

Application Number	Date of Appln	Committee Date	Ward
112525/FU/2016	11 Jul 2016	20 Oct 2016	Brooklands Ward

Proposal Change of use from shop (Class A1) to hot food take-away (Class A5)

Location 33 Petersfield Drive, Brooklands, Manchester, M23 9PS

Applicant Mr Elhafian , 24 Martinscroft Road, Manchester, M23 2ZW,

Description

This application was presented to Wythenshawe Area Committee on the 22nd September 2016 who recommend the proposal be refused in accordance with the reason set out in the report.

The application site comprises a vacant shop unit (former off license) near the corner of Wadebridge Avenue and Petersfield Drive, within a local shopping parade of nine units on the north side of Petersfield Drive.

The parade consists of the application site, a mini market (double unit), a chemist, a hot food take away (fish & chips), a tanning salon (sui generis), a pet grooming salon and two vacant units previously occupied by an office for a home care business without the benefit of consent (one of those units being an additional unit added to the parade after 2007).

Petersfield Drive is located off Altrincham Road in an area of mixed residential accommodation. There are detached, semi detached, terraced and flatted accommodation with associated car parks for the residents. The Jolly Butcher Public House is located to the south of the shopping centre on the opposite side of Petersfield Drive.

The hours of use proposed for the A5 use are as follows:

Monday to Friday	16.00 – 23.00
Saturday	14.00 – 23.00
Sundays and Bank Holidays	14.30 – 23.00

The proposal would involve the installation of a fire resistant door to the rear elevation and the installation of a flue. No other elevational alterations are proposed.

The parade has a communal parking / servicing area to the rear accessed from Petersfield Drive. The applicant has not shown any waste storage facility within their site edged red. They have submitted a plan showing two bins in the communal parking area to the rear of the shopping parade.

Consultations

6 letters of objection have been received from residents at No.'s 15 and 21 Wadebridge Avenue, No.'s 29, 35 and 66 Petersfield Drive and No. 10 Harlington

Close. A petition with 231 signatures has also been submitted. Objections are as follows:

- Previous take-away granted late night opening hours caused noise disturbance and created waste issues and this use would have a similarly adverse impact upon residential amenity.
- The take-away is opposite the pub, which will attract drinkers to congregate in a secluded location. The late night use would also attract groups of adolescents. This would cause a crime and safety issue.
- Increase in traffic would exacerbate existing chaotic parking circumstances
- Worry that odours would arise from the use over and above the odours from the fish and chip shop.
- Query over extent of consultation area, stating that housing on the opposite side of Petersfield Drive had not received notification letters (a wide consultation area was selected including properties on the opposite side of Petersfield Drive).
- Suggestion that the hours of opening are restricted to 20.00. The objector states that this is the time that the Fish and Chip shop is open to (the local planning authority is aware that the Fish and Chip shops opens until 21.00).
- Comment that this would be the third take-away unit (the local planning authority has been made aware of a possible breach of planning control at 31 Petersfield Drive, this is under investigation, these premises are not operating)
- Reference to a previous refusal at No. 41A Petersfield Drive in 2009 under reference 089950/FO/2009/S2.
- Concern that the servicing area is not used and would not be used in conjunction with any approved use.
- The application is contrary to the Council's Draft Hot Food Take-away Supplementary Planning Document, in particular policies 1 and 2.
- There is no need for another take-away.

Highway Services – The unit is located within a small row of shops which front onto an unadopted forecourt area, which is separated from the Petersfield Drive carriageway by a 2 metre wide adopted footway. Access to a shared rear servicing area is provided by an unadopted access 30 metres to the east.

A number of bollards are currently in place within the forecourt area, directly to the front of the property with additional street-furniture within the vicinity including a telephone box, bin, post box and access ramps providing access to adjacent units. The area is predominantly residential in nature with the majority of surrounding highways subject to 20mps speed restriction. No waiting restrictions are in place within the vicinity of the site.

