

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131068/JO/2021

Date registered valid: 2 December 2021

Proposal: Variation of Condition 3 of Planning Permission ref. 107543/FO/2014/C2, to increase the operating hours of the restaurant to 05:00 to 02:00, seven days a week

Address: 11-13 Piccadilly, Manchester, M1 1LY

Ward(s): Piccadilly Ward

Applicant: McDonalds Restaurants Ltd C/o Agent

Agent (if any): Mr Brad Wiseman Savills (UK) Limited, Belvedere, 12 Booth Street, Manchester, M2 4AW

Case officer: Eve Woolstencroft
Tel: 0161 234 4533
Email: eve.woolstencroft@manchester.gov.uk

Recommendation: Refused

Date of recommendation: 29 April 2022

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Date of site visit:

Standard consultations:

Printed: 9 December 2021 Expired: 30 December 2021

Neighbour notifications

Printed: 22 February 2022 Expired: 8 March 2022

Site notice

Posted: Expired:

Press advert

Published: 14 December 2021 Expired: 4 January 2022

Departure from Development Plan: No

Environmental Statement: Not required

Listed building: Not applicable

Conservation area: Smithfield Conservation Area 1987

Tree Preservation Order:

Description of Site/Area

The application relates to an existing ground floor unit within a four storey building at 11-13 Piccadilly that is within the Smithfield Conservation Area of the City Centre and is in a highly prominent location on the route between Piccadilly Train Station and the Arndale Centre on Market Street and opposite Piccadilly Gardens. Piccadilly is a major radial entry route into and through the City Centre and contains

The building is adjacent the Grade II Listed 15 Piccadilly.

Surrounding uses include public amenity space, shops, banks, cafés, restaurants, takeaways, drinking establishments, restaurant/takeaways, office accommodation, residential apartments, hotels and a public transport interchange.

Relevant Planning History

107543/FO/2014/C2 - Change of use from A1 - shop to Sui Generis (A3/A5) - restaurant/take away to include the installation of external mounted equipment APPROVED with 12 conditions on 9 April 2015.

Description of Development

The application seeks a variation of the wording of Condition 3 of Planning Permission ref. 107543/FO/2014/C2, to increase the operating hours of the restaurant to 05:00 to 02:00, seven days a week. The current permitted opening hours are 06:00 to 24:00 daily.

Consultations & Notification Responses

Local residents were notified for 21 days and a total of 4 objections were received. Comments made can be summarised as follows:

- The application is factually not correct and should be rejected as it incorrectly states the nearest sensitive land use comprises the Britannia Sachas Hotel which is incorrect as 3 doors away at 15 Piccadilly there are 18 residential apartments.
- Over the last decade the area has deteriorated rapidly and has now become a rundown, shabby space with a high instance of crime and fast food stores.
- The extension of hours for MacDonald's will create excessive noise in unsociable hours, litter and also potentially further social disorder which, unfortunately, we experience regularly.
- Whilst it is accepted that there will be a degree of noise living in the city centre, the application if approved it will have a big impact on the noise levels, litter and anti-social behaviour which impacts residents.
- Object on the basis of the anti-social behaviour that opening until 2am would cause, plus the additional noise from people congregating outside the premises, and the extra litter generated.
- Fast food restaurants are leading to a decline of the character of the area.
- Burger King is continually referenced in the application. However, Burger King is a long way from residential uses and does not have an impact on sleep.

Environmental Health - Recommendation of Refusal of the application due to close proximity of residential apartments at 17 Piccadilly that front onto Piccadilly Gardens. There are concerns extending the hours for this MacDonald's restaurant will attract more people to the area during the proposed hours of 00:00 until 02:00 hours and 05:00 to 06:00 hours when residents will be likely to be sleeping.

Visitors to the nearby bars are likely to be attracted to this site, and so during the hours of 00:00 to 02:00 and to a lesser extent 05:00 to 06:00 more of the patrons will be inebriated and likely to be noisy both going to and from the premises and loitering outside eating their food. There will be an increase in the number of patrons, shouting, singing and arguing and the noise management plan proposed will only come into action once the noise has started and so therefore cannot adequately control the noise as the residents could have already been woken by that point.

Highways – no objections.

Greater Manchester Police – no comments received from consultation.

Policies

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in February 2019 and subsequently in July 2021. 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.

The purpose of the planning system is to achieve sustainable development. Paragraph 8 of the NPPF states that to achieve this, there are three overarching objectives, which need to be pursued mutually. Firstly, the economic role should contribute to sustainable development by building a strong, responsive and competitive economy and ensuring the sufficient amount of and right type of development to support growth. Secondly, the social role is required to support communities by creating a high-quality built environment with accessible local services to reflect the needs of the community. Lastly, the environmental role should protect and enhance the natural, built and historic environment.

