

<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
121184/FO/2018	12th Sep 2018	15th Nov 2018	Chorlton Ward

**Proposal** Use of the property as a licensed cafebar Class A3/A4 including expansion of internal public area, relocation of kitchen and provision of ventilation, extraction and waste management equipment/facilities

**Location** 107 Manchester Road, Chorlton, Manchester, M21 9GA

**Applicant** Miss Sophie Robson, 107 Manchester Road, Manchester, M21 9GA

**Agent** Kuit Steinart Levy LLP, 3 St Marys Parsonage, Manchester, M3 2RD

## Description

The application site is a ground floor unit, with basement below, situated within a two/three storey terrace located on the western side of Manchester Road.



Planning permission ref: 114208/TMCOU/2016 was granted on 14<sup>th</sup> October 2016 for a temporary change of use from A1 (shop) to A3 (cafe/restaurant), for a two year period commencing 20<sup>th</sup> October 2016. The use was implemented by the applicant and has been trading continuously as Henry C since. Whilst the temporary consent has now lapsed it should be noted that the current application was validated on 12<sup>th</sup> September 2018, prior to the lapse. The applicant is proposing to continue the existing Class A3, but also wishes to operate as a Class A4 bar in the later evening, which this permission would allow the flexibility within the two uses.

The property, which contains a front paved forecourt; with fixed bench style seating and fencing, and rear yard area is situated within a commercial parade, containing a variety of small-scale commercial uses. These uses include an ice cream parlour next door (Oasis) and a gift shop on the other side. To the rear of the site, on Kensington Road there are residential properties. Opposite the premises on the other side of Manchester Road is the former Chorlton Leisure Centre.

The site is situated at the northern edge of the Chorlton District Centre. The surrounding area is mixed use in nature comprising a variety of small-scale commercial activities with a number of night-time uses. Above the premises is a residential flat. The side roads off Manchester Road, including properties to the rear of the application site are largely residential in character.

Planning permission is sought to use the property as a licensed café bar (Class A3/A4). The proposal involves the use of the ground floor as the bar/restaurant seating area, together with the front patio, and the use of the basement areas for ancillary storage.

To the rear, it is proposed to install 4no. extraction vents and waste and recycling storage.

### **Consultations**

The application has been advertised as a departure from saved policy CB10 of the Unitary Development Plan in the form of a site notice and an advertisement in the Manchester Evening News. Letters of notification were sent to local businesses and residents.

**Local Residents** – No comments have been received.

**Chorlton Voice (Chorlton Civic Society)** - The Civic Society objects to this application. The proposal is contrary to saved policy CB10 of the UDP that states that no further conversion to food and drink uses will be permitted in the shopping frontage 93-129 (odd) Manchester Road. Whilst it is appreciated that the policy has been weakened as a result of recent permitted development changes, it is not accepted that the policy should be abandoned.

No evidence has been submitted to demonstrate that any serious attempt has been made to let the property as a shop.

Use as a cafe bar has significantly more impact on the amenity of neighbours than the permitted development use. The cumulative impact of additional bar use in this area should be taken into account.

The Society remains concerned at the recent spurt in proposals for bars and food outlets in Chorlton centre and that it is not apparent that existing policy is transparent or robust enough. There are no current criteria by which the specific and cumulative impact of proposals for other food and drink uses on the day-time economy and the character of the wider shopping centre can be assessed. It is considered that the city council should carry out wide consultation on a review of existing policy with a view to providing clarity to both residents and prospective developers on where and when further proposals may be allowed or resisted.

**Highway Services** – A summary of their comments are as follows:

- The site is located within a District Centre location and as such is well served by sustainable modes of transport. It is accepted that there are adequate pedestrian crossing facilities provided with good accessibility across the surrounding area.
- Highways understand that the proposed seating area extends only within the site boundary and as such, a Tables and Chairs License will not be required. It is also accepted that oversail licensing will not be required for the proposed fascia signs.
- There is no in-curtilage parking offered for the development given the limited land availability. It is therefore anticipated that all visitor and customer vehicles will contribute to demands on-street and within surrounding local car parks.
- Highways acknowledge that there are significant on-street parking demands within this area, however given the District Centre location and Limited Waiting bays to the frontage, Highways accept the lack of on-street parking on this occasion. It is recommended however that the use of sustainable modes is fully endorsed for both staff and customer uses to reduce private vehicle trips.
- It is accepted that short stay visitor demands can be accommodated externally via the existing cycle stands along Manchester Road.
- A waste storage area has been provided within the rear yard to prevent any accumulation of waste on the adopted highway. Kerbside collection is proposed from the front elevation along Manchester Road with refuse to be transferred by staff to the collection point at a frequency of twice weekly.
- Highways would prefer for all servicing to be carried out from Kensington Road given the surrounding on-street restrictions. Whilst ideally servicing from a residential street is not supported, this presents the most feasible option given the Limited Waiting bays across the frontage, distance to the pedestrian crossing point and No Waiting restrictions along Kensington Road. This will also reduce the distance for bins to be transferred.

