

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
090530/FO/2009/N2	13th Jul 2009	22nd Oct 2009	Levenshulme Ward

**Proposal** Change of use of ground floor shop to hot food take-away (Class A5), with external access ramp and basement storage

**Location** 995 Stockport Road, Levenshulme, Manchester, M19 2SY,

**Applicant** Mr Damien Delaney , 5 Outram Road, Sheffield, S2 5EW

**Agent** Mr Colin Williams, Alpha Design, 11 Gilda Crescent Road  
Eccles, Lancashire, M30 9AG

### **Description**

This application relates to a vacant, former retail, unit in Levenshulme District Centre. It is a mid terraced unit in a parade of 9 units with another vacant unit on one side and retail premises on the other. The properties facing the site, on the opposite side of Stockport Road, are residential and there are further residential properties to the rear of the site. It is proposed to change the use of the ground floor of the premises into a Class A5 hot food take-away. The proposed hours of operation are Noon to 10.00 pm, 7 days a week. The proposal also includes a new ramp on the front elevation, to provide access to the shop for disabled people.

### **Consultations**

Local residents/Adjoining occupiers - A petition has been received, signed by the occupier of a take-away on the adjoining block, and 3 residents, who do not live in the immediate vicinity of the site. They state that they are tired of all the rubbish in the roads, they don't want to see an existing take-away having to close, due to competition, and the use would cause too much congestion in the area. The occupier of the adjoining shop unit has written to support the application, who is looking forward to seeing more businesses opening in the area to bring more customers/business.

Head of Engineering - No objections.

Head of Environmental Health - No objections, subject to conditions relating to refuse, delivery times, hours of operation, noise insulation and fume extraction.

South Manchester Regeneration - State that they would not wish to see another hot food take-away in Levenshulme. They consider that it goes against the spirit of the Levenshulme District Centre Plan, which states that they would wish to seek ways to restrict or manage the number of hot food take-aways in the district centre.

## **Issues**

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. It contains policies that address core principles of development, including the following:

DP2: Promoting sustainable communities - Ensuring development contributes to a high quality of life for existing and future residents;

DP 5: Manage Travel Demand - Ensuring development is located so as to reduce the need to travel, especially by car, and to enable people as far as possible to meet their needs locally.

DP7: Promote Environmental Quality - Ensuring that new development demonstrates good design and respect for its setting;

Unitary Development Plan - The site lies in Levenshulme District Centre, as identified in the Plan. Policy LL6 states that the Council will improve the safety and quality of the environment of the centre. Policy LL14 states that the Council will permit new developments so long as they do not cause disamenity to residents. Policy LL15 relates to pedestrian safety and off street parking.

Policy 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 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.

Policy DC10.1 states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the Council will have regard to:

- a. the general location of the proposed development, including any reference to the area in other policies in the Plan;
- 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.

Policy DC10.2 states that 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.

Policy DC10.3 states that 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.

Policy DC10.4 states that where, having regard to the preceding policies, the Council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and the collection of litter.

Policy DC10.5 states that the Council will consider on their individual merits proposals for larger, free-standing restaurants, public houses, clubs etc. which require a main road location and do not clearly meet the locational criteria set out in policy DC10.2.

Policy E3.3 relates to sites along radial routes, which includes Ashton New Road, and seeks to ensure that all new development, along these routes, is of the highest quality.

With regards to development and noise Development Control policy DC26 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 both the effect of the new development proposals, which are likely to be generators of noise.

Principle of use - The property lies in a district centre, and meets the locational criteria set by policy DC10. The centre is mainly characterised by A1, A2 and A3/A4/A5 uses and a new A5 use would generally be considered to be a compatible use, within such an area.

Breakdown of uses within Levenshulme District Centre - The use of premises in Levenshulme District Centre has recently been surveyed (August 2009). There are 298 properties, of which 38 are residential properties. Of the remaining 260 properties, the breakdown of uses is as follows:

A1 retail - 118 properties (45%)  
A2 professional services (Banks/solicitors etc) - 30 properties (12%)  
A3 restaurants and cafes - 9 properties (3.5%)  
A4 drinking establishments - 9 properties (3.5%)  
A5 hot food take-aways - 23 properties (9%)  
Other uses (churches/community uses etc) - 21 properties (8%)  
Vacant units - 50 properties (19%)

If we examine the area immediately surrounding the appeal site, there are 102 properties within 200 metres of the appeal site, in both directions along Stockport Road. In this area, all the 38 residential properties are located and the breakdown of the remaining 64 uses is as follows:

A1 retail - 29 properties (45%)  
A2 professional services (Banks/solicitors etc) - 3 properties (5%)  
A3 restaurants and cafes - 2 properties (3%)  
A4 drinking establishments - 0 properties  
A5 hot food take-aways - 3 properties (5%)  
Other uses (churches/community uses etc) - 5 properties (8%)

Vacant units - 22 properties (34%)

