

Application Number	Date of Appln	Committee Date	Ward
116558/FO/2017	13th Jul 2017	19th Oct 2017	City Centre Ward

Proposal Extension of external seating area and erection of 4.8 metre deep, 6.5 metre wide and 3m high rectangular decked area and associated structure to remain in place between April to October each year.

Location 52 King Street, Manchester, M2 4LY

Applicant Mr Steve Bottomley , El Gato Negro, 52 King Street, Manchester, M2 4LY,

Agent

Description

This application relates to the pedestrianised area in front of 52 King Street. King Street is part of the St Ann's Square Conservation Area and there are Grade II listed buildings adjacent to and opposite the site.

The building is in the retail core and the immediate surrounding area contains retail uses with some restaurants and office buildings. Residential conversions on upper floors along King Street have also been granted planning permission.

The Proposal

Planning permission is sought to erect a temporary rectangular decked area, including a canopy to replace an existing seating area. The current seating area is 2.86m deep and 6.5m wide. It is proposed to widen this to 4.8m. It would be enclosed by a 1.375m, pre-fabricated system incorporating PVC tongue and groove panels within a frame, with the top 500mm being glazed. A dual-pitched A-frame canopy is proposed over the seating area that would be 3m high at its highest point. The enclosed area would accommodate fixed bench seating as well as additional chairs and tables. A short ramp would provide full access up to the raised decking level.

The applicants have stated that the raised decking area would be fixed to the front of the building but it would be temporary and would be in place from April through to the end of October each year, when the decking and structure would be removed.

An application for a Tables and Chairs License has also been submitted to the City Council. This is currently pending consideration.

Consultations

Publicity - The application has been advertised in the Manchester Evening News as: affecting the setting of listed buildings; affecting a conservation area; in the public interest; and affecting a right of way. A site notice was displayed and the occupiers of nearby properties have been notified.

No representations have been received as a result of this publicity.

The Head of Neighbourhood Services (Highway Services) - Object on the following basis:

King Street is in the City Centre and has a high level of pedestrian footfall. The proposed structure will reduce the effective footway width available and is likely to cause significant obstruction to pedestrian movements, especially during busy periods such as weekends and special events. Outside of business hours, vehicles use King Street for loading activity and the provision of such an extensive structure is likely to impact these vehicles/activities.

Manchester Markets – Have concerns and stated that the structure should be completely removed from the end of September. Christmas market structures begin to be built from mid-October and they also have to mark up the site before that. They would be unable to do this with the structure in place. Last year when it was agreed that their tables would be reduced or removed if required to allow a safe walkway, they had problems with the staff and the manager of El Gato Negro who was reluctant to follow the agreement. Manchester Markets are concerned that they would have more issues with a semi-permanent structure.

Head of Regulatory and Enforcement Services (Environmental Health) - Has requested that a condition to agree hours of use for the external area should be applied to any approval granted. Also, would not support the use of amplified sound or any music in the external area.

City Centre Regeneration - no representations received.

Greater Manchester Police (Design for Security) - Objected on the following basis:

Extent - the proposed area of external seating appears to project further into the street than the existing arrangement, and it is likely to be a semi-permanent structure fixed in place at all times. On its own it may not create an obstruction to pedestrians and vehicles, but are concerned that if the properties opposite, at some future point, were to be permitted the same amount of external space, this would narrow the effective width of the street significantly and potentially generate conflicting movement.

Visibility - the proposed structure is likely to obscure views along the street and provide potential places of concealment where they don't currently exist. Whilst this is also the case when the festive markets are operating, a 24/7 security presence is provided to monitor activity at these times. The structure would also be likely to affect the layout of the market stalls along King Street and block the clear passage along the shop fronts, further affecting sight lines.

Greater Manchester Pedestrians Society - No representations received.

Issues

Relevant National Policy

The National Planning Policy Framework sets out Government planning policies for England and how these are expected to apply. The NPPF seeks to achieve sustainable development and states that sustainable development has an economic, social and environmental role (paragraphs 6 & 7). Paragraphs 11, 12, 13 and 14 of the NPPF outline a “presumption in favour of sustainable development”. This means approving development, without delay, where it accords with the development plan. Paragraph 12 states that “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.”

Section 2 – Ensuring the Vitality of Town Centres, - The proposal could add to the vitality of King Street and the wider area but would have an adverse impact on the functionality of the street and would create issues in relation to crime and security.

Section 7 - Requiring Good Design - The design would be overlarge and would be an unacceptable element in the street scene.

Section 8 - Promoting healthy communities – The development would facilitate social interaction and help to create an active street frontage, but would adversely impact on pedestrian movement and security.