Parking and Access – The site is located within a large residential area and within a row of existing retail use. As such it is anticipated that a large proportion of trips associated with the proposed take-away will be on foot. It is anticipated that parking demand associated with the proposed take-away would be at a similar level as the existing retail use, with parking accommodated on the adjacent highway.

It is unclear whether the unit provides level access. It is therefore recommended that an access ramp is constructed in line with MCC Design for Access 2 standards in order to provide access for disabled customers. It is also noted that the bollards

located directly to the building frontage may provide an obstruction to pedestrians, particularly those with mobility issues or visual impairment.

Refuse and Servicing – Refuse and servicing details have not been provided. The applicant should confirm that all refuse collections and deliveries will be made to the rear of the site, within the servicing yard area. Highways would consider this arrangement to be acceptable.

Environmental Health – No objections in principle however, should permission be granted then conditions should be attached restricting deliveries to between the hours of 7.30am to 8.00pm Monday to Saturday with no deliveries on Sundays, the approval of a detailed fume extraction system, a restriction on the opening hours to those applied for, the acoustic insulation of the premises and any externally mounted ancillary equipment and refuse storage.

Greater Manchester Police - Any comments received will be reported to Committee.

Issues

National Planning Policy Framework - The Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory status of the development plan remains as the starting point for decision making. However, paragraph 14 states that 'at the heart of the Framework is a presumption in favour of sustainable development' and, in 'decision-taking', this means that development proposals should accord with the development plan and should be approved without delay unless:

- i. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- ii. Specific policies in this Framework indicate development should be restricted.

The National Planning Policy Framework has been related to the proposed development and the following specific policies are considered to be particularly relevant:

- i. Chapter 7: Requiring good design - Reflects upon the importance of design to the built environment and its contribution to sustainable development and making places better for people;
- ii. Chapter 8: Promoting healthy communities - States that 'the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. The formation of 'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion' is also encouraged. Planning policies and decisions should, amongst other things 'ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the community'.

The requirements of chapters 7 and 8 (of the NPPF) have been referred to in respect of the potential impact of the proposed use on the character and residential amenity of the local area. Chapter 7 has been related to the consideration of the potential

impact of the appearance and positioning of external equipment with particular reference to fume extraction systems and flues. Chapter 8 has been considered with regard to the impact of noise, activity and disturbance, potentially attributable to the proposed use, on the well-being and amenities of neighbouring residents.

National Planning Policy Guidance - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. The NPPG seeks to both simplify and clarify planning guidance easier and simpler. It is intended to be read in conjunction with the National Planning Policy Framework (NPPF) and is relevant to key planning issues of significance to applicants and local authorities. In considering this application consideration has been given to the following aspects of the NPPG:

- i. Consultation and pre-decision matters - The NPPG reasserts that local planning authorities are required to undertake a formal period of public consultation, prior to deciding a planning application. Furthermore any comments should be taken into account it is important to make comments before the statutory deadline. The NPPG also affirms that the NPPF states that statutory consultees should provide advice in a timely manner throughout the development process. The NPPG also states that where an application has been amended it is up to the local planning authority to decide whether further publicity and consultation is necessary, particularly when:
 - a. Objections or reservations raised in response to the original consultation stage substantial and, in the view of the local planning authority, enough to justify further publicity;
 - b. Proposed changes significant;
 - c. Earlier expressed views are related to the proposed changes. Issues raised by the proposed changes likely to be of concern to parties not previously notified.
- iii. Health and well-being - States those local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in planning decision making;
- iv. Noise - Needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. When preparing local or neighbourhood plans, or taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment.

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") - Was adopted by the City Council on 11th July 2012 and is the key Development Plan Document in the Local Development Framework (LDF). It replaces significant elements of the existing Unitary Development Plan as the document that sets out the long term strategic policies for Manchester's future development, the Core Strategy is to be used as the framework that planning applications will be assessed against.

There are policies within the adopted Core Strategy relevant to the consideration of the current application in summary these are set out below.

