

Application Number	Date of Appln	Committee Date	Ward
088007/FO/2008/N1	21st Oct 2008	9th Apr 2009	Miles Platting And Newton Heath Ward

Proposal Change of use of vacant ground floor office to hot food take-away with ancillary seating area (sui generis), new shopfront, new external flue to rear and new 1.8 metre high fence to rear

Location 80 Old Church Street, Newton Heath, Manchester, M40 2JF,

Applicant Mr Gerald Pearson , 24 Kenworthy Lane, Northenden, Manchester, M22 4EJ

Agent Mr Martin Taylor, 23 Hopwood Avenue, Monton , Eccles, Manchester, M30 9GQ

Description

The application site is a vacant two storey property with a shop which was formally used as a training centre located at ground level. The premises are situated on Old Church Street in a parade of 11 similar properties within the district centre. There are double yellow line road markings immediately in front of the shop. To the rear of the premises is an informal car park. The upper floor appears to be vacant but the upper floor of the property to the south-west (82 Old Church Street) appears to be an occupied flat.

At ground floor, the two properties to the south-west (82 and 84 Old Church Street) are hot food take-aways.

The applicant wishes to change the use of the unit to a hot food take-away, with a seated café type area at the front of the unit. The ground floor would also contain the kitchen, storage, customer area and staff facilities. The first floor flat would be occupied by the manager of the take-away or one of the staff. The proposal also includes a new shop front, an extraction flue to the rear elevation and a new boundary fence to the rear yard.

The shop front would be of modern design with a largely glazed frontage and a white UPVC frame with 2 doors to the right hand side. There is a low brick wall underneath the main window that would be retained. The flue to the rear elevation would be for the extraction of cooking fumes and would be 400mm in diameter and extend 1000mm above the gutters. It would be formed from galvanised steel with brackets fixing it to the wall. The flue will be painted black.

The proposal includes an internal access ramp into the shop as there is a 400mm difference in the floor level of the unit and the pavement outside. This would have a gradient of 1 in 12. The ramp would have a 900mm high steel handrail.

Consultations

Local residents - Local residents and businesses have been consulted and the proposal has been advertised on site and in the press. No objections received.

Traffic and Transport - No objection.

Environmental Health - have requested that conditions be attached to any permission granted to control fume, hours of opening, noise, refuse and deliveries.

Head of Regulatory Services - have no objection in principle to this application.

New East Manchester - New East Manchester Ltd objects to the application as it will undermine the integrity of Old Church Street and the District Centre as a retail destination and lead to an unacceptable concentration of hot food outlets within a restricted area.

There are currently 3 hot food take-aways, 3 cafes, and 3 bakeries selling hot food along Old Church Street. Furthermore, the change of use of no. 80 Old Church Street would result in there being 3 hot food take-aways in a row, which would have a particularly negative impact on the role of the high street for shopping by extending an area of frontage that is generally inactive during the day. The concentration of outlets selling hot food to take-away is also likely to exacerbate problems of litter, vehicles parking on double yellow lines along Old Church Street and the congregation of youths and others during the evenings. NEM is currently looking to secure substantial grant funding from NWDA for a scheme of urban realm, parking and highway improvements as part of a strategy to regenerate the Centre. It is important that inappropriate proposals for new development and change of use, such as this application are not allowed to undermine the strategy.

New East Manchester therefore request that the application is refused.

Greater Manchester Police -

1. Would highly recommend that all new external fittings to be to the standards set by the "Secured by Design (SBD) scheme.
2. To reduce the risk of arson would recommend that the bins are stored avoiding direct contact with the building.

Crime Reduction Officer - From a crime perspective, the Crime Reduction Officer has no objection to the application.

Issues

Unitary Development Plan - The following policies are 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.

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

DC10.1 In determining planning application for developments involving the sale of food or drink the Council will have regard to:

- a. the general location of the proposed development;
- b. the effect on the amenity of neighbouring residents;
- c. the availability of safe and convenient arrangements for car parking and servicing;
- d. ease of access for all, including disabled people; and
- e. the storage and collection of refuse and litter.

