

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
111523/FU/2016/S1	15th Mar 2016	2nd Jun 2016	Old Moat Ward

**Proposal** Change of use from shop (Class A1) to cafe/ice cream parlour (Class A3)

**Location** Unit 1C, 160 - 164 Wellington Road, Withington, Manchester, M20 3FU

**Applicant** Mr Azmier Ahmed , Ice Shack Ltd, Unit 1C, 160 - 164 Wellington Road, Withington, Manchester, M20 3FU

**Agent** ,

### Description

This application site relates to a vacant ground floor retail unit (Class A1) which has never been previously used as a single unit. The property is situated within a modern, three-storey block located on the western side of Wellington Road at the corner of its junction with Rippingham Road. The property's frontage is on Rippingham Road and is located within the Withington Conservation Area.



The property has a large enclosed communal bin storage area to the rear. Adjacent to the premises is a (class A1) newsagents shop to the right hand side and on the other side is a (Class A2) estate agents. Directly above the premises are upper floor flats.

The property is located on the periphery of the district centre with the surrounding area being mixed use in nature comprising a variety of commercial activities. The side roads off Wellington Road, including properties to the rear of the application site are largely residential in character.

Planning permission is sought to change the use of the premises from a vacant shop unit (Class A1) to a café/ice cream parlour (Class A3).

The applicant has stated in the submitted design and access statement on the application forms that the existing shop front will be retained and no elevational alterations or fume extraction systems are required.

The proposed operating hours of the premises are: Monday to Thursday 12 noon till 8pm; Friday and Saturday 12 noon till 10pm; Sunday and Bank Holidays 12 noon till 8pm.

### **Consultations**

Neighbours – no comments received

Highways - The site is located close to good public transport links via bus services on Wilmslow Road and as the unit is located in a district centre it is likely that the majority of customers will arrive at the shop on foot or by other sustainable means. The proposed change of use is unlikely to have any additional material impact on the local highway compared to the existing permitted A1 use.

Environmental Health – recommend conditions relating to hours of opening, deliveries, acoustic insulation, waste management and fume extraction.

GMP - Have no comments to make on this occasion.

### **Policies**

#### **National Planning Policy Framework**

National guidance can be found in the National Planning Policy Framework (NPPF). The central theme to the NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role (paragraphs 6 & 7).

Paragraphs 11, 12, 13 and 14 of the NPPF outlines a presumption in favour of sustainable development. This means approving development, without delay, where it accords with the development plan. Paragraph 12 provides: Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

As set out in the remainder of this report the proposals are considered to comply with the Manchester Core Strategy and is sustainable development and therefore complies with the National Planning Policy Framework.

## The Development Plan

Manchester's Core Strategy Development Plan Document now forms part of the development plan for Manchester and its policies provide the basis for planning decisions in the City. The Core Strategy replaces a large number of policies in the Unitary Development Plan; however, some of the UDP policies will remain extant until they are superseded by policies in a future Development Plan Document.

Policy SP1 sets out the key spatial principles which will guide the strategic development of Manchester to 2027 and states that outside the City Centre and the Airport the emphasis is on the creation of neighbourhoods of choice. It also sets out the core development principles, including:

- o creating well designed places,
- o making a positive contribution to health, safety and well-being,
- o considering the needs of all members of the community, and
- o protecting and enhancing the built and natural environment.

Policy EN3 - states that throughout the City, the Council will encourage development that compliments and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods. New developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment, the character, setting and accessibility of areas and buildings of acknowledged importance, including conservation areas.

Policy DM1 seeks to protect the amenity of an area from the adverse impact of development including road safety and traffic generation. Consideration will also be given to the appropriateness of the site layout, scale form, massing and materials.

Policy C6 states across the area there is capacity for both further convenience and comparison retailing floorspace. In total, approximately 8,000 square metres of convenience and 4,500 square metres of comparison retail floorspace will be promoted up to 2027. Identified capacity will be directed to Chorlton centre to support more sustainable shopping patterns, with enhanced provision also promoted in Levenshulme. Redevelopment in Chorlton will provide a substantial increase in retail, alongside improvements to other commercial and community services. New development should also make a contribution to the character of the centre, including a range of unit sizes and environmental improvements.