**Strategic Lead, Compliance and Community Safety - Environmental Health** - recommend conditions relating to deliveries, opening hours, noise, refuse collection and waste management and fume extraction be attached to any approval.

## **Policies**

### **National Planning Policy Framework**

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in July 2018. It sets out the Government's planning policies for England and how these are expected to be applied. It defines the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so'. It provides a mechanism through 'which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities'.

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 10 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 should be approved without delay unless: 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 specific policies in this Framework indicate development should be restricted.

## **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:

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

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

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

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

1. Cumulative impact - in areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities.
2. Residential amenity - the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.

3. Balance - new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area.

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

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

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

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

Policy CB10 is relevant as it states no further conversion to food and drink uses will be permitted in the following shopping frontages in Chorlton District Centre:-

- a) 503-555 (odd) Barlow Moor Road;
- b) 93-129 (odd) Manchester Road.

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

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

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

### **Issues**

**Principle** - Due to the district centre location of the premises along a commercial frontage containing other similar uses, the principle of the proposed use would usually be acceptable and broadly compliant with the principal overarching policy contained within saved policy DC10 of the Unitary Development Plan and C6 and

C10 of the Core Strategy. These policies consider the impact of food and drink uses and seek to support proposals that contribute to the vitality of centres, in particular those that contribute to the evening economy. However, Unitary Development Plan policy CB10 states that the application site is located in an area where no further food or drink uses will be permitted, as further conversions would detract from the local retail function of the frontage. The application has therefore been advertised in the press and a site notice posted as the proposed use is a departure from this saved policy. Chorlton Voice have objected to the proposed development on the basis that the proposal does not comply with this policy.

In terms of policy CB10, it is considered that the proposed café bar use would be an extension of the existing temporary change of use to a Class A3 restaurant. Due to changes to the General Permitted Development Order which took place in April 2015, the application unit, could revert back to a Class A1 use and then change its use to an A3 restaurant without the requirement for planning permission. This is considered to be material to the consideration of the proposals, particularly with regards to the departure from the Unitary Development Plan policy CB10.

Whilst policy CB10 would normally prohibit the conversion of the premises to a café bar, it is considered there are reasonable grounds for accepting the proposed change of use. It is also a material consideration that the applicant has had planning permission to operate the premises as a café/restaurant for the last two years, and has not had any complaints recorded from Environmental Health. The proposal is considered to accord with Core Strategy policies C6 and C10 which are up to date having been adopted in 2012, it is considered that the proposed departure from saved Unitary Development Plan policy CB10, which predates the Core Strategy, is acceptable on balance in this instance.

**Balance of uses** – It is not considered that this proposal will have a detrimental impact upon the vitality and viability of this part of the Chorlton District Centre, as the parade is still predominantly in Class A1 use, with a framing shop, barbers, florist, gift shops and an ice cream parlour and sushi shop all operating as Class A1 retail uses. There is a hot food take-away and a restaurant within this parade together with the application property, which are not operating within the Class A1 use Class.

**Residential Amenity** – The applicant is seeking opening hours of Monday to Thursday 11.30am to 11.00pm, Fri to Sat 11.30am to midnight, and Sunday 10.30am to 11.00pm. A schedule of hours for the outdoor seating area has not been supplied. However, further to comments from the Council's Environmental Health Department an appropriately worded condition restricting the opening hours of the outside seating area to 11:00 - 22:00hrs Sunday to Saturday is proposed.

There are residential properties situated nearby, including neighbouring upper floor flats, however, it is believed that there would not be any undue impact upon the amenity levels currently enjoyed by occupants and that any impact can be mitigated by the adoption of the acoustic insulation measures contained within the accompanying acoustic report, and a restriction to the opening hours proposed for the premises, these issues can be adequately controlled by appropriate planning conditions. As this proposal seeks to continue the existing use, it is not considered that the development would see an increase in comings and goings than at present.

The application property is located within a district centre which contains a number of businesses which contribute towards the night-time economy. Although there are residential properties to the rear on the nearby side roads it is considered that the proposal is unlikely to spill over and exacerbate existing conditions to such a degree that there would be a significant impact upon residential amenity.