Relevant Sections of the NPPF to this development are: Section 2 Achieving sustainable development, Section 6 Building a strong, competitive economy, Section 7 Ensuring the vitality of town centres and Section 8 Promoting healthy and safe communities.

Manchester Core Strategy 2012

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

Policy SP1 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:-

- 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
- 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 DM 1 states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document: -

- Appropriate siting, layout, scale, form, massing, materials and detail.
- 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.
- 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.

Policy C10 relates to 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:

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.

Where permission is granted, the Council will seek to ensure that any potential harm to the area, from the proposal, can be controlled, for example by limiting the hours of operation.

For the reasons outlined within the issues section of this report the proposal is not considered to be in accord with policies contained within the Core Strategy.

There are also Saved Unitary Development Plan Policies which are relevant to the consideration of this application.

Saved UDP policy DC10 (Food and Drink uses) states that in determining applications for food and drink uses the Council will take into account the impact on the amenity of residents, in doing this the Council will consider the use of restricted opening hours to minimise any impact.

Saved UDP Policy DC26.1 (Development and Noise) states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider both:

- a. the effect of new development proposals which are likely to be generators of noise; and
- b. the implications of new development being exposed to existing noise sources which are effectively outside planning control.

Policy DC26.5 - Relates to the assessment of the development, in terms of measures to control noise, including the provision of noise insulation.

Issues

Residential amenity

The principle of the proposed use has been established by the previous approvals. However, the impact that the extended hours may have on nearby residents has to be considered carefully. The objective is to create a diverse mix of uses within the City Centre and this inevitably involves the location of uses such as restaurants, bars and hot food takeaways in close proximity to residential accommodation and this is the case with this application. In such circumstances, it is necessary to ensure that measures are introduced to mitigate the worse effects that noise generating uses might have on nearby residents. The hours of operation were limited on the grant of the original permissions for this reason.

The closest residential properties are residential flats on the upper floors of 15-17 Piccadilly which are separated by from the application site by one building and are approximately 25 metres away.

The applicant has responded to some of the concerns raised and has provided details of the management strategies that would be put in place to prevent crime and disorder and public nuisance. However, it is inevitable that if the proposals are allowed, there would be an increased number of people leaving premises at 02:00, which could disturb residents. Whilst the report indicates that noise levels did not significantly drop within the period the restaurant is closed, it is considered that extending the hour for this MacDonald's restaurant will attract more people to the area during the proposed hours of 00.00 until 02:00 hours and 05:00 to 06:00 when residents will be likely to be sleeping.

The location is located close to nearby evening uses in the Northern Quarter and those around Canal Street people patrons leaving these bars are likely to be attracted to this site, and so during the hours of 00.00 to 02:00 and to a lesser extent 05:00 to 06:00, patrons visiting from these other uses are likely to be noisy both going to and from the premises and loitering outside. There will be an increase in the number of patrons, shouting, singing and arguing and the noise management plan proposed will only come into action once the noise has started and so therefore cannot adequately control the noise as the residents could have already been woken by that point.

Bearing in mind that the extension of hours could lead to late night disturbance to residents, the application is considered to be contrary to policies SP 1, CC4 and DM1 of the Adopted Core Strategy for the City of Manchester and saved policies DC10.1 and 10.4 (Food and Drink) and DC26 (Development and Noise) of the Unitary Development Plan for the City of Manchester.

Crime and Disorder

It is recognised that the Piccadilly Gardens area already suffers issues with an increased level of Crime and Antisocial Behaviour in comparison to other areas of the City Centre, and the proposed extension of hours would potentially add to this. It is also noted that the licensing hours for the premises are consistent with the current hours granted by the planning permission.

Regeneration

There is evidence that a concentration of late opening hours in certain parts of the area does have an impact on the amenity of residents and the character of the area. This inevitably impacts on perceptions of the area, could adversely affect investment and could result in a transient population. Some weight should be given to these issues when evaluating the appropriateness of opening hours in a particular area.

The growth of the night-time economy is an important component of the area's overall success. But, in a similar way in which the growth of this sector can and has caused issues in this area and elsewhere in the City Centre, there are existing concerns to cause problems relating to anti-social behaviour, which could undermine the regeneration of the area. In 2021 the City Council launched an international design competition which represents a major investment in the area to create a world class space in the area centred around Piccadilly Gardens, which would improve the area as a gateway location within the City Centre.