Section 12 - Conserving and Enhancing the Historic Environment - The proposals would have an adverse impact on the character and appearance of the St. Anns Square Conservation Area and on the setting of listed buildings.

The proposal would compromise existing safe, accessible, clear and legible pedestrian routes and the proposal is therefore inconsistent with the NPPF.

Core Strategy/Saved Unitary Development Plan Policies

Policy SP1 (Spatial Principles) - Guides the strategic development of Manchester identifying the Regional Centre as the focus for economic and commercial development, leisure and cultural activity, alongside high quality city living. Development should:-

- Make a positive contribution to neighbourhoods of choice including:-
 - creating well designed places that enhance or create character;
 - making a positive contribution to the health, safety and wellbeing of residents;
 - considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income;
 - protect and enhance the built and natural environment;
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- 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.

The application is considered in detail in relation to the above issues within this report and is considered to not be in accordance with this policy.

Policy DM1 (Development Management) – Sets out the requirements for developments and outlines a range of general issues that all development should have regard to. Of these, the following issues are or relevance to this proposal:

- appropriate siting, layout, scale, form, massing, materials and detail;
- design for health;
- impact on the surrounding areas in terms of the design, scale and appearance of the proposed development;
- that development should have regard to the character of the surrounding area;
- effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation;
- impact on safety, crime prevention and health; adequacy of internal accommodation , external amenity space, refuse storage and collection, vehicular access and car parking; and
- impact on biodiversity, landscape, archaeological or built heritage, green Infrastructure and flood risk and drainage.

The application is considered in detail in relation to the above issues within this report and would not accord this policy.

Policy EN1 (Design Principle and Strategic Character Areas) - All development in Manchester will be expected to follow the seven principles of urban design, as identified in national planning guidance and listed above and have regard to the strategic character area in which the development is located. The City Centre contains a rich legacy which reflects its urban evolution to the current day and includes listed buildings, conservation areas, archaeological remains and an historic street pattern. Developers will be expected to consider the City's heritage and continue the rich pattern of activity in the core area.

The application is considered in detail in relation to the above issues within this report and would not accord this policy.

Core Strategy Policies CC9 (Design and Heritage) and EN3 (Heritage) and saved UDP Policies DC18.1 (Conservation Areas) and DC19.1 (Listed Buildings) – All deal with protection of the City's built heritage. The proposal has a poor design that would detract from the character and quality of the St Ann's Square Conservation Area. The proposal would represent harm, albeit less than substantial harm, to the heritage significance of the conservation area and the setting of listed buildings and non-designated heritage assets. The scheme would not preserve or enhance heritage assets that have been identified including listed buildings and conservation areas.

Saved UDP Policy DC22.1 (Footpath Protection) - The Council will have regard to the effect of developments on existing pedestrian routes and will not normally allow development which would result in inconvenience to local pedestrian movement.

The proposal would not accord this policy.

Principle of the Use

Seating areas outside restaurants and cafes is generally acceptable in principle, in the city centre, subject to certain criteria such as size, location, hours of use, no amplified sound etc. External seating can add to the vibrancy of an area and enhance its attractiveness and an external seating area was granted at the premises in 2015. The scale and form of the current seating area was considered to be of an appropriate size in terms of its projection into the pedestrianised area on King Street. At present, all furniture is cleared away at the end of each day and nothing remains in place overnight. The area now proposed extends much further into the street and its form, size, location and appearance would have a negative impact on pedestrian movement, security and heritage assets. The seating area would adversely affect pedestrian safety, ease of movement, create potential conflicts between users and pedestrians, and crime and disorder, and this would outweigh any benefits.

Ease of pedestrian movement

The seating area structure would considerably reduce the footway width available on King Street. It would cause a significant obstruction to pedestrian movements, especially during busy periods. The structure would impact on loading and unloading. The applicant has stated that the structure is temporary and would operate from April to October. Manchester Markets would require it to be completely removed from the end of September to enable preparations to take place for the Christmas markets. This is not the only event to take place on the street, with the King Street Festival taking place on the street in June this year. The proposal would have a negative impact on the availability of space along King Street at different times of the year for special events.

Due to the above, the proposed structure and the size of the external area proposed would not be acceptable. The proposal would reduce the effective footway width available, impact on both pedestrians and vehicles using King Street and would be inconsistent with policies SP1 and DM1 of the Core Strategy, saved UDP policy DC22.1 and guidance within the NPPF.

Crime and Disorder

The external seating area structure would impact negatively on pedestrian movement along King Street which could cause conflict between users, could obscure views and could provide places of concealment where they do not currently exist. The proposed structure would not create a safe and accessible environment.