Policy SP1 Spatial Principles - Identifies the City Council's Core Development Principles and states that development in all parts of the City should:

Make a positive contribution to neighbourhoods of choice including:

- i. Creating well designed places that enhance or create character;
- ii. Making a positive contribution to the health, safety and wellbeing of residents;
- iii. Considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income;
- iv. Protect and enhance the built and natural environment.
- v. Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy EN19 Waste - Requires consideration of the submitted details relating to determine if the applicant has satisfactorily demonstrated how:

- i. Both construction and demolition waste will be minimised and recycled on site wherever possible;
- ii. The sustainable waste management needs of the end user will be met.

Policy C 10 Leisure and the Evening Economy - 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:

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

Policy DM 1 Development Management - States that all development should have regard to the following specific issues:

- i. Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area;
- ii. Effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise;
- iii. Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes;
- iv. Community safety and crime prevention;
- v. Design for health;
- vi. Refuse storage and collection;
- vii. Vehicular access and car parking.

Saved Unitary Development Plan policies - The following saved policies are considered to be relevant to the consideration of the development proposals:

Policy DC 10 (Food and Drink Uses) - The following sections of policy DC10 are considered to be relevant:

Policy DC10.1 - In determining planning applications for developments involving the sale of food and 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.

Policy 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.

Policy 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.

Policy 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, and the storage of refuse and collection of litter.

Policy DC26 relates to developments with the potential for generating noise and seeks to protect the amenity of an area from the adverse impact of noise.

Guide to Development in Manchester - States that throughout the City, the Council will encourage development that complements the Supplementary Planning Document and Planning Guidance. The Guide aims to support and enhance the on going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of development we all want to see in Manchester.

Reference has been made to the following sections of the guide:

- i. Paragraph 2.57 - States that the size, appearance, location and means of access to waste storage areas should be integrated into the design of developments from the outset. These areas should be of a sufficient size to accommodate the different containers to allow for segregated refuse and waste storage and recycling and should be sensitively sited to avoid a detrimental visual impact and poor residential amenity.
- ii. Paragraph 4.11 - States that all developments should have a waste management strategy included in the Environmental Standards Statement. This will ensure that adequately sized bin storage areas, access for collection crews and vehicles, and other aspects of waste management are designed into the development at the earliest stage.

Other Considerations

Draft Supplementary Planning Document – Hot Food Take Aways

The City Council is currently consulting on a draft Supplementary Planning Document in respect of Class A5 Hot Food Take Aways. This emerging development management policy is a consideration that has some weight in the determination of applications for Hot Food Take Aways despite having not been formally adopted. The draft Supplementary Planning Document contains three policies which are as follows:

Policy 1 Vitality and Viability

Hot Food Takeaways (A5) will not be supported in district and local centres where the cumulative impact of introducing the facility would be detrimental to the vitality and viability of a centre and would affect the balance between the day time and night time economy and the health of the population.

A proposal will be considered to be harmful to the vitality and viability of a centre if it:

- Increases the number of A5 uses in a centre to more than 5% of all town centre uses (excluding housing);
- Creates a cluster of more than two A5 uses together;
- Reduces the number of units between A5 clusters to less than two none A5 uses.

Exceptions to the above are Manchester City Centre and Rusholme District Centre. A key role of these centres is to serve the night time economy. They have become known as locations for food and drink, attracting visitors from across Greater Manchester and beyond. In these centres applications will be assessed based on local impact taking into account the centre's overall role and character.

In centres, where vacancy levels are more than 10% (or 25% in centres with less than 20 units) every effort should be made to fill the unit with a town centre use (other than A5) before hot food takeaways will be permitted. In areas where it can be shown that the surrounding uses would be compatible, residential uses will be considered. Where there is no evidence of demand for a preferable use, hot food takeaways will be considered favourably even if this would increase the threshold of takeaways to above 5%.

The visual amenity of a street is adversely affected by shutters being down during the day, creating dead frontages. To prevent any harmful affect on the visual amenity of the street scene, shutters should be up between the hours 9am and 5.30pm.