DC10.2 The Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

DC10.3 Development will not normally be permitted where:

- a. it is proposed outside the general locations mentioned above, or
- b. there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

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 2: Supplementary Planning Document and Planning Guidance:- The Guide aims to support and enhance the ongoing 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.

Of particular relevance is policy 4.11 Waste Management which states:

All developments should have a waste management strategy included in the Environmental Standards Statement. This will ensure that adequately sized bin storage areas, access for collection crews and vehicles, and other aspects of waste management are designed into the development at the earliest stage.

Regional Spatial Strategy for the North West - Formerly RPG13, this provides planning guidance for the North West region. Since 2004, the RSS has formed part of the development plans; as such the weight to be attached to its policies has increased. It contains policies that address core principles of development including the following:

- i. DP1: Economy in the use of land and buildings, including the effective use of existing buildings and infrastructure within urban areas, particularly those which are accessible by way of public transport, walking or cycling;
- ii. DP2: Enhancing the Quality of Life - Ensuring development provides a high quality of life for this and future generations;
- iii. DP4: Promoting sustainable economic growth and competitiveness and social inclusion.

The North West Plan, Draft Regional Spatial Strategy (RSS) - Publicised in January 2006, this draft RSS document provides a framework for the physical development of the region over the next 15 to 20 years. The following policies are of relevance:

- i. DP1 - Defines regional development principles and requires that Local Planning Authorities:
 - a. Make more sustainable, transparent decisions;
 - b. Make better use of land and ensure quality in development, ensuring the promotion of an appropriate mix of uses within a site or its wider neighbourhood, reduce the need to travel and assist people to meet their needs locally.

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.

Planning Policy Guidance 24 - Planning and Noise (PPG24) - Guides local authorities in England on the use of their planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

It explains the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise.

Principle - The application site is situated within a parade of more than 8 shops and is located within a district centre with existing food and drink uses contained within it. Whilst the location of the use may be generally acceptable, consideration needs to be given to its impact on nearby properties and on the vitality and viability of Newton Heath District Centre.

Residential Amenity - There are limited residential uses within the District Centre. There are several late night uses which would be expected to bring activity in the evening. However, a condition to control noise and deliveries will be attached to this permission to protect the limited residential uses from disamenity caused by noise and deliveries.

Waste - The applicant has confirmed that there will be an additional provision for storage and collection of recyclable waste at the property. However, they have not provided details of where a refuse bin and facilities for the recycling of paper, glass and cans will be located. Therefore, a condition requiring a scheme for the storage (including segregated waste recycling) and disposal of refuse to be submitted to and approved in writing by the City Council as local planning authority has been attached to this permission.

Fumes - The proposals include an extraction flue to the rear elevation with the top of the flue located 1 metre above the eaves height of the roof. There is information in the application relating to fume extract and the use of grease filters and carbon filters. However, Environmental Health need confirmation as to how this system will be managed and how frequently these filters will be replaced. They also need confirmation in writing as to what level of odour mitigation this is expected to achieve. Environmental Health have stated that fume extract point 1 meter above eaves is acceptable, however, further clarification is needed that the extract flue will be capped with a rain resistant terminal, and not with a cowl. This is to ensure high velocity, vertical discharge of all vapours, fumes and odours.

Therefore, a condition to control fumes will be attached to this permission as per the Head of Environmental Health's recommendation.

Hours of Operation - A condition requiring the opening hours to be restricted to those applied for i.e. 10.00am to 11.00pm (Monday to Sunday) will be attached to this permission.

Disabled Access - The applicant has included proposals for level access. Due to the constraints of the site the applicants have only been able to provide a ramp with a width of 850mm and a gradient of 1 in 12. A 900mm high handrail has also been included.

Highway Safety - The Head of Traffic and Transport has been consulted on this issue and has no objections. It is noted that there are existing parking regulations in force in this area.

Crime and Disorder - It is noted that the Crime Reduction Officer has no objections to the proposals.