Due to the above, the proposed structure would not be acceptable and be inconsistent with policies SP1 and DM1 of the Core Strategy, saved UDP policy DC22.1 and guidance within the NPPF.

Heritage impact and visual amenity

Sections 66 and 72 of the Listed Building Act 1990 provide that, in considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority shall have special regard to the desirability of

preserving the building or its setting or any features of special architectural or historic interest which it possesses, and in determining planning applications for land or buildings within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 12 of the NPPF establishes the criteria by which planning applications involving heritage assets should be assessed and determined. Where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposals. The NPPF also states that any development proposal which fails to give due weight to the conservation of heritage assets are deemed not to be sustainable development and should not be supported. It also states that the redevelopment of a site adjacent to heritage assets could affect the setting of them, and that effect could be neutral, beneficial or harmful. Developments should ensure that the balance of the impact on the heritage assets is demonstrably beneficial, minimising any negative impact on their significance.

The existing seating area consists of a small, non-permanent facility that has a retractable canopy. It has been designed to coordinate with the shopfront design and when the premises are closed, or when required, the seating area can be completely removed and the public street use reinstated. In contrast, the proposal would be in place permanently from April to October and would be present on the public highway 24 hours a day for seven months of the year. This would be unacceptable because of its adverse impact on visual amenity and designated heritage assets. It would also create a cluttered appearance to the street frontage which is unacceptable.

The structure would be incongruous in the streetscene and would have a poor relationship to the coordinated layout and design of the public realm. The structure would be a large and highly visible and would have a detrimental impact on visual amenity within the conservation area and the setting of nearby listed buildings. The large canopy structure would remain a visually dominant element when closed and when open would contribute significantly to the overall sense of mass of the proposed structure.

Due to the above, the proposed structure would not be acceptable and be inconsistent with policies SP1, EN1, EN3, CC9 and DM1 of the Core Strategy, saved policies DC18.1 and DC19.1 of the Unitary Development Plan and guidance within the NPPF.

Conclusion

On the basis of the submitted information, the proposal would not accord with legislative requirements, policy guidance or best practice in terms of the historic environment or good design. In particular, it would not preserve or enhance the character of the St. Ann's Conservation Area, would adversely affect the settings of nearby listed buildings, would not represent good design, would negatively impact on the free movement of pedestrians and vehicles along King Street due to the permanent structure proposed (albeit between April and October only) and would have detrimental security implications. There would be no public benefits that would outweigh the harm that would be caused by the proposal.

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.

Recommendation REFUSE

Article 35 Declaration

Officers are required to work with applicants in a positive and pro-active manner to seek solutions to problems arising in relation to dealing with applications. In this instance, the applicant has been made aware of the relevant concerns, but has not addressed them. They have been advised of alternative options but have made no changes to their proposals.

Reason for recommendation

- 1) The proposed external seating area and its associated structure is unacceptable due to its size, form and location. The proposal would reduce the effective footway width available for use by pedestrians and vehicles and therefore have a negative impact on the ease of movement along King Street. The use of a permanent structure (albeit from April to October) would cause significant obstruction to pedestrian movements in particular, especially during busy periods such as weekends and special events. For these reasons, the proposal is unacceptable and inconsistent with policies SP1 and DM1 of the Core Strategy, saved UDP policy DC22.1 and guidance within the NPPF.
- 2) The proposed external seating area structure is unacceptable in terms of security as it would negatively impact on free movement along King Street which could cause conflict between users, be likely to obscure views along the street and provide places of concealment where they do not currently exist. The proposed structure would not create a safe and accessible environment. For these reasons, the proposal is unacceptable and inconsistent with policies SP1 and DM1 of the Core Strategy, saved UDP policy DC22.1 and guidance within the NPPF.

3) The proposed external seating area structure would be unacceptable due to the negative impact it would have on the setting of adjacent/nearby listed buildings, the character and appearance of the St. Ann's Square Conservation Area, views within the streetscene and the visual amenity of the area in general. Due to its size, form, appearance and location, the development would not make a positive contribution to the area, would negatively affect designated heritage assets, would represent a large, highly visible and incongruous feature and would contribute to visual clutter within the area. For these reasons, the proposal is unacceptable and inconsistent with policies SP1, EN1, EN3, CC9 and DM1 of the Core Strategy, saved policies DC18.1 and DC19.1 of the Unitary Development Plan and guidance within the NPPF.

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: 116558/FO/2017 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:

Manchester Markets
Highway Services
Environmental Health
City Centre Regeneration
Greater Manchester Police
Greater Manchester Pedestrians 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:

Manchester Markets
Highways
Environmental Health
Greater Manchester Police

Relevant Contact Officer : Gerry Reilly
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 Application site boundary  Neighbour notification
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