

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
090413/FU/2009/S1	19th Aug 2009	19 <sup>th</sup> Nov 2009	Moss Side Ward

**Proposal** Change of use from shop (Class A1) to hot food take away (Class A5), including the installation of flue to the rear of property and opening Monday to Sunday 13:00 to 23:30

**Location** 345 Claremont Road, Moss Side, Manchester, M14 7NB

**Applicant** Mr Razaqat Hussain, 345 Claremont Road, Moss Side, Manchester, M14 7NB

**Agent** Holborow & Ormesher, Station House, Adams Hill, Knutsford, Cheshire, WA16 6DN

### **Description**

The application site is a ground floor, mid terrace, retail premises (A1) situated along Claremont Road. The application premises is located with an existing parade of shops which form a mixture of shops and hot food takeaways. The upper floors of the building appear to be in residential or storage use in association with the shop.

The surrounding streets are residential in nature being characterised by two storey terrace properties.

This application seeks planning permission for a change of use of the A1 retail unit to hot food takeaway (A5). The site is located within. The opening hours proposed are weekdays and weekends 13:00 to 23:30.

### **Consultations**

Local residents/businesses

One letter of objection has been received. The comments can be summarised as follows:

1. Too many takeaways on the area. There are around 8 businesses in this stretch of Claremont Road;
2. Other services are needed in the area rather than this proposal;
3. Concern about the litter and vermin created by the proposal;

Great Western Street Residents Association

Object to this planning application as there are already a vast amount of takeaways on Wilmslow Road. The residents feel that the community has enough takeaway and restaurants and there are concerns about fly tipping.

South Manchester Regeneration Team

Object to the change of use as from a regeneration perspective it does not support the aspirations of the Moss Side and Rusholme Local Plan for the provision of diverse retail centres. There are already a number of hot food takeaways in the locality of the proposed development.

#### Design for Security

No objections to the proposed change of use.

#### Head of Environmental Health

The revised opening hours (Monday to Sunday 13:00 to 23:30) are considered to be acceptable. In addition, the refuse arrangements are also considered to be acceptable. Further details are required to be submitted in respect of fumes and odours as there has been no information provided in respect of ventilation sanitary accommodation or other extraction. The flue that is declared on the plan appears to be satisfactory. Should planning permission be granted, conditions should be imposed relating to noise and deliveries.

#### Ward Members – Cllr Roy Walters

Do not support this proposal and reiterate the comments presented by Great Western Street Residents Association.

### **Issues**

#### **The Development Plan**

#### **North West of England Plan Regional Spatial Strategy (RSS) to 2021**

Policy DP1 outlines the key principles which underpin the RSS these include the need to promote sustainable communities and promote sustainable economic development.

Policy W5 states that strategies should promote retail investment where it assists in the regeneration and economic growth of the North West's town and city centres. In considering proposals and schemes any investment made should be consistent with the scale and function of the centre, should not undermine the vitality and viability of any other centre or result in the creation of unsustainable shopping patterns.

#### *Unitary Development Plan (UDP) for the City of Manchester (Adopted 1995) –*

The application site is allocated within the Unitary Development Plan for the City of Manchester (Adopted 1995) as being within the Didsbury District Centre. The policies which are relevant within the UDP are as follows, H2.1, H2.2, S2.1, E3.5 and DB1 within part one and DC10.1, DC10.2, DC10.4, DC26.1 and DC26.3 within part two.

Policy H2.1 states that the Council will encourage environmental improvements to make residential areas safer and more attractive.

In giving effect to this, policy H2.2 states that the Council will not allow development that will have an unacceptable impact on residential areas. Matters which the Council will consider when determining such applications are the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Furthermore, measures will be promoted which will lead to a safer environment for all people living in and using the City (Policy E3.5).

Policy S2.1 states that the Council recognises the importance of good quality local and convenient shopping facilities within easy reach of people's homes and will seek to ensure that all parts of the City are well provided for. New shops to meet local needs will be encouraged where current provision does not adequately meet requirements.

Policy DB1 states that in deciding attitudes to proposal in Didsbury, the Council will have regard to the general policies in part 1 of the Plan in order to:

- Protect and nurture the role of Didsbury Village as a local shopping area.

In terms of specific policy which relegate specifically to food and drink uses, Policy DC10.1 (Food & Drink Uses) determines that planning applications for development involving the sale of hot food to be consumed off the premises the Council will have regard to, particularly in this instance:

- The general location of the proposed development;
- The effect on the amenity of neighbouring residents;
- The availability of safe and convenient arrangement for car parking and servicing;
- Ease of access for all; and
- The storage and collection of refuse and litter.