Vitality and Viability of Newton Heath District Centre - New East Manchester Ltd objects to the application as it will undermine the integrity of Old Church Street and the District Centre as a retail destination and lead to an unacceptable concentration of hot food outlets within a restricted area.

Firstly, it should be noted that the application site, a former training centre is currently vacant. 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 it has a negative impact on the 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 the change of use of the application property would result in a row of 3 hot food take-aways, there are also another two Class A3 Café type uses and three Class A5 uses dispersed throughout the

centre. These businesses contribute to the evening economy. It is not considered there is an over concentration of such uses for the size of a District Centre like Newton Heath.

Currently approximately 11% of the retail units within Newton Heath District Centre are hot food takeaways. However, this figure could increase to 13% if the extant permission at 68 Old Church Street were to be implemented. A total of approximately 22% of the district centre is occupied by food and drink use (A3 and A5 uses). This is considered to be a sensible balance A3 and A5 uses and the other retail uses (A1 & A2) and does not mark an over concentration of hot food takeaways within Newton Heath at the present time.

The Head of Planning understands the concerns of New East Manchester but in this case the proposal is considered to be acceptable for the reasons stated.

A condition is included to ensure that shutters are raised during between the hours of 10:00am and 18:00pm Monday to Saturday (excluding Bank Holidays) to ensure a lively frontage during the daytime.

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

Approve on the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies E3.3; H2.2; DC26, DC10 and other material considerations of material weight including particular RPG policies: DP1; DP2; DP3: DP4; RSS policy DP1; PPS1; PPG24 and Guide to Development in Manchester 2: Supplementary Planning Document and Planning Guidance policies : 4.11 in that the development would: provide a use for a vacant premises and would thereby positively contribute to the local economy and the continued regeneration of the locality whilst ensuring the maintenance of local amenities through the mitigation of the impact of the development by conditions.

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: The drawings numbered C89 and C90, the Design and Access Statement and fume extraction details stamped as received by the Local Planning Authority on 20th October 2008 as amended by the e-mail received on 20th. February 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) 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 amenity and public health pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

4) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences; any works approved shall be implemented before the use commences.

Reason

In the interests of the amenities of the occupiers of nearby residential properties pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester.

5) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, 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.

6) 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 Sunday 10.00am to 11.00pm

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.

7) The window glass of the shopfront shall not be obscured by security shutters or grilles between the hours of 10:00am and 18:00pm Monday to Saturday excluding Bank Holidays.

Reason

In the interests of visual amenity of the area in accordance with policy S2.5 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: 088007/FO/2008/N1 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:

Engineering Services
Environmental Health
Contaminated Land Section
New East Manchester
Greater Manchester Police
Dennis Brogan, Crime Reduction Officer
1a, Millwright Street, Manchester, M40 2JG
1 Millwright Street, Manchester, M40 2JG
Greg Hull Butchers, 70 Old Church Street, Manchester, M40 2JF
Heath Sons & Broom, 74-76, Old Church Street, Manchester, M40 2JD
The Beauty Rooms, 76 Old Church Street, Manchester, M40 2JF
Mo`s News, 78 Old Church Street, Manchester, M40 2JF
Com Training, 80 Old Church Street, Manchester, M40 2JF
Horrocks & Stead Butchers, 82 Old Church Street, Manchester, M40 2JF
Golden Fish & Chips, 84 Old Church Street, Manchester, M40 2JF
P F Toleman, 86 Old Church Street, Manchester, M40 2JF
Chaplins Pizzas, 47 Old Church Street, Manchester, M40 2JN
Old Church Street Newsagency, 51 Old Church Street, Manchester, M40 2JN
Freestylers Hair & Beauty Ltd, 49 Old Church Street, Manchester, M40 2JN
53 Old Church Street, Manchester, M40 2JN
Newchem, 55 Old Church Street, Manchester, M40 2JN
45a, Old Church Street, Manchester, M40 2JN
45 Old Church Street, Manchester, M40 2JN

Representations were received from the following third parties:

Relevant Contact Officer : Gerry Reilly
Telephone number : 0161 234 4163
Email : g.reilly@manchester.gov.uk