

List No. 10

Northenden Ward	Application Number 081646/JO/2006/S2	Date of Appln 12th Dec 2006	Committee Date 15th Feb 2007
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Proposal Variation of Condition No 4 attached to application 074782/JO/2005/S2 to allow the premises to open between 10.30am to 9.00pm seven days a week

Location 375 Palatine Road, Northenden, Manchester, M22 4FY,

Applicant Adrian Burch, 375 Palatine Road, Northenden, Manchester, M22 4FY,

Agent

Description

This application was placed before the Wythenshawe Area Committee on 25th January 2007. At that meeting a decision was taken to recommend that the proposal be refused, due to its detrimental impact upon the levels of residential amenity enjoyed by local residents, and that the proposal be referred to the next available Planning and Highways Committee.

The application relates to a mid-terraced, former retail unit currently used as a health studio and located within a parade of shops in Northenden District Centre. The adjoining properties in the parade are in commercial use on the ground floor with residential accommodation above. To the rear of the property is a car park for the use of health studio customers, accessed from Palatine Road at a point between 377 and 379 Palatine Road. The car park borders the rear gardens of residential properties on Allanson Road and Church Road.

When originally approved in 2003, the health studio was conditioned to open between 10.00am to 8.00pm on Mondays to Saturdays and between 10.00am to 6.00pm on Sundays.

Consent to vary the hours of opening to between 10.00am to 10.00pm seven days a week was refused, under reference 070990/JO/2004/S2 on 20th May 2004, for the following reason:

“The proposed increase in hours of operation would be detrimental to the residential amenities of the occupiers of the nearby residential dwellings arising from both its close proximity to those dwellings and also as a consequence of the noise and nuisance arising from the additional activity and the traffic generated by the additional hours of use. The proposal is therefore contrary to Policy DC26 and Policy H2.2 of the Unitary Development Plan for the City of Manchester.”

Following this refusal the applicant obtained planning permission, granted under application 074782/JO/2005/S2, to open the premises between 10.00am and 8.00pm seven days a week, i.e. to extend the Sunday opening hours by a further two hours.

This application seeks consent to allow the premises to open between 10.30am to 9.00pm seven days a week

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Consultations

Local Residents/Businesses – Letters of objection has been received from 2 local residents, the main points of which are outlined below:

- The proposal will encourage extra traffic into the car park are the rear of the site.
- The additional hours of operation will have a detrimental impact upon existing levels of residential amenity, due to the comings and goings of customers and the resultant noise associated with them.
- Access is blocked behind 373 Palatine Road. This creates a problem of traffic flow and causes nuisance by customers sounding their horns. The blocked access needs to be removed for this application to succeed.

Northenden Civic Society – The objections raised by the Civic Society make reference solely to non-planning related issues.

Greater Manchester Police – No objections.

Head of Environmental Health – Any comments will be reported at the committee.

Issues

Unitary Development Plan (UDP) – There are no specific policies regarding the site. However, when dealing with applications of this nature, consideration is given to policies H2.2 and DC26 in the UDP.

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 DC26 (Development and 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 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.

The policy continues further stating that developments likely to result in unacceptably high levels of noises will not be permitted:

- a) in residential areas;

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b) near schools, hospitals, nursing homes and similar institutions;

c) near open land used frequently for recreational purposes.

Where the Council believes a new proposal might generate potentially unacceptable levels of noise, it will require the applicant to provide an assessment of the likely impact and of the measures proposed to deal satisfactorily with it. Such measures might include engineering solutions, including reduction of noise at source, improving sound insulation of sensitive buildings or screening by purpose-built barriers.

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:

DP2 (Enhancing the Quality of Life) - ensuring development provides a high quality of life for this and future generations

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

Policy DP1 (Regional Development Principles) - Proposals and schemes must demonstrate excellent design quality, sustainable construction, efficiency in resource use and respect for their physical and natural setting

Principle – In the immediate vicinity of the site a number of properties have obtained planning permission to operate up to and beyond 10.00pm, the details are as follows:

- Nos. 369-371 Palatine Road (Class A2 – betting shop) has permission to open between 9.00am to 10.00pm seven days a week.
- The ground floor of no. 375 Palatine Road (Class A5 – hot food takeaway) has permission to open between 8.00am to 11.30pm on Sundays to Thursdays and between 8.00 am to midnight on Fridays and Saturdays.
- No. 377 Palatine Road (Class A4 – drinking establishment) has obtained permission, via a variation of condition application to open between 11.00am to 10.00pm on Mondays, 11.00am to 11.00pm on Tuesdays to Saturdays and between 11.00am to 10.30pm on Sundays.

Given the approved opening hours of these properties it is considered that the principle of this proposal is potentially acceptable.

Residential Amenity – Given the opening hours of the adjacent premises outlined above and the resultant activity in the locality, it is not felt that the proposed additional hour of opening would have a detrimental impact upon the

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levels of residential amenity enjoyed by the occupants of the adjoining first floor flats.

The proposed extension of opening hours may have an impact upon noise levels in the gardens along Allanson Road and Church Road. However, the level of traffic movements generated over during this extra hour long period is likely to be minimal and is therefore unlikely to make this impact significant.

Car Parking – A surface car park lies to the rear of the application site. Existing off-street provision is therefore considered adequate to meet the needs of the proposed extended hours.

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)/objectors/residents 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 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.

Recommendations

Head of Planning: APPROVE on the basis that the proposal will not have a detrimental impact upon current levels of residential amenity and it is in accordance with the Unitary Development Plan for the City of Manchester, in particular policies H2.2 and DC26 and there are no material considerations of sufficient weight to indicate otherwise.

Wythenshawe Area Committee: REFUSE on the basis that the proposal would have a detrimental impact upon existing levels of residential amenity.

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.

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2) The development hereby approved shall be carried out in accordance with the documentation stamped as received by the Local Planning Authority on 11th December 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, pursuant to Policies H2.2 and Dc26 in the Unitary Development Plan for the City of Manchester

3) Before the use commences, the building, together with any externally mounted ancillary equipment, shall be acoustically insulated in accordance with a scheme submitted to and approved by the City Council in order to secure a reduction in the level of noise emanating from the site/property.

Reasons

To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Policies H2.2 and DC26 in the Unitary Development Plan for the City of Manchester.

4) The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as Local Planning Authority:-

10.30 am to 9.00 pm

Deliveries, servicing and vehicle/equipment movements on the premises or outdoor parking/amenity areas shall be restricted to the above opening hours.

Reason

To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies H2.2 and DC26 in the Unitary Development Plan for the City of Manchester.

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: 081646/JO/2006/S2 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 all held by the Planning Division.

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

Northenden Civic Society

Greater Manchester Police

349A - 389a Palatine Road, Manchester, M22 4FY

366 - 376 Palatine Road, Manchester, M22 4FZ

1 Heyridge Drive, Manchester, M22 4HB

52 – 62 Allanson Road, Manchester, M22 4WW

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Representations were received from the following third parties:

G Ranshi, 379 Palatine Road, Manchester, M22 4FY
Mr Khan, Palatine Road
Northenden Civic Society
Greater Manchester Police

Relevant Contact Officer: : David Lawless
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