

Planning Support Statement.

Site: Barrio Chorlton – Café Bar, 105 Beech Road, Chorlton, Manchester M21 9EQ

Proposal: Amend Conditions 4 and 5 on consent ref: 123389/FO/2019, restricting hours of operation of the outdoor areas associated with the premises.

Background.

Planning consent was granted for the redevelopment of this site in November 2019 under application reference: 123389/FO/2019.

Since that time the premises have traded successfully and they became a popular part of the economy of the 'Beech Road' community.

Other premises have opened in the area and/or extended their outdoor trading areas and there is now an inconsistency in terms of the hours the sites in this area are allowed to trade, which is adversely affecting the customer base for Barrio and its financial viability.

As a result of the covid-19 pandemic, outdoor dining areas have become more popular with customers and the ability to trade the same or similar hours to other hospitality venues in the area will be key to the ability of Barrio to recover from the impact of the pandemic.

Conditions where amendments are requested.

These are:

1. Condition 4 on the consent, which restricted trading on the outdoor area to the front of the premises to 22.00 and
2. Condition 5 which restricted the operation of the outdoor area at the rear of the premises to 21.00.

Planning Case for the amendment of the conditions.

All planning conditions have to meet 6 tests to be legal and they should only be imposed when they do. Below is an extract from the Governments Planning Policy Guidance:

What is the government's policy on the use of conditions in planning permissions?

[Paragraph 56](#) of the National Planning Policy Framework states "Local planning authorities should consider whether otherwise

unacceptable development could be made acceptable through the use of conditions”

Guidance on the use of conditions is set out in the Government Publication [‘Guidance on Conditions’](#)

“Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.”

The policy requirement above is referred to in this guidance as the 6 tests.

What approach should be taken to imposing conditions?

Are there any circumstances where planning conditions should not be used?

Any proposed condition that fails to meet any of the [6 tests](#) should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis. Specific circumstances where conditions should not be used include:

Conditions which unreasonably impact on the deliverability of a development:

Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In considering issues around viability, local planning authorities should consider policies in the National Planning Policy Framework and supporting guidance on [viability](#).

In this instance it is argued that Conditions 4 and 5 fail to meet this requirement as they are overly restrictive on the hours of operation of the premises and this impacts directly on the viability of the premises.

This argument is further supported by the fact that other premises in the area are allowed to trade until 23.00, where their outdoor areas front onto Beech Road and 22.00 where they are adjacent to residential property.

Attached to the application are the decision notices and appeals from sites on Beech Road, namely:

Laundrette – Appeal decision on the outdoor area which adjoins residential properties – permitted use until 22.00 – APP/B4215/A/14/2213684

J&B Richardson’s Bakery – Planning consent allowing trading until 23.00 fronting Beech Road – 124700/FO/2019

Bar San Juan – Planning consent allowing trading until 23.00 fronting Beech Road. – 122664/FO/2019

The restrictions on use of the front until 22.00 and the rear until 21.00, means that the conditions fail the test of ‘being reasonable in all other aspects’.

In addition, the applicant holds a premises licence to sell alcohol until 23.00 each day, Number 225949.

Summary.

As such it is requested that the hours of operation of the outdoor areas are brought into line with those of other similar hospitality venue’s in the area and that they be amended to read:

Condition 4. The front external seating area shall only be in use by patrons and staff of the premises between the hours of:

08.00 hours to 23.00 Monday to Saturday, 08.00 hours to 22.00 hours Sundays and the bi-fold front doors closed from 22.00 hours every day.

Condition 5. The rear external seating area shall only be in use by patrons and staff of the premises between the hours of 09.00 to 22.00 hours every day.

The applicant is happy for his agent to discuss any issues that may be raised by this application and for him to act fully on their behalf.