

Application Number	Date of Appln	Committee Date	Ward
110977/FO/2016/S1	15th Jan 2016	7th Apr 2016	Old Moat Ward

Proposal Change of use from internet café (Class A1) to café (Class A3) and installation of extraction flue to rear

Location 446 Wilmslow Road, Withington, Manchester, M20 3BW

Applicant Mr Anas Al-Keilani , The Hub Creative Cafe, 446 Wilmslow Road, Withington, Manchester, M20 3BW

Agent Mr Nadir Khan, DK Architects, Sovereign House, Stockport Road, Cheadle

Description

This application relates to a two-storey mid-terrace premises with accommodation space in the roof void. The property is located on the west side of Wilmslow Road within Withington District Centre and Withington Village Conservation Area. The property is currently used as a design café where young professionals and students can work and also purchase food to consume on the premises. The existing floorplans show a counter and kitchen area on the ground floor, a seating area on the first floor and an office in the roof void. It is considered that the current use of the premises based on information available was within Class A1 retail.



There are commercial properties either side of the application site and to the rear is a public car park. The adjoining property to the north appears to have living accommodation at first floor level. Facing the site across Wilmslow Road is a church and further commercial uses, there are double yellow lines in front of the property.

The applicant is seeking to provide hot food prepared on the premises, whilst still offering space for young professionals and students to work including an internet café at first floor level. It is considered that the provision of the sale of hot food at the premises amounts to a change of use from Class A1 to Class A3, internally the layout and usage of the premises would be unchanged. In order to facilitate the sale of hot food on the premises the proposals include for the provision of an external flue to the rear elevation of the premises and the removal of a temporary roof to the rear yard.

The proposed opening hours would be 8:00am to 11:00pm seven days a week, refuse storage would be in the rear yard as per the existing situation.

Consultations

The application has been advertised as a departure from the Development Plan and as one affecting the character of a Conservation Area. A site notice was posted at the site and an advertisement was placed in the Manchester Evening News, in addition adjoining premises were notified of the proposals.

Local residents - 2 letters of objection have been received. The grounds for objecting are summarised below:

- There are far too many eating places in Withington village and we are all struggling to make ends meet;
- People's livelihoods are being ruined by decisions that allow more food and drink uses in the village;
- Withington has gone down because of the occasional theft and other crime;
- The public are not coming to the village in the numbers they used to and business has slowly gone down by more than 50% since early 2000's;
- Object to this planning application due to the fact that the basis of a vibrant village lies in the variety of the businesses that make up the centre. Unfortunately due to lack of vision and the adoption of short term solutions to problems, Withington village has become row after row of fast food shops and outlets which are all struggling to compete with each other a good example of this is 442 Wilmslow Road which in the past 2 years has changed hands 3 times;
- Have been in this village for the past 40 years and seen how this once lively centre has declined. Important buildings such as the historic Cine City cinema have been demolished so that the big money can make more money regardless of the wishes of residents or caring about the long-term character of the village;
- The changes to the village attract drunken crowds resulting in noise and antisocial behaviour which have changed the character of the village and put decent people off coming to Withington.

Environmental Health – Have no objection in principle, subject to conditions to be added to any approval regarding acoustic insulation, hours of opening and delivery times.

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 on the basis it constitutes a sustainable development 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 indicates that 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 scheduled ancient monuments, listed buildings, registered parks and gardens, conservation areas and archaeological remains.

Policy DM1 is relevant to the proposed development as it seeks to protect the amenity of an area from the adverse impact of development including road safety and traffic generation.

Policy C10 is also relevant to the proposed development in that it addresses the evening and night time economy. The policy 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.

Policy EN3 is relevant as the application site is located within the Withington Village Conservation Area and this policy seeks to protect the character of the City's conservation areas from the adverse impact of development.

As set out within this report the proposal for a restaurant at the application property 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 adopted 1995 (Saved Policies)

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

Policy WB6 –is a policy specific to new food and drink uses on the Wilmslow Road frontage within Withington Village. The policy states that further conversion of retail and commercial properties to Class A3 (food and drink) uses will not normally be permitted along Wilmslow Road within Withington Village (at the time the policy was drafted Class A3 included bars and hot food take-aways).

The reason to the policy indicates that the provision of further food and drink uses within the District Centre would: conflict with approved traffic management proposals for Wilmslow Road; result in cumulative visual effects which often require shopfront designs and signs unsympathetic to the properties and incongruous features such as external flue pipes; generate litter; detract from the character of the Withington Conservation Area which is centred upon the shopping centre; and further food and drink uses would erode the retail character of these important frontages within the shopping centre.

The application proposals are for a food and drink use and are therefore considered to be in conflict with policy WB6. Consideration of this issue is set out within the issues section of this report.

Policy DC10 (Food and Drink Uses) is also relevant as it is a citywide development control policy for food and drink uses. The policy 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 DC18 - Seeks to protect the City's conservation areas from inappropriate development and is relevant as the site is located within the Withington Village Conservation Area.

Policy DC26 – is relevant as it 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

Issues

Principle - Whilst saved Unitary Development Plan Policy DC10 establishes the principle of locating food and drink uses in district centres, policy WB6 indicates that such uses would not normally be allowed on the Wilmslow Road frontage within Withington Village of the District Centre, amid concerns that such uses would erode the character of the centre. The principle of a further café/restaurant use would on the face of it appear to conflict with policy WB6 and therefore, a full consideration of the impacts of the proposal on the District Centre are required.

