

Application Number	Date of Appln	Committee Date	Ward
089910/JO/2009/N1	2nd Jun 2009	23rd Jul 2009	Higher Blackley Ward

Proposal Application to vary condition 2 of planning approval 052883 to allow opening from 11.00am to 21.00pm seven days a week

Location 293 Victoria Avenue, Blackley, Manchester, M9 0NG,

Applicant Mr Solomon Papaloizou , 7 Buttercup Close, Atherton, Bolton, M46 9TW

Description

The Site - This application relates to an existing fish and chip shop premises located at 293 Victoria Avenue in the Blackley area of North Manchester. The premises is located in a parade of 6 shops that is on the corner of Victoria Avenue and Tweedle Hill Road. The fish and chip shop use was given approval in November 1997 and the trading hours at that time were restricted by condition to 11.00 to 18.30 Monday to Saturday (App. 052883). The application site is in a residential area, although it should be noted that Victoria Avenue is a busy road that handles a large amount of traffic. The nearest house to the application site is the house on the corner of Tweedle Hill Road and Addingham Close which is approximately 15m from the back of the building on the application site.

Planning History - As stated above, the use of the site for a hot food take away was given permission in 1997 and the hours of operation were restricted via condition. In January 2008, an application was submitted to vary the trading hours at the site from 11.00 to 18.30 Monday to Saturday to 10.00 to 22.00 seven days a week. This application (ref. 088892) was refused. It was considered that the hours as applied for were unacceptable at the application site as there would be a detrimental impact on residential amenity within the area. It was considered that such an increase in trading hours would have lead to a greater number of comings and goings and general disturbance late into the evening that would be to the detriment of residential amenity within the area.

The Proposal - Planning permission is sought to vary the trading hours (condition no. 2 attached to approved application 052883) at the fish and chip shop from 11.00 to 18.30 Monday to Saturday to 11.00 to 21.00 seven days a week. This would mean operating hours of 1 hour less at each end of the day when compared to the hours applied for under application 088892 that was refused earlier this year.

Consultations

Neighbours - Occupiers of properties surrounding the application site were notified of the proposal. 2 letters of objection have been received where the main concerns relate to the fact that the application site is situated in a residential area, fears that the extension of the trading hours would erode the quality of life in the area, and concerns that the extension in trading hours would lead to increased traffic noise, disturbance, litter and gangs of youths in the area.

Environmental Health - Stated that a condition relating to delivery and servicing hours should be applied to any approval granted

Dennis Brogan, Crime Reduction Officer - No objections from a crime prevention perspective

Greater Manchester Police - Having viewed the proposals and looked at local intelligence, have no comments on this occasion

North Manchester Regeneration Team –

1. The principle of use has already been established on this premises and I understand that trading for a take away that restricts operational hours to 6.30pm would bring the business viability into question. However this trading restriction on an earlier application on this site was presumably done so to address local amenity concerns. The restriction of trading to 6.30 pm ensures that disturbance/ amenity issues are kept within normal working day hours when many residents are out at work etc which makes sense in that this is primarily a residential area.
2. In terms of general principles NMRT have consistently sought to discourage hot food take aways in Higher Blackley area because there is already an over supply in the area which can / do cause environmental problems with regards noise, parking and litter. There is also the potential crime and disorder (ie trouble with youths) issues associated with the later opening time which would no doubt be of concern to some local residents.
3. Bearing in mind the previous decision, current objections, the amenity and crime and disorder concerns and the NMRT general policy on hot food take away's, I really would not want to support the removal of this trading hours restriction. Any increase in trading for hot food takeaways should be discouraged in the area.
4. I note the adjacent premises have different/more favourable trading hours, the applicants intentions to restrict trading to 9pm in the evening, and as such you may be minded to recommend approval of the application. If this is the case I would suggest that a temporary approval be considered to assess the impact of increased trading hours.

Issues

Planning Policy Guidance Note 24 (PPG24) 'Planning and Noise' - Paragraph 12 of PPG24 states that people are normally sleeping between 23.00 and 07.00. As the proposed hours of operation for the business are outside these hours, i.e. the business would only operate between 11.00 and 21.00 when people would not normally be sleeping, the proposal is consistent with the guidance in PPG24.

The Regional Spatial Strategy (RSS) for the North West of England policy DP2 promotes sustainable communities by focusing on achieving a high quality of life and fostering sustainable relationships between homes, workplaces and other concentrations of regularly used facilities and services. It is considered that the proposed extension of opening hours proposed at the application site is acceptable and therefore consistent with this policy.

Unitary Development Plan for Manchester - The relevant UDP policies in this instance are policies H2.2 'Housing' and DC10 'Food and Drink Uses'.

Policy H2.2 states that the Council will not allow development that would have an unacceptable impact on residential areas. It is not considered that an extension of the opening hours to 9pm seven days a week would result in an unacceptable impact in the local area and so the proposal is considered to be acceptable.

Policy DC10 relates to food and drink uses and states that in determining applications for such uses, one of the factors that the proposal will be measured against is the effect of the proposal on the amenity of neighbouring residents. As stated above it is not considered that the extension of the opening hours for the chip shop located at 293 Victoria Avenue would adversely affect the amenity of nearby residential occupiers, so the proposal is consistent with this policy.