Policy 2 Amenity

Hot food takeaways (A5 uses) will be considered against Core Strategy Policy DM1 Development Management and specific considerations include:

Hours of Opening - Unless affected by Policy 3 of this SPD, the hours of opening of an A5 Hot Food Takeaway will depend on whether it can be demonstrated that there would be:

- No unacceptable impact on residential amenity as set out in DM1 Development Management,
- There is an established night time economy,
- It would not adversely affect the character and function of the immediate area, including existing levels of background activity and noise.

Extraction of odours and noise abatement - Hot food takeaways must provide appropriate extraction systems to effectively disperse odours and show that they are meeting the minimum guidance in the Department of Environment, Food and Rural Affairs Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2005 and Odour Guidance for Local Authorities 2010. Applications must be accompanied by an Odour Impact Assessment (OIA) and include suitable mitigation measures. They must demonstrate that they have no adverse impacts on visual amenity, including location and external finish. Hot food takeaways must consider their impact on noise sensitive developments and any proposal that has the potential to cause noise disturbance to existing residential development or noise sensitive properties should be accompanied by a noise survey and assessment and only approved if the impact is shown to be acceptable.

Disposal of Waste Products and Customer Litter - All planning applications should be accompanied by a waste management strategy setting out how a hot food takeaway will deal with its own waste and also the waste generated by customers. All waste generated by the business should be accommodated on site.

Consideration should also be given to the need to mitigate for the impact of customer waste on the surrounding area. The Manchester City Council guidance GD04 Waste Storage and Collection Guidance for New Developments, Environmental Protection should be used in the preparation of a waste strategy.

Highway Safety - Planning permission for A5 uses will only be granted where there would not be an adverse impact on highway safety and the amenity of the surrounding area. Proposals should take account of the likely needs of both customers and the operator's delivery requirements.

Regard will be given to:

1. Existing traffic conditions;
2. The availability of public parking provision in close proximity to the premises, including suitable on-street parking;
3. The availability of an adequate loading and unloading area.

Policy 3 Hot food take aways and Schools.

Where a hot food take away is proposed within 400 metre radius of a primary or secondary school, and proposal meets planning policy in other respects, planning permission will only be permitted subject to the condition that opening hours are restricted to the following:

- A primary school: the hot food takeaway is not open to the public between 3 pm to 5.30pm on weekdays.
- A secondary school: the hot food takeaway is not open to the public before 5.30pm on weekdays.

The only exception to this approach will be where the proposal is within centres designated in the Local Plan and can demonstrate that the introduction of such a use will meet all other relevant policies.

The development proposals have been assessed in the light of the above and it is considered that the development has the potential to adversely affect residential amenity and the quality of the local neighbourhood, particularly with regard to additional noise, disturbance and activity. There is concern that the proposed use may result in people congregating and loitering outside the premises thereby increasing potential incidence of anti-social behaviour. The proposals would thereby fail to contribute positively to the health, safety and well-being of residents and be contrary to Core Strategy policies SP1, C10 and DM1 and the guidance contained within the NPPF and the Guide to Development in Manchester. In addition, the proposals also fail to accord with saved UDP policies DC10 and DC26 and their requirement to safeguard residential amenity.

Principle - There are no historic records of any planning applications being submitted in relation to the identified (application) premises.

The general principle of locating hot food take aways in local centres and parades of more than 8 units is established in Core Strategy policy C10 and saved Unitary Development Plan policy DC10 and thus the broad principle of the proposed use in this location accords with this general thrust of policy, subject to an assessment of the impacts of the particular proposed use upon residential amenity.

Vitality and Viability – Having regard to policy 1 of the emerging Hot Food Take-away Supplementary Planning Guidance the proposed development does not create a cluster of more than two A5 uses together.

The proposed opening times of
Monday to Friday 16.00 – 23.00
Saturday 14.00 – 23.00
Sundays and Bank Holidays 14.30 – 23.00 and the consequent lack of activity within the premises outside of those hours would adversely impact on the character and vitality of the local parade.

The visual amenity of a street is adversely affected by shutters being down during the day, creating dead frontages.

The proposed development is therefore contrary to the provisions of Core Strategy policy C10 and policy 1 of the emerging Supplementary Planning Document on A5 hot food take aways.