It can be seen from these figures that the percentage of hot food take-aways, both in the centre and particularly in the immediate vicinity of the site, is quite low. Even if the number of hot food take-aways is added to the number of restaurants, this still amounts to just 8% of units, in the immediate vicinity of the site and 12.5% of units in the District Centre as a whole. It is not therefore considered that it can be concluded that there is an over-proliferation of this type of unit in Levenshulme District Centre and particularly in the immediate vicinity of the site, and it is considered that the District Centre retains a predominantly A1 bias, with almost half the units being used for such purposes. The Levenshulme District Centre Plan, referred to by South Manchester Regeneration, is part of the ward plan, and sets out their objectives for the area, and whilst it is a consideration, in the assessment of this application, it is not planning policy. Also, it is considered that the percentage of vacant units in the centre also needs to be noted. In the immediate vicinity of the site, the percentage of vacant units is 34%, and it is therefore considered that bringing one of these units back into an active use would aid other businesses in the area, and that this needs to be balanced against concerns about over-proliferation, particularly as these concerns do not appear to be supported by the above statistics.

Residential amenity - Although there is some residential accommodation within the vicinity of the application site the premises lie in the district centre, in what is primarily a mixed use area of shops, pubs, offices and hot food take-aways/restaurants. Whilst the impact that the use may have on nearby residents needs to be considered, this needs to be done in the context of the nature of this part of the district centre. The proposal could result in an increase in comings and goings later in the evening than at present and there could be some disturbance associated with this. However given the nature of the area in terms of the proximity of other premises, some of which open later at night, the proposed use is considered to be acceptable.

Elevational alterations - A new flue is proposed to the rear of the premises, which is not easily visible and therefore would have a minimal impact upon visual amenity (fume extraction details are also supplied and a condition, relating to fumes, is not considered necessary). The ramp at the front of the building would have some visual impact, but it is within their own forecourt area and ensures that the facility is accessible to all sectors of the community.

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 objection to the proposal.

Designing out Crime- It is considered that a condition be imposed, on any planning permission, 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.

**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 accordance with Regional Planning Guidance for the North West and policies DC10, DC26, E3.3 and H2.2 of the Unitary Development Plan for the City of Manchester and there are no material considerations of sufficient weight to indicate otherwise.

### **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 relates to the drawing stamped as received by the City Council, as Local Planning Authority on 3rd July 2009, unless otherwise agreed in writing by the City Council as Local Planning Authority.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies DC10, E3.3 and H2.2 of the Unitary Development Plan for the City of Manchester.

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

12 Noon to 10.00 pm

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

Monday to Saturday: 07.30 - 20.00  
Sunday and Bank holidays: no deliveries

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.

5) Before the development hereby approved commences, 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 Unitary Development Plan for the City of Manchester.

6) 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 Unitary Development Plan for the City of Manchester.

7) Notwithstanding the details shown on the approved plans, prior to the use first becoming operational, the proposed ramp handrail shall be painted/colour coated in accordance with a scheme which has been submitted to and approved in writing by the City Council as local planning authority. The handrail shall be coloured only in accordance with these approved details and shall be available for use prior to the commencement of the use hereby approved.

Reason

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

8) The development shall not be occupied until details of the security measures to be incorporated into the development (or phase thereof), which shall be to secured by design specification, 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, unless otherwise agreed by the City Council, as Local Planning Authority.

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: 090530/FO/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.

### **The following residents, businesses and other third parties in the area were consulted/notified on the application:**

Engineering Services

Environmental Health

South Manchester Regeneration

1, 3, 5 Marley Road, Manchester, M19 2SZ

1005a, Stockport Road, Manchester, M19 2SY

1003a, Stockport Road, Manchester, M19 2SY

1003-1005, Stockport Road, Manchester, M19 2SY

1001 Antiques, 1001 Stockport Road, Manchester, M19 2SY

1001a, Stockport Road, Manchester, M19 2SY

999 Stockport Road, Manchester, M19 2SY

Bargain Box, 997 Stockport Road, Manchester, M19 2SY

995a, Stockport Road, Manchester, M19 2SY

995 Stockport Road, Manchester, M19 2SY

Softland Technologies, 993 Stockport Road, Manchester, M19 2SY

993a, Stockport Road, Manchester, M19 2SY

991 Stockport Road, Manchester, M19 2SY

989a, Stockport Road, Manchester, M19 2SY

Acro Preservation, 989 Stockport Road, Manchester, M19 2SY

987 Stockport Road, Manchester, M19 2SY

985a, Stockport Road, Manchester, M19 2SY

985 Stockport Road, Manchester, M19 2SY

1- 9 (odd) Samuel Street, Manchester, M19 2ST

1054 – 1072 (even) Stockport Road, Manchester, M19 2SX

981b, Stockport Road, Manchester, M19 2SY

981a, Stockport Road, Manchester, M19 2SY

The One Stop Shop, 981-983, Stockport Road, Manchester, M19 2SY

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

997 Stockport Road, Manchester, M19 2SY

**Relevant Contact Officer :** Ian Jarvis  
**Telephone number :** 0161 234 4079  
**Email :** i.jarvis@manchester.gov.uk