The effect of the increase in trading hours on residential amenity within the area - As stated above, previously refused application 088892 proposed trading hours of 10.00 to 22.00 seven days a week. The current application has reduced the hours proposed to 11.00 to 21.00. It is acknowledged that the previous application submitted earlier on this year (App. 088892) was refused as it was considered that the extension of trading hours to 10.00 to 22.00 seven days a week would cause an unacceptable increase in the number of comings and goings and general disturbance late into the evening which would be to the detriment of residential amenity.

The applicant has stated that the business is not economically viable with the current closing time of 6.30pm. It is therefore necessary to assess the potential impact on local residents of an additional two and a half hours of opening. On balance it is considered that a 9pm closing time would be more reasonable than the previously proposed closing time of 10pm. As the evening progresses there is a general reduction in traffic and activity and it is considered that a closing time of 9pm would allow for a quiet environment into the later hours. It is acknowledged that raising the closing time for the business from 6.30pm to 9pm would cause a greater number of comings and goings at this particular parade of shops slightly later into the evening, but as stated above, 9pm is considered to be a reasonable time for a chip shop business to close in these particular circumstances.

The application property is not directly opposite any residential properties, as the nearest properties are actually in a street to the side of the parade of shops. In addition, there is a local convenience store on the parade that is open until at least 9pm, so the chip shop would not be the only business open until this time. It should also be noted that both officers from the Design for Security Section and the Crime Reduction Unit of Greater Manchester Police were consulted on the application, and both stated that they had no objections to the proposed extension in trading hours. The City Council's Environmental Health Section were also consulted on the proposal and they too had no objections, subject to a condition being imposed on any approval granted relating to delivery and servicing hours. On balance, having examined the potential impact of the proposal carefully, it is considered that the proposed extension in trading hours to 11.00 to 21.00 seven days a week is acceptable in terms of its impact on residential amenity within the area.

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 in the light of policy DP2 of the Regional Spatial Strategy and policies H2.2 and DC10 of the Unitary Development for Manchester on the bases that the proposed extension in trading hours would not adversely affect residential amenity within the area

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:-

11.00 to 21.00 Monday to Sunday

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.

2) 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 UDP policy H2.2

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 - To protect residential amenity, pursuant to UDP policy H2.2

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: 089910/JO/2009/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

Dennis Brogan, Crime Reduction Officer

Greater Manchester Police

North Manchester Regeneration Team

277 Victoria Avenue, Manchester, M9 0NG

279 Victoria Avenue, Manchester, M9 0NG

1 Ryther Grove, Manchester, M9 0NT

3 Ryther Grove, Manchester, M9 0NT

5 Ryther Grove, Manchester, M9 0NT

2 Addingham Close, Manchester, M9 8LF

4 Addingham Close, Manchester, M9 8LF

2 Longhurst Road, Manchester, M9 8NS

6 Addingham Close, Manchester, M9 8LF

8 Addingham Close, Manchester, M9 8LF

10 Addingham Close, Manchester, M9 8LF

28 Tweedle Hill Road, Manchester, M9 8LP

26 Tweedle Hill Road, Manchester, M9 8LP

24 Tweedle Hill Road, Manchester, M9 8LP

22 Tweedle Hill Road, Manchester, M9 8LP

20 Tweedle Hill Road, Manchester, M9 8LP

18 Tweedle Hill Road, Manchester, M9 8LP

16 Tweedle Hill Road, Manchester, M9 8LP

11 Tweedle Hill Road, Manchester, M9 8LA

14 Tweedle Hill Road, Manchester, M9 8LP

9 Tweedle Hill Road, Manchester, M9 8LA

7 Tweedle Hill Road, Manchester, M9 8LA

12 Tweedle Hill Road, Manchester, M9 8LP

5 Tweedle Hill Road, Manchester, M9 8LA

10 Tweedle Hill Road, Manchester, M9 8LP

3 Tweedle Hill Road, Manchester, M9 8LA

8 Tweedle Hill Road, Manchester, M9 8LP

The Crispy Cob, 1a, Tweedle Hill Road, Manchester, M9 8LA

1 Tweedle Hill Road, Manchester, M9 8LA

6 Tweedle Hill Road, Manchester, M9 8LP

4 Tweedle Hill Road, Manchester, M9 8LP

Goldilocks, 3a, Tweedle Hill Road, Manchester, M9 8LA

2 Tweedle Hill Road, Manchester, M9 8LP

293b, Victoria Avenue, Manchester, M9 0NG
Farrow Fish & Chips, 293-293a, Victoria Avenue, Manchester, M9 0NG
291 Victoria Avenue, Manchester, M9 0NG
Post Office, Higher Blackley Post Office, 289 Victoria Avenue, Manchester, M9 0NG
287a, Victoria Avenue, Manchester, M9 0NG
Spar Stores, 287 Victoria Avenue, Manchester, M9 0NG
Ladbrokes Ltd, 285 Victoria Avenue, Manchester, M9 0NG
164 Crab Lane, Manchester, M9 8WD
166 Crab Lane, Manchester, M9 8WD
168 Crab Lane, Manchester, M9 8WD
170 Crab Lane, Manchester, M9 8WD
172 Crab Lane, Manchester, M9 8WD
281 Victoria Avenue, Manchester, M9 0NG
283 Victoria Avenue, Manchester, M9 0NG

Representations were received from the following third parties:

Environmental Health
Dennis Brogan, Crime Reduction Officer
Greater Manchester Police
North Manchester Regeneration Team
2 Tweedle Hill Road, M9 8LP
4 Tweedle Hill Road, M9 8LP

Relevant Contact Officer : Carolyn Parry
Telephone number : 0161 234 4022
Email : c.parry@manchester.gov.uk