

| Application Number | Date of Appln | Committee Date | Ward |
|---------------------------|----------------------|-----------------------|--------------------|
| 110997/JO/2016/S1 | 15th Jan 2016 | 30th Jun 2016 | Chorlton Park Ward |

Proposal Variation of condition 5 attached to planning permission 104978/FO/2014/S1 granted on appeal APP/B4215/A/14/2219730 to amend the refuse storage and collection arrangements

Location 244 Burton Road, Didsbury, Manchester, M20 2LW

Applicant Mr Michael Johnson, 8 Grange Crescent, Urmston, Manchester, M41 9HU

Agent Mr Michael Gilbert, Peter Brett Associates, Oxford Place, 61 Oxford Street, Manchester, M1 6EQ

Description

This application relates to the ground floor commercial unit of a two storey property at the end of a parade of commercial units. In August 2014 planning permission was granted on appeal, application reference 104978/FO/2014/S1 for the change of use of the premises from retail (Class A1) to a restaurant / bar (Sui Generis), this use has commenced. The upper floors comprise residential accommodation, not related to the use, with access from the alley at the rear.

The property is located within the Burton Road local centre and Albert Park Conservation Area. The property has frontages to Burton Road and Nell Lane, both of which have large display windows. There is a single storey rear extension which occupies the whole of the rear yard.

The property is adjoined to the rear by residential properties on Arley Avenue, facing the site across Burton Road is a former church now used as the headquarters of the British Mountaineering Council, a food store and residential properties. To the south across Nell Lane is Withington Community Hospital.

In allowing the appeal the Planning Inspectorate attached a number of conditions. Condition 5 addressed the storage of refuse. The full text being:

“The approved scheme for the storage of refuse as detailed in the planning application forms and Refuse Management Strategy (received 13 March 2014) shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation. All refuse and material for recycling shall be stored in the designated area except when it needs to be placed on street on the day of collection. “

In fitting out the premises for the use, the applicant incorporated the area to be used for refuse storage area into the kitchen and stored refuse in the alley and on the Nell Lane frontage.

This application seeks to vary the condition that the Inspectorate attached, proposing a revised scheme for refuse storage and collection.

There is a separate retrospective application for the fume extraction system currently under consideration.

As originally submitted, the scheme provided space for bins within an enclosure built into the existing rear extension with access from the rear alley. This was considered to be unacceptable as it would have entailed staff accessing the bins from the alley which could potentially create noise disturbance for residents backing on to the alley.

A revised scheme has been submitted which details the storage of the bins within the property and with access from within it. Due to the limited amount of space available it is necessary for the bins to be emptied daily and to this end a copy of the contract for waste collection has been supplied. This system of waste disposal has already been adopted.

Consultations

Ward Members

Councillor Mandie Shilton Godwin objected to the original scheme as she was concerned that it would facilitate a breakout of noise at the rear of the property. Residents have also complained to her regarding the use of the alley by staff. Councillor John Leech has expressed concern that the proposed space for the bins suggests that very little recycled bottles would be required to fill the bin. He is concerned that on busy nights, particularly weekends, that this will be inadequate, and will result in recycled rubbish being stored elsewhere, contrary to planning permission.

Local residents

In response to the initial notification, representations were received from two residents. Their comments relating to the initially submitted scheme are summarised below.

- The provision of an internal refuse store is to be welcomed.
- The applicant has used bins belonging to others which is unacceptable
- The location proposed for the bin store was next to the entrance to the flats above, the roller shutter should be kept closed when not in use
- The bin store was too small
- Removing bins would be a noisy process detracting from amenity
- The bin store would have reduced the size of the accessible toilet.
- Staff would have to exit the premises to put refuse into the bins which would cause further noise in the alley.
- The process will result in a loss of amenity as the alley is adjoined and overlooked by residential properties.
- Staff could slip on the cobbles when it is wet and possibly injure themselves.
- The application suggests collections take place between 9.00am and 9.00pm they have been occurring between 6.30am and 9.00am. The operatives claim they are allowed to do this. This is in breach of their license.
- The scheme approved by the Planning Inspectorate would require the bins to be taken out on the Nell Lane frontage.

- Neighbours have been renotified following the revision of the scheme for the storage and collection of waste and any further representations received will be reported to committee.

West Didsbury Residents Association

- The bin store was not accessible from within the building.
- The process of putting out the waste would involve exiting the rear entrance to the premises and then opening the bins store thus generating extra noise.
- The process of emptying the bins will cause a loss of amenity due to noise.
- If consent is granted a condition should be attached requiring the bins to be kept in the store until they are to be emptied.
- Waste and glassware should not be deposited into the bin store other than between the hours of 9.00am and 9.00pm.