Policy DC10.2 states further that the Council will normally accept the principle of development 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 such developments will not be permitted where it is outside of the above locations if 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 the Council considers food and drink premises to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. Such conditions include limitations in terms of the hours of opening and the need to deal adequately with the storage of refuse and collection of litter.

Policy DC26.1 (Development & Noise) 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 the effect of new development proposals which are likely to be generators of noise.

Policy DC26.3 states that development likely to result in unacceptably high levels of noise will not be permitted in residential, near schools, hospitals, nursing homes and similar institutions and near open land used frequently for recreational purposes.

#### Other Relevant Policies and Guidance

In considering development proposals, reference is not only made to the UDP, but also other guidance, policies and supplementary planning guidance.

#### *The Guide to Development in Manchester SPD (2007)-*

This document provides detailed guidance on the making Manchester a City in which people choose to live, learn, work and relax.

As part of contributing to those objectives, District Centres are an importance feature of neighbourhoods and contribute to the image and sense of place of an area (Paragraph 11.24).

Paragraph 11.25 states that whether they play a district or local function, centres should accommodate a range of facilities and services, not simply shops and hot food premises.

Paragraph 11.27 states that “development proposals will need to help enhance the character and quality of the centres by well designed shop fronts, signage and security, by providing up-to-date refuse and waste minimisation facilities, and by contributing to the upgrading of the public realm”

Furthermore, the provision of on-site car parking will not be an automatic requirement.

#### *Planning Policy Statement six*

The Government’s key objective for town centres is to promote their vitality and viability by:

- Planning for the growth and development of existing centres; and
- Promoting and enhancing existing centres, by focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all.

#### **Issues**

##### Principle

The application site is a vacant shop unit located within a local parade of shops on Claremont Road.

This proposal seeks to change the use of the premises to a hot food takeaway. Policy DC10.2 states that the principle of such uses will normally be accepted in local shopping parade of more than 8 shops.

The application site falls within a parade of 6 shops (including the application property). However, there are 13 shops in total in the area plus the development of 297-339 Claremont Road which will comprise 578 sqm of retail and leisure floorspace along with the apartments and houses (as approved under planning permission 080958/FO/2006/S1). This part of Claremont Road has the sense of a small neighbourhood centre.

It is considered that the proposal accords with policy DC10.2 given the number of other retail premises in the area and thus is acceptable in principle. However, consideration is required to be given to the criteria outlined within policy DC10.1, and any other issues, in order to determine that there are no unacceptable impacts or harm as a consequence of the proposal. The following issues have therefore been considered as part of the assessment of this planning application:

1. Impact on the existing centres;
2. Effect on the amenity of neighbouring residents;
3. Environmental Health considerations;
4. Visual amenity implications;
5. Highway/traffic implications; and
6. Crime and Safety.

Each point will be addressed in turn within the body of this report.

#### Impact on the existing centres

Firstly, it should be noted that parades of shops, 8 or more, are stated to be the ideal location for food uses of this nature, as outlined within policy DC10.3 of the UDP, unless there are other sufficient reasons to justify otherwise. In addition, the UDP does not contain any policies which sets a limit on the number of non-retail uses within retail parades.

In assessing the implications of an A5 use on the local area it is not considered that the proposal will have a negative impact on the vitality and viability of surrounding area

In terms of vitality, the application property is currently vacant. This proposal would bring this unit into use and will secure the health of this parade of shops.

In considering the viability of the area, it is not considered that there is an over concentration of takeaways in the immediate area. The parade of shops the application site consists of are as follows: A1 shop, application site, butchers, phone shop, beauty shop, Bookmakers, a house and cash and carry.

On the opposite side of the road, the parade consists of the following: Cake shop, Luigis takeaway, Claremont Chip shop, Yatrik Wines and news (x2 units).

The new build units at 297-339 Claremont Road have yet to be completed and occupied.

South Manchester Regeneration Team object to the application on the grounds that the proposal would not support the aspirations of Moss Side and Rusholme Local Plan in terms of creating diverse retail centres and that there are already a number of food takeaways in the area.

The Local Plan seeks to support the neighbourhood centres to develop and better meet the retail and service needs of the community, especially along Claremont Road. It is not considered that the proposal contradicts this objective. There is not an over concentration of takeaways in this section of Claremont Road particularly given there are only 2 premises out of the 13 (excluding 297-339 Claremont Road) which are of an A5 use (Luigis Takeaway and Claremont Chippy).

Whilst it is recognised that Claremont Road is a long road and there will be other examples, it is not considered that there is an over concentration to the point that it would compromise the other services available to the community.