As a consequence of the increasing concerns being raised by local residents where the application premises is located, it is considered that the proposed extension of the opening hours has the potential to be detrimental to the attractiveness of the area to future investment and as a consequence to its regeneration and is therefore contrary to policy SP1, CC1 and CC4 of the Core Strategy and Sections 1 and 2 of the National Planning Policy Framework.

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 a right to a fair hearing and to this end the local planning authority 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 Director 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 recommendation given is proportionate to the wider benefits of 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 have communicated their concerns about this proposal to the applicant during the course of the planning application, but these concerns have not been overcome. The proposal is considered to be contrary to the development plan, national policy and saved policies and therefore cannot be supported.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The proposed extension of opening hours of the existing fast food restaurant use would constitute a potential noise nuisance and source of disamenity to nearby residential accommodation late at night, by virtue of the potential increased noise and movements associated with the comings and goings of customers from the site in combination with customers from other existing night-time uses and therefore this proposal is contrary to Policies DM1 (Development Management), C10 (Leisure and the Evening Economy) and SP1 (Spatial Principles) and saved Unitary Development Plan Policies DC10.1 and 10.4 (Food and Drink Uses), DC26 (Development and Noise).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

7 Piccadilly, Manchester, M1 1LZ
Mezzanine Floor, 11 Piccadilly, Manchester, M1 2HY
GREGGS, 7 - 9 Piccadilly, Manchester, M1 1LZ
19 - 31 Piccadilly, Manchester, M1 1LS
7 - 11 Oldham Street, Manchester, M1 1LG
4 Oldham Street, Manchester, M1 1JQ
Ground Floor And First Floor, 8A Tib Street, Manchester, M4 1PQ
Unit 3, 11 - 13 Piccadilly, Manchester, M1 1LY
Unit 2, 11 - 13 Piccadilly, Manchester, M1 1LY
Halifax, 5 Piccadilly, Manchester, M1 1LZ
Sub Basement And Basement, 19 - 31 Piccadilly, Manchester, M1 1LS
130 - 132 Market Street, Manchester, M60 1AY
Flat 8, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 7, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 17, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 14, 15 Piccadilly, Manchester, M1 1LT
Flat 12, 15 Piccadilly, Manchester, M1 1LT
Flat 7, 15 Piccadilly, Manchester, M1 1LT
Flat 2, 15 Piccadilly, Manchester, M1 1LT
6 Oldham Street, Manchester, M1 1JQ
Flat 4, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
The Emporium, 8 - 10 Oldham Street, Manchester, M1 1JQ
8A Tib Street, Manchester, M4 1PQ
11 Piccadilly, Manchester, M1 2HY
21 - 23 Oldham Street, Manchester, M1 1JG
19 - 25 Piccadilly, Manchester, M1 1LU
Nando's, 27 Piccadilly, Manchester, M1 1LU
Serviced Apartment 3, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 16, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 9, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 5, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 2, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 18, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 20, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 15, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 14, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 19, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 6, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 10, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 21, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Sachas Hotel, Tib Street, Manchester, M4 1SH
Flat 4, 15 Piccadilly, Manchester, M1 1LT
Flat 3, 15 Piccadilly, Manchester, M1 1LT
Flat 5, 15 Piccadilly, Manchester, M1 1LT
Flat 1, 15 Piccadilly, Manchester, M1 1LT
Flat 18, 15 Piccadilly, Manchester, M1 1LT
Flat 11, 15 Piccadilly, Manchester, M1 1LT
Flat 9, 15 Piccadilly, Manchester, M1 1LT

Flat 16, 15 Piccadilly, Manchester, M1 1LT
Flat 8, 15 Piccadilly, Manchester, M1 1LT
Flat 6, 15 Piccadilly, Manchester, M1 1LT
Flat 13, 15 Piccadilly, Manchester, M1 1LT
Flat 17, 15 Piccadilly, Manchester, M1 1LT
Flat 15, 15 Piccadilly, Manchester, M1 1LT
Flat 10, 15 Piccadilly, Manchester, M1 1LT
Flat 12, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Serviced Apartment 1, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
Flat 11, Regent Court, 6 Oldham Street, Manchester, M1 1JQ
1 - 3 Piccadilly, Manchester, M1 1LZ
17 Piccadilly, Manchester, M1 1LS
Unit 1, 11 - 13 Piccadilly, Manchester, M1 1LY
128 Market Street, Manchester, M1 1WA

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - Smithfield Conservation Area 1987
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: CITY2