Highways

The proposed variation of condition is unlikely to generate significant increased traffic movements. The bin store is off the adopted highway and consequently there are no objections to the proposal.

Policy

Core Strategy

The relevant Core Strategy policies are C10 and DM1

Policy C10 is relevant as it applies to applications relates to the evening and night time economies. The policy states that amongst others consideration will be given to the impact on residential amenity and that the use should not create an unacceptable impact on neighbouring uses in terms of noise.

Policy DM1 is relevant as it is a general development management policy that seeks to protect the amenity of an area from the adverse impact of development.

Unitary Development Plan

The relevant saved Unitary Development Plan policy is DC10.

Policy DC10 is the citywide development management policy for applications relating to food and drink uses. The policy seeks to protect the amenity of nearby residents from the adverse impact of noise and the adequacy of the refuse storage arrangements.

Issues

Principle

This application relates solely to the issues surround refuse storage at the application site, the use of the premises as a café/bar having been approved by the Planning Inspectorate on appeal.

The principle of providing space within the premises for the storage of refuse was established when the appeal was allowed.

The initially submitted scheme was considered to be unacceptable as the proposed bin store was difficult to access and necessitated staff leaving the premises to enter the store from the rear alley, which would have given rise to potential noise disturbance, particularly when glass was being disposed of and doors being opened and shut.

The current proposal closely resembles that allowed on appeal. The principle differences are that the space available is smaller necessitating daily collections and the bins are removed from the premises into the alley rather than directly onto Nell Lane.

It is considered that subject to the satisfactory management of the refuse storage system, which is currently being operated, the scheme the subject of this application represents as acceptable solution to the refuse storage and disposal arrangements for the premises and can be controlled through an appropriate condition.

Whilst bringing the bins out through the rear of the premises could potentially cause some loss of amenity, the exit of the alley is close to Nell Lane and this is the assembly point for the bins for many of the properties on Nell Lane and Arley Avenue. Whilst the bins would need to be taken out each day, there is a condition attached to the Premises License restricting the hours when the bins can be placed outside to between the hours of 9am and 9pm. It is recommend that this is replicated and controlled through a condition attached to any planning consent granted.

On balance it is considered that the current scheme represents an acceptable solution to refuse storage and collection and accords with Core Strategy policies C10 and DM1 and saved Unitary Development Plan policy DC10.

Concern has been expressed about refuse storage in the immediate area. It appears from site visits that a number of premises regularly leave refuse storage bins in the alley, quite often at its junction with Nell Lane which is a collection point. It is believed that the application premises, by virtue of being in close proximity to the waste collection point is being held responsible for an issue being caused by other businesses or residents.

The current contractor provides bins with its company logo on and it is therefore possible to monitor any breaches.

Residential amenity

The occupiers of residential accommodation adjacent to or within local centres would not expect the same levels of amenity as those in a residential suburb, however, any impact on their amenity should be within acceptable limits. The current scheme would involve the waste being put into the bins within the building, containing waste management noise and the refuse would be emptied into the collection vehicle on Nell Lane, which would have been the case with the originally approved proposal.

On balance it is therefore considered that the refuse storage scheme that is the subject of this application is not significantly different to that allowed on appeal and that any impact on residential amenity would not be so significant as to warrant the refusal of the application to vary the condition. The refuse storage scheme therefore accords with Core Strategy policies C10 and DM1 and saved Unitary Development Plan policy DC10.

Conclusion

On balance and subject to the attachment of appropriate conditions it is considered that the proposed scheme represents an acceptable solution that closely resembles that allowed on appeal and accords with Core Strategy Policies C10 and DM1 and saved Unitary Development plan policy DC10.

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 issues arising from the consideration of this application.

Reason for recommendation

Conditions to be attached to the decision

1) The approved scheme for the storage and collection of waste stamped as received on 10th March 2016, submitted by Peter Brett Associates, shall remain in situ whilst the use or development is in operation. All refuse and material for recycling shall be stored in the designated area except when it needs to be placed on street on the day of collection.

To ensure that there are satisfactory arrangements for the storage and collect of refuse pursuant to Core Strategy Policies C10 and DM1 and saved Unitary Development Plan policy DC10.

2) Collections of refuse shall only take place between the hours of 9.00am and 9.00pm and the refuse to be collected shall only be placed outside immediately prior to collection and the emptied bins returned to the designated storage area immediately after emptying.

Reason - To protect the amenity of nearby residential properties pursuant to Core Strategy Policies DM1 and C10 and Saved Unitary Development Plan policy DC10.