In light of the above and given the context of the site it is believed that measures proposed and the use of planning conditions would prevent any significant, adverse impact upon residential amenity. On balance, it is considered that the amenity of residents would not be so adversely affected as to warrant refusal in this location, therefore complying with policies DM1, and C10 of the Core Strategy and saved policies DC10 and DC26 of the UDP.

**Visual Amenity** – The proposals incorporate the installation of additional extraction vents to the rear of the property which would not be visible within the street scene. The only change proposed to the front of the property is a strip light above the existing signage. It is considered that the proposal would not form an incongruous feature within the street scene, therefore complying with policies SP1 and DM1 of the Core Strategy.

**Refuse Storage** – The submitted drawings indicate waste storage bins will be kept within the rear yard, which has sufficient space. However, the applicant needs to show provision for paper/cardboard recycling. A suitably worded condition is recommended.

**Noise** – Environmental Health have indicated their satisfaction with the measures proposed within the submitted acoustic report to overcome noise outbreak from within the premises. The proposed opening hours have been deemed to be acceptable. Further information is sought however with regards to how the extractor fan will be controlled to ensure it is not turned up above the low setting, or mitigation required if the extractor is used at a higher setting. These will be conditioned to ensure adherence to the recommendations within the acoustic report thereby ensuring compliance with saved policies DC10 and DC26 and DM1 of the Core Strategy.

**Disabled Access** – There are no changes proposed to the existing shop front and this would remain unchanged.

**Car Parking/servicing** – There are no off road parking spaces proposed, however, there are time limited parking/loading bays to the front of the property. The application site is within the Chorlton District Centre and as such is well served by public transport with a bus stop on the next block and tram stops a short walk away.

**Conclusion** - The proposed development will make a positive impact in terms of being an employment generator that would maintain an existing business within the Chorlton District Centre. The proposals are not considered to give rise to unacceptable impacts in terms of residential amenity or visual amenity of the area and therefore accord with the principles of Core Strategy policies SP1, C6, C10, and DM1 and saved UDP policies DC10 and DC26.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**Recommendation:** APPROVE

### **Article 35 Declaration**

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

### **Reason for recommendation**

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

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Proposed elevations JWC\_PL006, stamped as received 5th September 2018;  
Proposed floor plans JWC\_PL005, stamped as received 5th September 2018.

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.

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.

4) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with drawing number JWC\_PL006, Latour wall mounted hood specification, traditional T-series window fan specification and Extractor fan details, stamped as received 5<sup>th</sup> September 2018 by the City Council as local planning authority within 3 months of the date of this permission.

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.

5) The premises shall not be open outside the following hours:-  
Monday to Thursday 11:30 to 23:00  
Friday/Saturday 11:30 to 00:00  
Sunday 10:30 to 23:00

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) Within 3 months of the date of this permission, the building, together with any externally mounted ancillary equipment, shall be acoustically insulated in accordance with the details contained within the Acoustic Survey for Planning submitted by Braiden Acoustics Limited dated 4<sup>th</sup> September 2018.

Reason - In order to ensure that when the use commences the property is adequately acoustically insulated in order to safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Core Strategy.

7) The external areas of the premises shall not be open outside the following hours and shall not allow for the use of amplified sound or any music in these external areas at any time:-

08:00 - 22:00hrs Sunday to 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.

8) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with the details contained within the Acoustic Survey for Planning submitted by Braiden Acoustics Limited dated 4<sup>th</sup> September 2018. The approved scheme shall be completed within 3 months of the date of this permission a verification report submitted for approval by the City Council as local planning authority. Further details as to how the extractor fan will be controlled to ensure it is not turned up above the low setting, and if the fan needs to be used at a higher setting a scheme for the mitigation of noise from the fan will need to be submitted, approved and verified.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to policies SP1 and DM1 of the Core Strategy.

9) The development shall be carried out in accordance with the submitted waste management scheme dated 5<sup>th</sup> September 2018. Further details regarding the recycling and storage of paper/cardboard shall be submitted to and approved in writing by the City Council as local planning authority within 1 month of the date of this permission. The approved details shall be implemented in full within 3 months of the date of this permission and be retained thereafter.

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

10) No disposal of refuse, glasses, or glass bottles in externally sited receptacles shall take place outside the following hours:

- 07.30 to 20.00 hrs

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.

### **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: 121184/FO/2018 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  
Chorlton Voice

**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:**

None

**Relevant Contact Officer :** Melanie Tann  
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 Application site boundary  Neighbour notification  
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