In other centres in South Manchester more moderate expansion of retailing and other services will be supported, appropriate in scale to the role and function of the centre.

In Didsbury, redevelopment opportunities for new development within and on the edge of the centre will be supported, provided they will enhance the range and quality of retail and dining and complement the overall character of the centre.

In Fallowfield and Withington development which creates more diverse centres will be supported, in particular involving improvement to the retail offer to meet the full range of residents in surrounding neighbourhoods and promoting community uses. Development of the University of Manchester facilities adjoining Fallowfield District Centre will be supported as a means of improving the balance of uses within the centre.

Policy C10 states that new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy will be permitted, subject to the following considerations:

1. Cumulative impact - in areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities.
2. Residential amenity - the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.
3. Balance - new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area.

When considering the impact of a proposed bar or hot food take away regard will be had to the above policy and also:

- o The existing number of similar establishments in the immediate area and their proximity to each other;
- o The type and characteristics of other uses, such as housing, shops and public houses;
- o The existence of vacant shop units and the condition of the unit;
- o The importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
- o The character of the centre and its frontage, and the nature of the use proposed;
- o The potential impacts of the proposal on the wider community; and
- o Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

As set out within this report the proposal is considered to accord with the policies of the Core Strategy and will provide a use that compliments the current mix of uses within the district centre.

### **Unitary Development Plan for the City of Manchester (Saved Policies)**

The below saved policies of the Unitary Development Plan are considered relevant:

Policy DC10 (Food and Drink Uses) states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, the Council will have regard to, in this instance:

- o The general location of the proposed development.
- o The effect on the amenity of neighbouring residents.
- o The availability of safe and convenient car parking
- o Access for all
- o The storage and collection of refuse.

As set out within the issues section of this report the proposal is considered to be acceptable in this location and accords with policy DC10.

Policy DC26 - seeks to reduce the impact of noise generating development. The Council will consider the effect of new development proposals and the implications of new development being exposed to existing noise sources. Developments likely to result in unacceptably high noise levels will not be permitted

This matter is considered in more detail within the issues section of this report but given the proposed use, the proposed opening times and the location of the unit within a busy district centre the proposal is not considered to give rise to unacceptable impacts in terms of noise generation.

### **Issues**

**Principle** - Due to the district centre location of the premises along a commercial frontage containing other similar uses, the principle of the proposed use is considered to be acceptable and broadly compliant with the principal overarching policy contained within saved policy DC10 of the Unitary Development Plan and C10 of the Core Strategy. These policies consider the impact of food and drink uses and seek to support proposals that contribute to the vitality of centres, in particular those that contribute to the evening economy. Notwithstanding this consideration of the implications of the proposed use in terms of the balance of uses within the district centre, the impacts on residential amenity need to be assessed and are set out below.

**Residential Amenity** - There are residential properties situated nearby, including neighbouring upper floor flats, however, it is considered that there would not be any undue impact upon the amenity levels currently enjoyed by occupants and that any impact can be mitigated by the adoption of the acoustic insulation measures, and a restriction to the opening hours proposed for the premises, these issues can be adequately controlled by appropriate planning conditions.

The application property is located within a district centre which contains a number of businesses which contribute towards the evening economy. Although the application site sits on the junction of a residential side road, with residential properties to the side/rear of the site, it is believed that activities associated with the application property would not encroach on the residential side, and are unlikely to exacerbate existing conditions to such a degree that there would be a significant impact upon residential amenity.

The applicant is not proposing to install any form of extraction system as this is not required for the type of food they wish to provide, if such a system were to be required in the future a separate planning permission would be required at that point.