3) The premises shall not be open outside the hours 0900 - 2330 Sunday to Thursday and 0900 - Midnight Friday and Saturday.

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) The premises shall be acoustically insulated and treated to limit the break out noise in accordance with the noise study of the premises and the scheme of acoustic treatment prepared by ADC Acoustics ref ARR/PPN/C/2357.01 as amended by email dated 17/06/2015. The approved scheme shall be installed and maintained in perpetuity.

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.

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: 110997/JO/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:

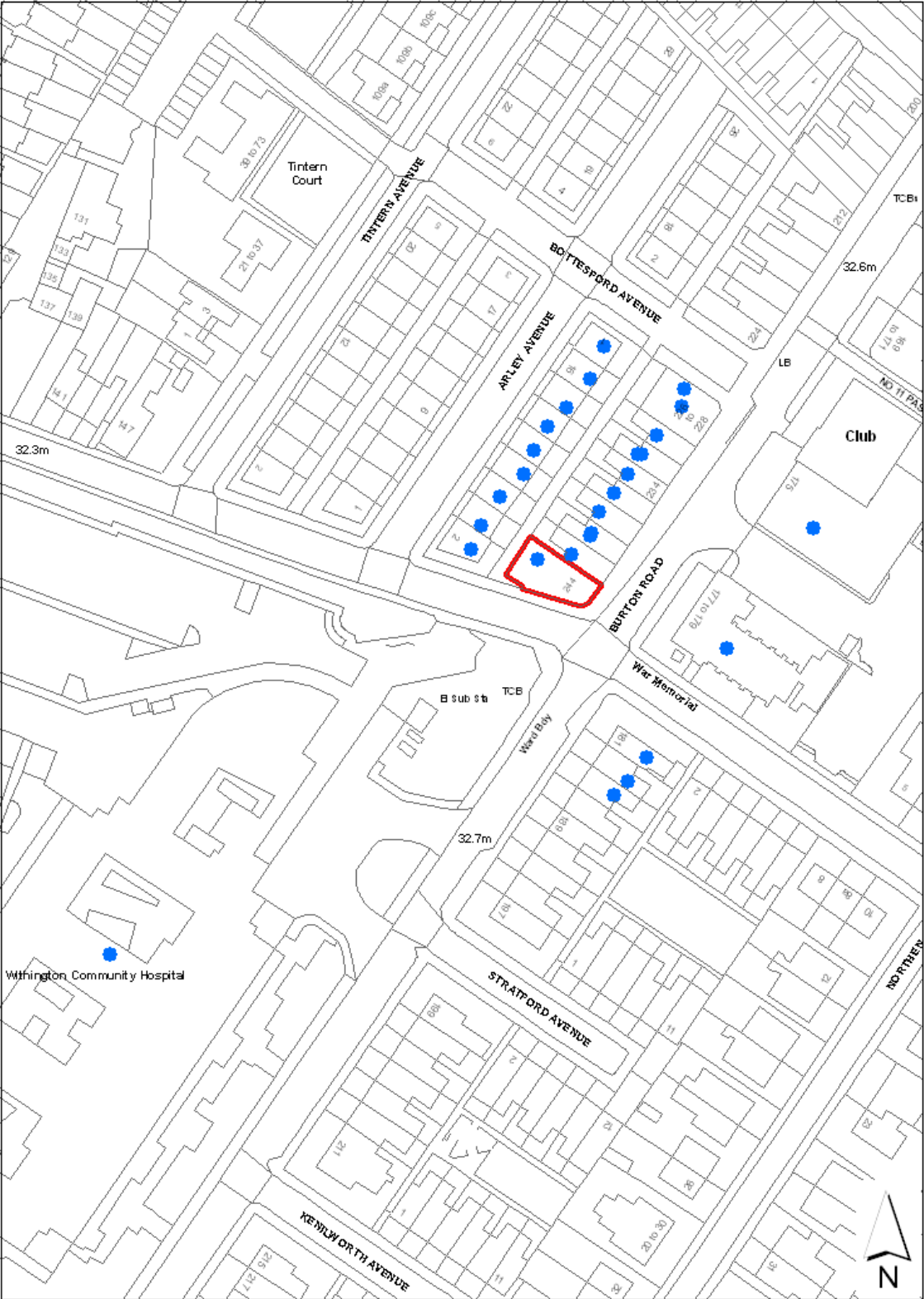
Highway Services
Environmental Health
West Didsbury Residents Association



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:

West Didsbury Residents Association
4 Arley Avenue, West Didsbury, Manchester

Relevant Contact Officer : Dave Morris
Telephone number : 0161 600 7924
Email : d.morris@manchester.gov.uk



 Application site boundary  Neighbour notification
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