

Policy DP 2 - Promote Sustainable Communities - Building sustainable communities - places where people want to live and work - is a regional priority in both urban and rural areas. Sustainable Communities should, amongst other things, meet the diverse needs of existing and future residents, promote community cohesion and equality and diversity, be sensitive to the environment, and contribute to a high quality of life.

Policy DP 3 - Promote Sustainable Economic Development - It is a fundamental principle of this Strategy to seek to improve productivity, and to close the gap in economic performance between the North West and other parts of the UK. Sustainable economic growth should be supported and promoted, and so should reductions of economic, environmental, education, health and other social inequalities between different parts of the North West, within the sub-regions, and at local level.

Policy EM 16 - Energy conservation and efficiency.

Principle of the use - Has been established by the previous planning permission. The current proposal has been considered in relation to its impact on the amenity of neighbouring residents and the noise and activity that can be attributed to the extended opening times. The nature and character of the surrounding area has also been considered, in terms of existing levels of pedestrian and vehicular activity throughout the day along Ashton New Road and within the neighbouring local shopping area during its authorised hours of opening, delivering and servicing.

Residential amenity - The site is located within an area, which incorporates a number of retail and commercial units, within close proximity to residential uses. Whilst these existing non-residential uses may have some impact on residential amenity, it is considered that their operation is vital to the local economic sustainability of the area. The site is located on an extremely busy radial route into

the City Centre, which produces background noise levels that may not be experienced in other residential areas. Within these circumstances it is not considered that the noise associated with the proposed extension to opening hours will significantly affect background noise levels to the detriment of residential amenity. This position is reflected in the comments of the Head of Enforcement and Regulatory Services (Environmental Health). With regard to the objector's comments, there is no record of a planning application being refused, in relation to the following opening hours: 8am to 10pm Monday to Saturday and 9am to 10pm on Sunday. Existing authorised delivery and servicing hours have been related to Unit 2 by condition.

Illuminated Advertisement Signage - In order to address the objectors concerns regarding light disturbance, a condition is recommended to ensure that external lighting to advertisements are switched off when the premises are closed.

Conclusion - Given the character and nature of the surrounding location the proposed extension of opening hours are considered to be acceptable. Existing servicing and delivery arrangements are not affected by the proposal and the issues relating to lighting are capable of being addressed by condition.

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

It is considered that the proposal will generally accord with the policies contained within the Development Plan, specifically the Unitary Development Policies EM3, EM16, E3.3, DC26.1, DC26.5 and the principles set out in the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance, Planning Policy Statement 1, Planning Policy Statement 6 and Policies DP2, DP3 and ER13 of the Regional Spatial Strategy in that the development would improve the quality of retail facilities within the local neighbourhood centre within easy access of existing residential properties, there would not be any significant impacts on the residential amenities of adjoining occupiers; would improve the access to shopping facilities for disabled people, would not compromise the provision of the Metrolink expansion and

generally the proposal would provide a high quality facility within the area to the benefit of the wider surrounding community allowing the continuing regeneration of the locality.

Conditions and/or Reasons

1) The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:-

7.30am to 10.00pm Monday to Saturday and 8.00am to 10.00pm on Sunday.

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.

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: SW/0893/001, 6th October 2009

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

Mondays to Friday 7:00am to 10:00pm
Saturdays 7:30am to 10:00pm
Sundays and Bank Holidays 9:00am to 8:00pm

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) Notwithstanding the approved drawings, full details are required to be submitted and approved in writing with the Local Planning Authority in connection with the proposed servicing arrangements for the new retail pod unit hereby approved, including the dedicated loading/unloading bay and the frequency of deliveries and servicing activities. The development shall be carried out in accordance with the details thereby approved.

Reason

In the interests of residential amenity and highway safety, pursuant to Policies H2.2, T2.6, T3.1 and T3.7 of the adopted UDP for the City of Manchester.

5) The planning permission hereby approved relates only to Unit 2, 998 Ashton Old Road as shown on the site edged red plan ref SW/0893/001, received by the Local Planning Authority on the 6th October 2009, and does not relate to the other

foodstore and retail unit as originally approved under application 084018/FO/2007/N2.

Reason - For the avoidance of doubt and in the 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.

6) All illuminated signage shall be switched off outside the authorised opening hours unless otherwise agreed in writing by the City Council a local planning authority.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation once the development is completed, pursuant to Policy H2.2 of the Unitary Development Plan for the City of Manchester.

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: 091424/JO/2009/N2 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.

Head of Regulatory and Enforcement Services (Environmental Health)
Aldi Foodstore Ltd, 974-998, Ashton New Road, Manchester, M11 4PD
Home Bargains Ltd, Ashton New Road, Manchester, M11 4PD
Subway, Ashton New Road, Manchester, M11 4PD
Greggs, Ashton New Road, Manchester, M11 4PD
1018 Ashton New Road, Manchester, M11 4PD
865 - 873 Ashton New Road, Manchester, M11 4PB
871 Ashton New Road, Manchester, M11 4PB
849a, Ashton New Road, Manchester, M11 4PA
849 - 855 Ashton New Road, Manchester, M11 4PA
2 – 8 Seymour Road South, Manchester, M11 4PG
The Family Surgery, 863 Ashton New Road, Manchester, M11 4PB
Cohens Chemist, 861a, Ashton New Road, Manchester, M11 4PA
Classic Wines, 857 Ashton New Road, Manchester, M11 4PA

Representations were received from the following third parties:

865 Ashton New Road, Manchester, M11 4PB
Head of Regulatory and Enforcement Services (Environmental Health)

Relevant Contact Officer : Carl Glennon
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