

List No.

Gorton North Ward	Application Number 078184/FU/2006/N2	Date of Appln 31st Jul 2006	Committee Date 15th Feb 2007
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Proposal Retrospective application for change of use of retail shop to cafe (class A3)

Location 275 Abbey Hey Lane, Gorton, Manchester, M18 8RH,

Applicant Mrs J Christy 14 Lunn Avenue, Abbey Hey, Manchester, M18 8XR

Agent**Description**

This application, for retrospective planning permission, relates to a terraced shop unit in a parade of 6, in a small local shopping parade. The property is adjacent to an existing take-away hot food shop and there are residential properties to the rear and opposite. The premises have previously been used as an A1 retail shop and have now been converted into a café with seating for 14 people. No external alterations have taken place. The hours of operation are 7.00 am to 2.30 pm Monday to Friday, 9.00 am to 2.00 pm Saturday and 9.30 am to 1.00 pm on Fridays and Sunday.

Consultations

Local residents/Adjoining occupiers - The occupier of the adjoining hot food take-away has objected to the application. They feel it leads to school children staying at the premises, rather than returning to school and feel it is unfair on their own business.

Abbey Hey Tenants and Residents Association - Expressed concerns about matters such as fumes, refuse disposal, litter, disabled persons access, hours of operation, and level of use. They feel that the proposal is leading to rubbish being left in the rear alleyway, and this is an ongoing problem. Also, they state that most of the trade appears to be take-away sales to the building site and nearby school.

Ward Councillors - Two ward councillors have expressed some concerns about the use, but no formal comments have been received.

Head of Environmental Health - No objections, subject to conditions.

Greater Manchester Police - No objections.

Licensing - There has been no application for a license at the premises.

New East Manchester - no comments received.

Issues

Regional Planning Guidance - There are no relevant policies.

Unitary Development Plan - The site is unallocated in the plan.

List No.

Unitary Development Plan Policies:

DC10.1 - 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.

DC10.2 - 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.

DC10.3 - 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.

DC10.4 - 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.

H2.2 - 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.

Principle of use - Whilst the location of the site does not meet the criteria, listed in Policy DC10.2, where uses of this nature are generally accepted, the property does lie in the middle of a parade of shops, with no ground floor adjoining residential accommodation. Also the proposed hours of operation mean this would be an early morning to mid afternoon use, with no late night or evening use of the premises, when uses of this nature often cause most disturbance to residents. The impact of the unit, in terms of nuisance and comings and goings, is therefore unlikely to be any different from other shops on this parade, and, on this basis, it is considered that the proposal can be accepted as an exception to the policy. It should be noted that the Food and Drink Policy DC10 was drafted at the time when A3 uses covered a range of uses including restaurants, public houses and hot food take away shops. This application is for a cafe use which will include consumption of food on the premises. The general principle of the use is therefore considered to be acceptable.

Vitality of the Shopping Centre There is a good mix of facilities available to residents at this local centre and it is considered that the change to a café, of this unit, will not have any significant impact on the vitality of this parade.

Residential Amenity - Uses of this nature undoubtedly have some impact upon surrounding occupiers and there are residential properties situated nearby. However, the cafe is situated in a fairly active local centre and it is considered that the additional comings and goings in the mornings should not lead to any

List No.

noticeable increase in residential amenity problems. The main concerns of the Tenants and Residents Association appears to be the amount of litter/rubbish generated by the use, the extraction of fumes and the level of take-away sales from the premises. The applicant has stated that no take-away sales occur, from the premises, and the granting of an A3 use would allow a café/restaurant use only, for food to be consumed on the premises only. Occasional take-away sales would be considered as an ancillary use of the premises, but the granting of this permission would not allow for take-away sales to be a major use of the premises. The applicant has stated that the extraction hood doesn't need a duct as it is circulatory, but further clarification is needed on this arrangement. Also, with the imposition of conditions, in relation to matters such as hours of operation, noise, extraction of fumes and refuse, it is considered that the use of the premises would be controlled and any impact on the residential amenity of the occupiers of nearby residences would be minimal.

Disabled Persons Access - The applicant has confirmed that the property has level access and a public toilet, which is accessible by a disabled person.

Parking - The cafe could attract passing motorists and this would put further pressure on the limited off-street spaces that are available, though it should be noted that the premises could open as a retail outlet without requiring an application for planning permission and this would also add to the parking problems

Anti-Social Behaviour - As the cafe will only open in the mornings it is considered that it will not give rise to any problems in relation to anti-social behaviour.

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.

Recommendation APPROVE

on the basis that the proposal is in accordance with Policies DC10 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.

List No.

Conditions and/or Reasons

1) The development hereby approved shall be carried out in accordance with the drawings stamped as received by the Local Planning Authority on 30th March 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 DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

2) 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 Friday 7.00 am to 2.30 pm
Saturday 9.00am to 2.00pm
Sunday and Bank Holidays 9.00am to 4.00pm.

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 DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

3) Within 3 months of the date of this permission, a scheme for the extraction of any fumes, vapours and odours from any kitchen areas within the development hereby approved shall be installed, in accordance with a scheme submitted to, and approved in writing by, the City Council as Local Planning Authority.

Reason - In the interests of the amenities of the occupiers nearby properties, pursuant to policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

4) Within 3 months of the date of this permission, 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 policies DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

5) Within 3 months of the date of this permission, 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.

List No.

Reason - In the interests of amenity and public health, pursuant to policies DC10 and H2.2 of 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: 078184/FU/2006/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 all held by the Planning Division.

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

Greater Manchester Police
Licensing Unit
New East Manchester
Head of Environmental Health
273 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
Krazy Kutz, 269 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
Britannia Wines, 279 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
Sunny Fish & Chips, 277 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
275 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
264 Abbey Hey Lane, Gorton North, Manchester, M18 8RP
262 Abbey Hey Lane, Gorton North, Manchester, M18 8RP
260 Abbey Hey Lane, Gorton North, Manchester, M18 8RP
258 Abbey Hey Lane, Gorton North, Manchester, M18 8RP
271 Abbey Hey Lane, Gorton North, Manchester, M18 8RH
53 Harrop Street, Gorton North, Manchester, M18 8RN
51 Harrop Street, Gorton North, Manchester, M18 8RN
49 Harrop Street, Gorton North, Manchester, M18 8RN
47 Harrop Street, Gorton North, Manchester, M18 8RN

Representations were received from the following third parties:

Relevant Contact Officer:	: Ian Jarvis
Telephone No.	: (0161) 234 4079
Email	: i.jarvis@manchester.gov.uk