Operating Hours - The proposed closing times of 23.00 hours at all times is not consistent with the other shops within the parade.

The current closing times of the other occupied and operating units is as follows: mini market (double unit) 9pm Monday to Saturday, chemist 6pm, hot food take away (fish & chips) 9pm, a tanning salon (sui generis) 8pm Monday to Friday and pet grooming salon 5pm.

There is therefore no established night time economy in this location and it is considered that the operation of the premises beyond the 9pm that the parade is open until at the moment will adversely impact upon existing levels of background activity and noise to the detriment of residential amenity.

Refuse storage - The proposed development intends to store refuse in the rear servicing area outside of the site edged red. Environmental Health are satisfied with these arrangements subject to the imposition of a condition requiring further details of both waste storage and collection, hence there is no reason for refusal on the basis of lack of information with regards to waste storage and collection.

Parking - The proposed development is within a sustainable location in a local shopping parade with dedicated parking with no waiting restrictions in place. The site has good access to public transport and is within walking distance of a substantial residential population. The development therefore accords with Core Strategy policies C10 and DM1 and policy 2 of the emerging draft Supplementary Planning Document in this regard.

Fume extraction - There was insufficient information in the application to assess the effectiveness or otherwise of the proposed fume extraction system. Environmental Health were satisfied subject to a condition requiring the approval of the fume extraction system.

Residential amenity - The cumulative impact of a further hot food take away with hours that go beyond the operation of the existing fish and chip shop would, it is considered, detract from the amenity of residents due to the increased noise and associated comings and goings to the premises and in the area immediately surrounding it.

There is also some potential for a loss of amenity arising due to the relationship of the rear of the property to residential properties on Wadebridge Avenue, Butcher Lane and Altrincham Road as a result of refuse storage and fume extraction. However, Environmental Health are satisfied with refuse storage and fume extraction subject to the imposition of conditions.

Schools - The emerging supplementary planning document refers to the acceptable relationship of hot food take aways to schools, this being a 400 metre radii. The proposal does not lie within 400m of a school.

Conclusion - On balance it is considered that the proposed development would conflict with Core Strategy Policies SP1, DM1 and C10 and the emerging Draft Supplementary Planning Document on Hot Food Take Aways.

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 refusal of the application is proportionate to the wider benefits of refusal and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Wythenshawe Area Committee recommendation - Refuse Recommendation REFUSE

Reasons

The proposed hot-food takeaway (Class A5) would, by virtue of its relationship and close proximity to residential uses, proposed hours of operation and increased vehicular and pedestrian activity, be contrary to saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and policies SP1, C10 and DM1 of the Core Strategy for the City of Manchester, policy 2 of the emerging Supplementary Planning Document on A5 Hot Food Take Aways and the National Planning Policy Framework.

The proposed opening times of

Monday to Friday	16.00 – 23.00
Saturday	14.00 – 23.00

Sundays and Bank Holidays 14.30 – 23.00 and the consequent lack of activity within the premises outside of those hours would adversely impact on the character and vitality of the local parade. The proposed development is therefore contrary to the provisions of Core Strategy policy C10 and policy 1 of the emerging Supplementary Planning Document on A5 Hot food take aways.

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: 112525/FU/2016 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.