In the absence of a policy which quantifies any acceptable number of these uses within a centre (which is considered to be a difficult exercise in itself), and that fact that there is such a low number in this small neighbourhood centre, it is considered that there is a reasonable balance between retail and non-retail uses.

The application must now be assessed to determine whether there are any negative impacts on surrounding residential or car parking implications as specified by DC10.1.

#### Effect on the amenity of neighbouring residents

There are residential properties within close proximity to the application site. Policy DC10.1 (b) requires that consideration is given to the affect of proposal on their amenity.

Properties along Crofton Street are located to the rear of the application site, namely 113 Crofton Street which is separated from the application property by a narrow alleyway. Policy DC10.3 states that food and drink uses will not be supported where this arrangement exist. However, given these properties are located in such close proximity to this long established parade of shops it is considered that these properties will already experience a certain level of disturbance from these premises. That said, the application premises will be open later than these shops but it is believed that the premises and its operations can be adequately controlled by condition which will be considered below.

In assessing the impacts of the proposal, it is considered that the main source of noise and disturbance will come from the front of the building, where there is already an established level of activity from shoppers 'comings and goings'.

The opening hours have been set at a sensible limit (Monday to Sunday 13:00 to 23:30) and reflect the fact that the application site is not within a district centre but a small local centre which is very much part of the residential area.

There will be a percentage of the patrons visiting this site in a car. This could generate activity and noise in the area from doors slamming and engines being started. However, there are few residential properties within this section of the parade. Thus the activity will be contained within this section of the parade along with that other food and drink uses.

However, it is noted that there is the potential for movement and activity associated with staff movement, removal of rubbish and cooking processes at the rear of the premises. Whilst there gap is narrow between the rear of the application premises and number 113 Crofton Street, there is no rear yard associated with the premises. This should reduce the spilling out of the activities of the takeaway at the back of the premises. The applicants had originally applied to have the bin in the alleyway. Due to the concerns above, the applicants were asked to bring the bins internal to the premises. This will ensure that there will be no removal of refuse at anti-social hours.

The proposed flue has also been repositioned from the original submission in order to have the least impact on the residential properties in terms of displacing fumes into the air.

In order to minimise the level of noise and disturbance at the rear, and in line with the guidelines within policy DC10.4, where the principle of uses of this kind are acceptable, conditions should be used to protect amenity. In line with the recommendations of the Head of Environmental Health, the building and any externally mounted equipment should be noise insulated and hours of opening and deliveries should be restricted. Further to this, it is also recommend that the rear doors and windows remain shut after 7pm.

#### Environmental Health Considerations

The Head of Environmental Health has assessed the application, specifically the information submitted in respect of the technical information relating to the flue and waste management strategy at the site.

As discussed above, the flue has been amended from its current position and is now proposed to be positioned in the slop of the upper part of the roof. The flue is positioned to be furthest away from residential properties and is of sufficient distance from the eaves to not cause disamenity. Confirmation is required from the applicant that the flue proposed is of a high velocity specification.

As per the Head of Environmental Health's recommendation, the application should be conditioned to ensure that the building and any external equipment is appropriately insulated and opening hours and deliveries controlled.

#### Visual amenity

The only changes that will take place are the installation of the flue at the rear. It is not considered that this element of the proposal will have a detrimental impact on the appearance of the property or the surrounding area.

### **Highway/traffic implications**

Policy DC10.1 (C) states that there must be safe and convenient parking and servicing arrangements. There is no dedicated parking associated with this facility. However, it is considered that a large amount of the patrons will visit the premises on foot from the surrounding residential areas.

Claremont Road does not contain any traffic regulation orders preventing parking on the road. As such, there is sufficient space in front of the application property and the other premises in the immediate area to allow short stay parking.

### **Crime and Safety**

There have been no objections from the Design for Security consultants. It is not considered that the premises will generate any problems. However, should the premises gain licensing approval then part of the provisions of the approval will be that the premise is managed properly. Any problems and the licence will be revoked.

**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**

#### Reasons for recommendation

The application site falls within a local parade of shops. As such, the principle is considered to be acceptable and accords with policy DC10.2 of the UDP. It is considered that the premises will operate appropriate operating hours and amendments have been sought which will see an acceptable position of the flue and refuse internal to the premises arrangements put in place. This will accord with

policy DC10.4 and H2.2 of the UDP and will ensure that noise, disturbance and smells are controlled from the development is kept to a minimum.

In summary, the proposal accords with the City Councils UDP in particular policies H2.2, E3.5, DC10.2, DC10.4, DC26.1 and DC26.3.

### **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:

Drawings: 891/09/11a stamped as received by the City Council, as Local Planning Authority, on the 19<sup>th</sup> August 2009.

