

Application Number	Date of Appln	Committee Date	Ward
088058/JO/2008/S2	7th Nov 2008	15th Jan 2009	Burnage Ward

**Proposal** Variation of condition number 4 attached to planning application number 085529 to allow the premises to open on Sundays between 11.00 am to 4.00 pm.

**Location** 263 Kingsway, Burnage, Manchester, M19 1AN,

**Applicant** Hunts Motorcycles, 255/257 Kingsway, Burnage, Manchester, M19 1AN

**Agent**

### Description

263 Kingsway is a 2 storey mid-terraced commercial property situated close to the junction of Kingsway and Broadhill Road. Planning permission was recently granted under reference 085529/FO/2008/S2 to use the premises for the sale of motor scooters, this use is now in operation. There are residential properties on the opposite side of Kingsway and also at the rear of the premises beyond an alleyway.

When consent was granted to use the premises for the sale of motor scooters it was conditional upon the premises remaining closed to business on Sundays. The proprietors are now proposing to vary condition no. 4 attached to planning consent 085529/FO/2008/S2 in order to allow them to trade on Sundays between 11.00am to 4.00pm. The applicant has another shop unit at nos. 255-257 Kingsway which sells motorcycles.

### Consultations

**Local Residents** – One letter of objection has been received from a local resident, the main points of which are outlined below:

- The residents of Broadhill Road are already inconvenienced by vehicles associated with Hunts Motorcycles parking in front of people's homes. Sunday is the only day of respite from this traffic.
- The parking and display of motorcycles at no. 255-257 Kingsway is an ongoing problem, operating on a Sunday will only exacerbate this.

**Ward Members** – All three Ward Members, Cllrs Cameron, Donaldson and Isherwood, have written in to object to the proposal unless it can be conditioned that the display of motor scooters to the front of the premises be restricted.

**Head of Environmental Health** – no objections to the proposal.

**Head of Highway Services** – no objections to the proposal.

**Greater Manchester Police (Architectural Liaison Officer)** – no objections to the proposal.

## **Issues**

**Unitary Development Plan (UDP)** – There are no specific UDP policies for this property. However, when dealing with an application of this nature consideration is given to policy H2.2 which states that the City Council will not normally allow development which will have an unacceptable impact on residential areas. The matters which the Council will consider in coming to such decisions will include the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

**Principle of the Proposal** – The application site is located within a commercial parade and as a result the principle of the proposal is considered acceptable. Notwithstanding this, consideration must be given to the proposal's impact upon existing levels of residential amenity and pedestrian and highway safety.

**Residential Amenity** – The nearest residential accommodation on Kingsway is approximately 30 to 45 metres (100 to 147 feet) away from application premises, given this it is not considered that opening the premises on a Sunday would have a detrimental impact upon the existing levels of residential amenity enjoyed by the occupants of those dwellings.

No. 2 Broadhill Road is located at the rear of 263 Kingsway and is only separated from it by an alleyway. While located in close proximity to the application property itself, no. 2 Broadhill Road is situated approximately 30 metres away from the shop front where most activity is to be expected. Undoubtedly the rear alleyway will be used for servicing and deliveries and some disamenity may arise from this activity during the normal working week. However, as a condition preventing servicing and deliveries from taking place on a Sunday was attached to the original consent it is not anticipated that the residents of no. Broadhill Road will be subjected to undue levels of residential disamenity from the premises operating on a Sunday.

**Pedestrian and Highway Safety** – It is not considered that the premises opening on a Sunday would have a detrimental impact upon current levels of pedestrian and highway safety enjoyed along this stretch of Kingsway. Notwithstanding this, the concerns of local residents regarding the parking of scooters in front of the premises was recognised and as a result a condition preventing their display on the forecourt was attached to the original consent.

The Street Management and Parking Services have confirmed they regularly monitor the alleged parking of motorcycles on the pavement outside no. 255-257 Kingsway and that they attend each time a complaint is logged. In general they have found that the limited waiting bay on Kingsway, which only applies between 5pm to 6.30pm, is not abused. In respect of pavement parking on Kingsway, they have confirmed that they would only take action if there was a clear obstruction to pedestrian traffic at one of the locations on Kingsway where there was junction protection in the form of double yellow lines or a loading restriction.

This is also the case on Mauldeth Road, at the side of no. 255-257 Kingsway, where there is a "no waiting at any time" restriction and "no loading at peak

hours AM and PM” restriction. The Street Management and Parking Services enforcement officers are regularly deployed to this area and if vehicles are parked at this location on the pavement and not behind the applicants red barriers they would be likely to receive a parking contravention notice. Of the 27 recent visits to this location there has only been one instance that has required the serving of a parking contravention notice.

Hunts motorcycle shop have put notices in their window advising customers to park behind the red barriers or in the limited waiting bay on Kingsway. The shop have said that they will keep customers advised.

**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** on the basis that the proposal is in accordance with the City Council's Unitary Development Plan, in particular the following policies and there are no material considerations of sufficient weight to indicate otherwise:

Policy H2.2 states that the Council will not normally allow development which will have an unacceptable impact on residential areas. It is not believed that the proposed development will have a detrimental impact in terms of noise, traffic generation and road safety.

### **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: dated 27th October and 7th November 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) 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.

4) 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 0900hrs to 1730hrs  
Sundays 1100hrs to 1600hrs

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.

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

0730hrs to 2000hrs Mondays to Saturdays  
no deliveries /waste collections on Sundays and Bank Holidays

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

6) No motor scooters, motorcycles or similar vehicles shall be parked on the forecourt for the purposes of display for sale, maintenance or any other purpose.

Reason - In the interests of visual amenity and pedestrian and highway safety, pursuant to Policy H2.2 in 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: 088058/JO/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:**

2-32, 5-17 Broadhill Road  
8-24 Broadlea Road  
1-10 Burnbray Avenue  
1-33 Ferndale Gardens  
172-190, 249-283 Kingsway  
180-212, 183-201 Mauldeth Road  
2-16 Northbank Gardens

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

Personal details withheld at the request of individual  
Cllrs Cameron, Donaldson and Isherwood.  
Greater Manchester Police

**Relevant Contact Officer :** David Lawless  
**Telephone number :** 0161 234 4543  
**Email :** d.lawless@manchester.gov.uk