An additional consideration in this instance is the manner in which the premises already operates and has operated for many years. In this regard it is recognised that the premises operates akin to a café as users can consume food purchased in the

unit. The difference with the use now proposed is that there would be a greater emphasis on hot food being prepared and on offer to customers.

Retail character - Due to the existing use and the way in which the proposed use would operate it is not considered that there would be a significant impact on the retail character of the centre as a consequence of the proposal.

In addition surveys of the composition of district centres carried out by the Council in 2009, 2013, and 2015 show that the number of A3 uses in Withington District Centre has remained stable at 8 units.

This was one reason why an exception to the policy was allowed for a change of use to food and drink use at no. 440 Wilmslow Road, approved by Committee in December 2013.

In terms of detail this current proposal would retain the original shop front with its large display window, together with a traditional style of fascia board signage. Additionally as a café which operates during the day it has and would continue to compliment the function of the centre.

Since policy WB6 was adopted in 1995 it is acknowledged that the A3 use class also included drinking establishments and hot food take-aways, it is with these uses that many of the adverse issues with food and drink uses are associated, particularly late at night. Many drinking establishments and hot food take-aways tend to operate in the evening and contribute little to the day time economy. This would not be the case in this instance.

Litter - When policy WB6 was originally approved in 1995 all food and drink uses were contained within Class A3 of the Use Classes Order, since then the use has been split and cafes fall within Class A3 whilst hot food take aways, which are more likely to generate litter, are Class A5. On that basis it is considered that the use of the premises as a café will not generate significant or harmful levels of litter.

Parking - Saved Policy WB6 makes reference to the impact of vehicles parking temporarily on the Wilmslow Road frontage and causing an obstruction, particularly in the context of what were then proposed changes to the highway network. As indicated in the previous section of this report, the changes to the Use Class Order since adoption of policy WB6 means that the application premises would not be able to open as a hot food take away without first obtaining planning permission. It is this type of use, rather than a café use which is more likely to attract passing trade who may seek to park outside of the property rather than using the designated parking areas.

Residential amenity – It is understood that there is residential accommodation at first-floor level in of the adjoining properties, however, the proposed change of use would not significantly alter the nature of the use of the property, nor bring into commercial use parts of the building not already in use as such. However, this may not be the case should the premises change the manner in which it operates and become a bona fide restaurant. Whilst residents living in a district centre would not expect the same level of amenity as those in a residential area it is considered

prudent the opportunity be taken to minimise impact through requesting acoustic insulation measures to be introduced. Environmental Health have indicated their satisfaction at this being covered by a suitably worded condition.

There are also residential properties approximately 38 metres to the rear of the application site, however, in between these properties and the application site there is a garage use (Class B2) and a public car park. On balance it is therefore considered that the proposed use would not give rise to an adverse impact on the amenity of residents and that the proposed development therefore accords with Core Strategy policies DM1 and C10 and Saved Unitary Development Plan policies DC10 and DC26.

Opening hours - The premises currently trades as an internet café and caters primarily for the daytime economy and at present is not subject to any hours restriction. The proposed hours are 8am to 11pm seven days a week, and these are considered to be acceptable for a district centre use and unlikely to have any significant adverse impact on the character of the area or residential amenity. In addition Environmental Health have raised no objection to these proposed hours of use. It is therefore considered that the use accords with Core Strategy Policies C10 and DM1 and Saved Unitary Development Plan policies DC10 and DC26.

Flue - The flue is situated at the rear of the property between two outriggers. Given its siting on the premises it is not considered to have an unacceptable visual impact.

Refuse – The premises benefits from an existing bin store at the rear and within the curtilage of the premises. The applicant has confirmed that this can accommodate items for general waste, with separate provision for recycling glass, plastics and paper. There is direct access to the bin store from the rear door to the building.

Impact on the Character of the Conservation Area - The property itself is not considered to make a significant contribution to the character of the conservation area. No substantive alterations to the elevations of the property are proposed except for the introduction of extraction flue to the rear. The flue given its siting to the rear and position adjacent a rear outrigger would not be readily visible. The proposals are therefore, not considered to give rise to adverse impact on the character or appearance of the Withington Village Conservation Area. The proposed development therefore accords with Saved Unitary Development Plan policy DC18 and Core Strategy policy EN3.

Conclusion - The proposals have been fully considered against the saved Unitary Development Policy WB6. On balance it is considered that the proposals will not adversely impact on the retail character of the District Centre and can, in this instance, therefore be accepted as a departure from the development plan.

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:
Proposed floor plans and rear elevations - NK.411.02 stamped as received 13th January 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: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

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.

4) Before first occupation of the development 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 policies SP1 and DM1 of the Core Strategy.

5) The premises shall not be open outside the following hours:-
8:00am to 11:00pm seven days a week.

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.

6) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with the submitted scheme as shown on drawing number NK.411.02, max fan specification, silencer specification and Annex C stamped as received 13th January 2016 and Baffle filter details submitted 29th January 2016, stamped as received by the City Council as local planning authority before the use commences; any works approved shall be implemented before the use commences.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply with policies SP1 and DM1 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: 110977/FO/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:

Environmental Health
Greater Manchester Police
Withington Civic Society

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:

55 Holly Royde Close, Didsbury, Manchester, M20 3HR
443 Wilmslow Road, Withington, Manchester, M20 4AN

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



Application site boundary ● Neighbour notification
© Crown copyright and database rights 2016. Ordnance Survey 100019568