In light of the above and given the context of the site it is believed that measures proposed and the use of planning conditions would prevent any significant, adverse impact upon residential amenity. On balance, it is considered that the amenity of residents would not be so adversely affected as to warrant refusal in this location,

therefore complying with policies DM1, and C10 of the Core Strategy and saved policies DC10 and DC26 of the UDP.

**Visual Amenity/Impact upon Conservation Area** – There are no changes proposed to the existing shop front, and no extraction system/flue is proposed, therefore, it is not considered that the proposal would have any impact upon visual amenity or the character of the conservation area.

**Refuse Storage** – The submitted application forms state that the application premises will use the existing communal bins which are in built within the development. A condition is recommended to require the final details of the unit's waste management strategy to be submitted prior to the commencement of the change of use, should the application be approved.

**Traffic** – It is not anticipated that there will be any significant increase in traffic to the area, than already exists. Highways have commented that they believe the vast majority of customers will arrive at the shop on foot or by other sustainable means, as the premises is located close to good public transport links, and that the use would not have a materially greater impact upon the highway than the existing Class A1 use.

The proposed change of use to a restaurant (Class A3) would see fewer comings and going than a hot food take-away (Class A5), as by the nature of cafés/restaurants, patrons tend to sit down and eat and stay for prolonged periods, thereby, not facilitating excessive comings and goings.

**Noise** – Environmental Health have requested the addition of conditions relating to fume extraction, however, as no flue or other extraction system is proposed, this is not considered necessary at this time. As stated above planning permission would be required for the installation of a flue. Conditions relating to externally mounted plant equipment are also not considered to be appropriate as none are proposed and would again require planning permission in their own right. Given that the upper floors are in residential use it is considered that a condition requiring acoustic insulation of the premises is relevant and an appropriately worded condition is proposed to be attached to any approval.

The main generator of noise would be the patrons themselves within the premises and as they come and go. In terms of noise generated within the premises appropriate conditions are recommended to limit the breakout of noise, whilst given the location of the premises within a busy district centre it is considered that noise generated from patrons arriving and leaving would not be so significant as to warrant refusal of the application, in particular as the hours of operation being applied for are not considered to be excessive.

**Conclusion** - The proposed development will make a positive impact in terms of bringing a vacant unit into use within the Withington District Centre and is not considered to give rise to unacceptable impacts in terms of residential amenity of the area. The proposal therefore accords with the principles of Core Strategy policies C8, C10, EN3 and DM1 and saved UDP policies DC10 and DC26.

**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 Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning, Building Control & Licensing 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. She 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**

### **Article 35 Declaration**

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

### **Reason for recommendation**

#### **Conditions to be attached to the decision**

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:  
Unit 1C as shown on drawing no. 8458-002, stamped as received 4th March 2016.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Core Strategy.

3) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 0730hrs to 2000hrs, Monday to Saturday, no deliveries/waste collections shall take place on Sundays or Bank Holidays.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties in accordance with saved policy DC26 of the Unitary

Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

4) The premises shall not be open outside the following hours:-  
Sunday to Thursday (and including bank holidays) 1200hrs – 2000hrs  
Friday and Saturday 1200hrs – 2200hrs

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

5) Prior to first use of the premises hereby approved, a scheme for the acoustic insulation and treatment to limit the break out of noise from the premises based upon a noise study of the premises shall be submitted to and approved in writing by the City Council as local planning authority. The development shall incorporate the approved scheme prior to its first use which shall be retained thereafter whilst the use is in operation.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to policies SP1 and DM1 of the Core Strategy.

6) 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 - In the interests of public health and residential amenity and to insure that there is satisfactory refuse facilities prior to the commencement of the change of use pursuant to policies DM1 and SP1 of the Core Strategy.