Waste management strategy stamped as received by the City Council, as Local Planning Authority, on the 22<sup>nd</sup> June 2009.

Email from Mr D Ormesher received on the 18<sup>th</sup> August 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) 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 (including Bank Holidays) 11:00 to 23:30

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 collection, shall not take place outside of the following hours:

Monday to Saturday: 07:30 to 20:00

Sunday and Bank Holidays: 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 (1995).

5) Notwithstanding the details submitted on drawing 891/09/11 A, 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.

6) Before the use 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. The acoustic treatment shall then remain in situ for as long as the premises remains in use as a hot food takeaway.

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

7) All windows and doors, at the rear of the premises, are to remain closed after 7pm, this includes the removal of refuse at the rear, unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Crofton Street, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

8) 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 approved scheme shall then be implemented before the use hereby approved commence and remain in situ for as long as the development remains in use

Any security shutters approved (or existing) 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).

9) The refuse arrangement hereby approved (on drawing 891/09/11a stamped as received by the City Council, as Local Planning Authority, on the 19<sup>th</sup> August 2009 and Waste management strategy stamped as received by the City Council, as Local Planning Authority, on the 22<sup>nd</sup> June 2009) shall be implemented prior to the first use of the premises and shall remain in situ for as long as the development remains in use.

#### Reason

In the interest of public amenity pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in 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: 090413/FU/2009/S1 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  
South Manchester Regeneration  
Greater Manchester Police  
Judith Hackney, Crime Reduction Officer  
South Rusholme Residents Association  
Great Western Street Residents Association  
Environmental Health  
South Manchester Regeneration  
Great Western Street Residents Association  
South Rusholme Residents Association  
Judith Hackney, Crime Reduction Officer  
Greater Manchester Police  
394 Claremont Road, Manchester, M14 7PB  
357a, Claremont Road, Manchester, M14 7NB  
359a, Claremont Road, Manchester, M14 7NB  
Younis Cash & Carry, 357-359, Claremont Road, Manchester, M14 7NB  
396 Claremont Road, Manchester, M14 7PB  
380 Claremont Road, Manchester, M14 7WB  
384 Claremont Road, Manchester, M14 7WB  
388 Claremont Road, Manchester, M14 7WB  
386 Claremont Road, Manchester, M14 7WB  
111 Crofton Street, Manchester, M14 7ND  
109 Crofton Street, Manchester, M14 7ND  
76 Crofton Street, Manchester, M14 7ND  
74 Crofton Street, Manchester, M14 7ND  
Flat, 341 Claremont Road, Manchester, M14 7NB

72 Crofton Street, Manchester, M14 7ND  
341 Claremont Road, Manchester, M14 7NB  
70 Crofton Street, Manchester, M14 7ND  
68 Crofton Street, Manchester, M14 7ND  
Iqbal Newsagents & Greengrocers, 343 Claremont Road, Manchester, M14 7NB  
343a, Claremont Road, Manchester, M14 7NB  
A M Strafford & Sons Ltd, 345-347, Claremont Road, Manchester, M14 7NB  
113 Crofton Street, Manchester, M14 7ND  
382 Claremont Road, Manchester, M14 7WB  
378 Claremont Road, Manchester, M14 7WB  
376 Claremont Road, Manchester, M14 7WB  
372 Claremont Road, Manchester, M14 7WB  
374 Claremont Road, Manchester, M14 7WB  
370 Claremont Road, Manchester, M14 7WB  
368 Claremont Road, Manchester, M14 7WB  
366 Claremont Road, Manchester, M14 7WB  
349 Claremont Road, Manchester, M14 7NB  
390 Claremont Road, Manchester, M14 7WB  
Afro Caribbean Beauty Salon, 351 Claremont Road, Manchester, M14 7NB  
351a, Claremont Road, Manchester, M14 7NB  
Totesport, 353 Claremont Road, Manchester, M14 7NB  
355 Claremont Road, Manchester, M14 7NB  
392 Claremont Road, Manchester, M14 7PB  
42 Santiago Street, Manchester, M14 4BL  
44 Santiago Street, Manchester, M14 4BL  
40 Santiago Street, Manchester, M14 4BL  
Great Western Street Residents Association, C/o Alexandra Park Housing Office,  
Alexandra Park Estate, Moss Side, Manchester, M16 7WD

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

Great Western Street Residents Association, C/o Alexandra Park Housing Office,  
Alexandra Park Estate, Moss Side, Manchester, M16 7WD  
Mr Amir Tabatabaei 388 Claremont Road Moss Side Manchester M14 7WB

**Relevant Contact Officer :** Jennifer Atkinson

**Telephone number :** 0161 234 4517

**Email :** j.atkinson@manchester.gov.uk