

Application Number	Date of Appln	Committee Date	Ward
085693/JO/2008/N1	25th Feb 2008	24th Jul 2008	Higher Blackley Ward

Proposal Variation of Condition No. 2 to allow opening from 7 a.m. to 10.00pm Monday to Sunday

Location 250 Middleton Road, Blackley, Manchester, M8 4WA

Applicant T Js Cafe Deli Sandwich Bar, 250 Middleton Road, Blackley, Manchester, M8 4WA

Agent

Description

Members will recall that planning permission for change of use of ground floor of 250 Middleton Road from financial professional services to a cafe and sandwich bar (sui- generis) was approved by the Highways and Planning Committee at its meeting held on 18 January 2007 subject to a number of conditions including the following opening times Monday to Fridays 7.00am to 2.00pm and Saturdays 7.00am to 1.00pm. (application ref 081253/fu/2006/n1). A subsequent application to vary the opening times to allow opening until 3.00pm Mondays to Fridays and to allow Sunday opening from 8.00am to 1.00pm was approved in September 2007 (application ref 083626/JO/2007/N1).

This application seeks permission to open daily until 10.00pm.

The cafe/ sandwich bar is located in a parade of six shops on the eastern side of Middleton Road. It is situated next to a restaurant at 252 Middleton Road. There is a 24 hour petrol filling station on the opposite side of road and a parade of 7 shops including a small bar and hot food take away shop. There are residential properties to the rear on Welford Avenue and Windle Road.

Parking is available in the forecourt to the front of the premises.

Consultations

Local Residents One resident has written to object main grounds of concern is parking as vehicles park on footpath making it difficult for pedestrians to get on to bus at the bus stop. The poor condition of the footpath is raised. Concern is also expressed about adequacy of fume extraction. Residents were re-consulted following reduction of opening times from midnight to 10.00pm and the resident has re-iterated their previous concerns.

Local Businesses . A letter of objection has been received from the owner of adjoining restaurant who has also raised concerns about parking as it is considered that it will be a problem for his customers and for customers to the cafe.

Environmental Health - have said that the proposal would need a licence if activity takes place after 11.00pm.

Licensing Unit - a premises licence will need to be submitted if it is to open after 11.00pm

Dennis Brogan, Crime Reduction Officer - no objection from a crime perspective.

Issues

Unitary Development Plan Policies DC10 Food and Drink Uses and H2.2 . protection of residential areas from inappropriate development are relevant.

Policy DC10 The proposal is located in a parade of six shops. The original proposal which was aimed at the breakfast /lunchtime trade and it was considered that it could be accepted as an exception to the normal policy of only permitting such uses in parades of eight or more shops; as it would not cause residential disamenity problems operating at these times of the day. The opening times now proposed involving the early and late evening has the potential to reduce residential amenity. However, the cafe is a small venture with five tables and the proposed opening times are less than the standard hours of 11.30 Sunday to Thursday and midnight Friday and Saturdays attached to this type of use in similar locations and on this basis it is considered that the revised opening times should not result in a significant loss of residential amenity.

Impact on residential amenity There are residential properties to rear on Welford Road. . However, the cafe is situated next to a larger restaurant that has a late night refreshment licence to open until 12.30 am Monday to Saturday and midnight on Sundays. Due to the small number of tables available in the cafe it is considered that the additional comings and goings in the evening/ early night should not cause any undue amenity problems. . An external flue has been fitted at the rear of the of the café. The conditions attached to the original permission will be attached to protect amenity.

Parking. There is a wide private forecourt that goes across the front of the shops in this parade and there is room for about 12 cars to park. These are quite well used during the day whilst the shops are open but there is likely to be more available in the evening for customers to use.

Anti- Social Behaviour The Crime Reduction Officer has confirmed that there are no objections from a crime perspective. No complaints have been received since the cafe has been in operation.

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 accords with the development plan in particular policy H2.2 of the City Council's Unitary Development in that the extension of the opening times will not significantly affect residential amenity and there are no material considerations of sufficient weight to indicate otherwise.

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:-

Monday to Fridays 7:00am to 10:00 pm
Saturdays 7:00am to 10:00 pm
Sundays 8.00am to 10.00 pm.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, in particular due to noise and disturbance, pursuant to policy H2.2 and DC10.4 of the adopted Unitary Development Plan for the City of Manchester.

2) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours 0.7.30 am to 8.00pm Monday to Saturdays, 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 adopted UDP.

3) The development hereby approved shall be carried out in accordance with the drawings stamped as received by the Local Planning Authority on 7 and 24 November 2006, 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.

4) 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.

5) Before first occupation of the development 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 of the Manchester Unitary Development Plan.

6) The window glass of the shopfront shall not be obscured by security shutters or grilles between the hours of 9.00 am to to 6.00 pm Monday to Saturdays excluding Sundays and Bank Holidays.

Reason

In the interests of visual amenity of the area pursuant of policies S2.5 and E3.3 of the Unitary Development Plan for the City of Manchester.

7) 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 adopted UDP

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: 085693/JO/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:

Environmental Health
Director Of Housing
Environment & Operations (Highway Authority)
Licensing Unit
Greater Manchester Police
Dennis Brogan, Crime Reduction Officer

Glasscutters Uk, 295 Middleton Road, Manchester, M8 4LY
Endhill Properties Ltd, 283 Middleton Road, Manchester, M8 4LY
242a, Middleton Road, Manchester, M8 4WA
Cheers, 281 Middleton Road, Manchester, M8 4LY
The Vac Hospital, 285 Middleton Road, Manchester, M8 4LY
Doubleforce Ltd, 287 Middleton Road, Manchester, M8 4LY
The Property Office, 287-289, Middleton Road, Manchester, M8 4LY
Fu Kwai Take Away, 291 Middleton Road, Manchester, M8 4LY
Mister Ali`s Restaurant, 293 Middleton Road, Manchester, M8 4LY
Lee Chemist, 248 Middleton Road, Manchester, M8 4WA
Impact Learning Centre, York House, 250 Middleton Road, Manchester, M8 4WA
Tandoori Nights, 252 Middleton Road, Manchester, M8 4WA
254 Middleton Road, Manchester, M8 4WA
256 Middleton Road, Manchester, M8 4WA
Pace Hairdressing, 283a, Middleton Road, Manchester, M8 4LY
1 Windle Avenue, Manchester, M8 4NY
3 Windle Avenue, Manchester, M8 4NY
5 Welford Road, Manchester, M8 4NZ
7 Welford Road, Manchester, M8 4NZ
10 Welford Road, Manchester, M8 4NZ
12 Welford Road, Manchester, M8 4NZ
Post Office, Bowker Vale Post Office, 242 Middleton Road, Manchester, M8 4WA
Aleef Garages Ltd, Middleton Road, Manchester, M8 4LY
The Barbers, 295 Middleton Road, Manchester, M8 4LY
New Image, 246 Middleton Road, Manchester, M8 4WA
Tan 2 Own, 244 Middleton Road, Manchester, M8 4WA
Lancastrian Estates, 283 Middleton Road, Manchester, M8 4LY
T Js Cafe, 250a, Middleton Road, Manchester, M8 4WA
Euro Kitchens, 283 Middleton Road, Manchester, M8 4LY
Epstein, 250 Middleton Road, Manchester, M8 4WA

Representations were received from the following third parties:

Environmental Health
Licensing Unit
Dennis Brogan, Crime Reduction Officer

Relevant Contact Officer : David Hughes
Telephone number : 0161 234 4636
Email : d.hughes3@manchester.gov.uk