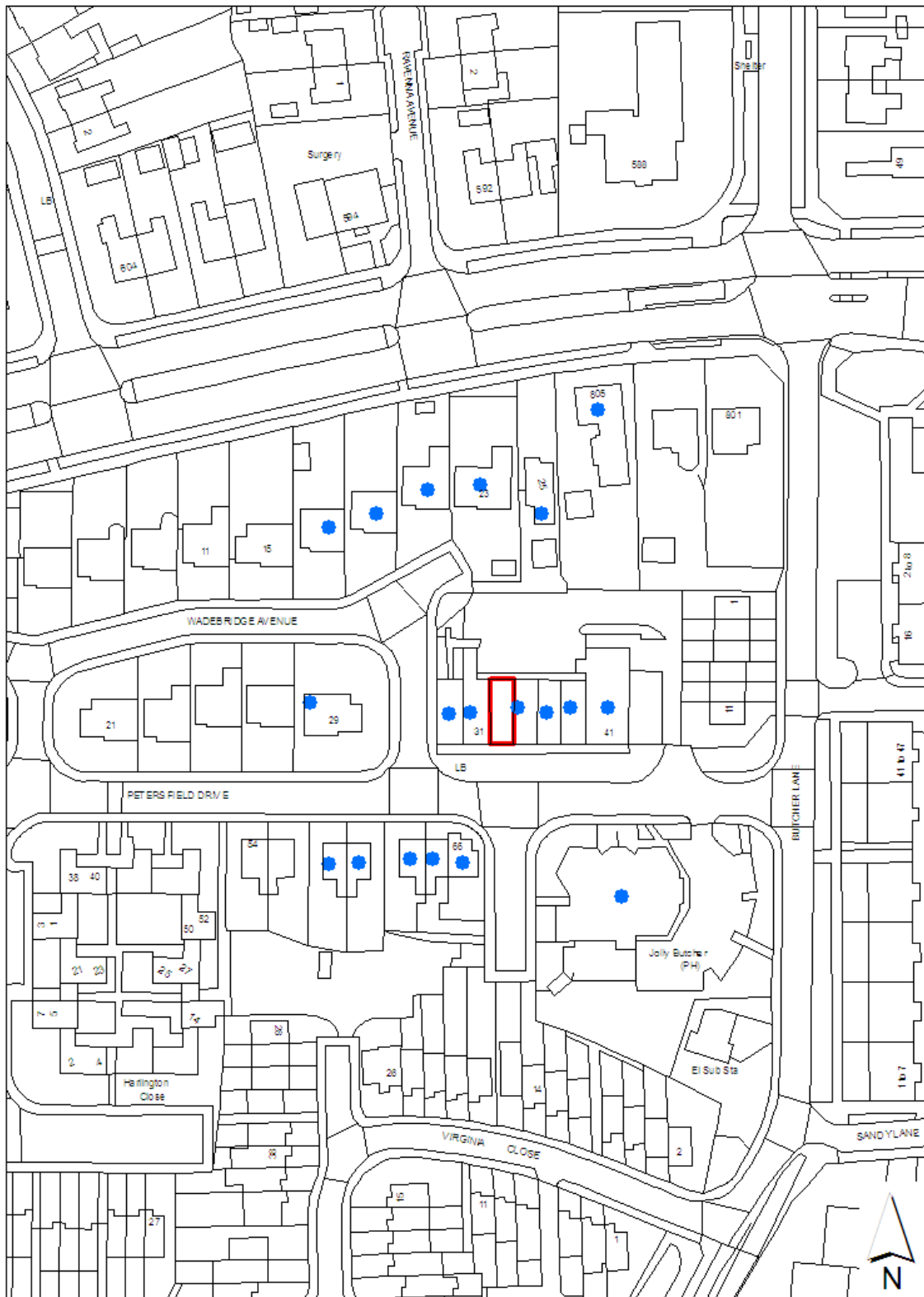
The following residents, businesses and other third parties in the area were consulted/notified on the application:

Highway Services
Environmental Health
Greater Manchester Police
29, 31, 31A, 35, 37, 39, 39A, 41, 58, 60, 62, 64, 66 Petersfield Drive, Manchester, M23 9PS
Flat At, The Jolly Butcher, 80 Petersfield Drive, Manchester, M23 9PS
The Jolly Butcher, 80 Petersfield Drive, Manchester, M23 9PS
17, 19, 21, 23, 25 Wadebridge Avenue, Manchester, M23 9LS
805 Altrincham Road, Manchester, M23 9AH

Representations were received from the following third parties:

15, 21 Wadebridge Avenue, Baguley, Manchester, M23 9LS
29, 35, 66 Petersfield Drive, Baguley, Manchester, M23 9PS
10 Harlington Close, Manchester, M23 9GY

Relevant Contact Officer : Jennifer Connor
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 Application site boundary  Neighbour notification
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