### **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: 111523/FU/2016/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:**

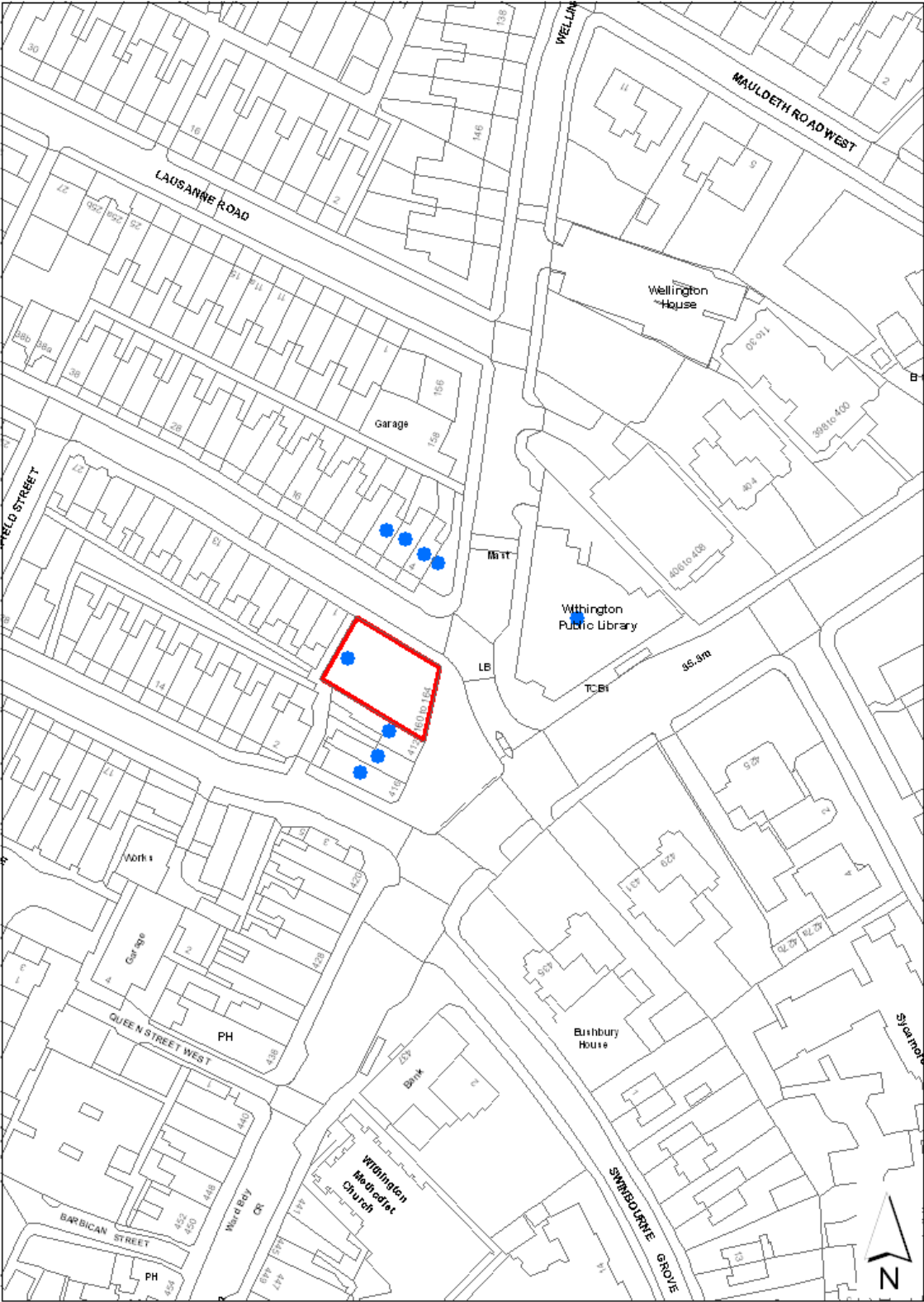
Highway Services  
Environmental Health  
Greater Manchester Police

A map showing the neighbours notified of the application is attached at the end of the report.



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

**Relevant Contact Officer :** Melanie Tann  
**Telephone number :** 0161 234 4538  
**Email :** m.tann@manchester.gov.uk



Application site boundary ● Neighbour notification  
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