MANCHESTER CITY COUNCIL

PLANNING

GROWTH & DEVELOPMENT

DELEGATED OFFICER REPORT FOR PLANNING APPLICATION

Application no.	143021/JO/2025
Date registered valid:	23 May 2025
Proposal:	Variation of Condition 2 (hours of operation) attached to planning permission 046575/FO/CENTL3/94 to enable opening hours of 09.00hrs until 23.00 hrs (Monday to Sunday)
Address:	65 Kingsway, Manchester, M19 2LL
Ward(s):	Burnage Ward
Applicant:	Mr Mahdi Al-Rikabi, BDG CAFE
Agent (if any):	Mr Barry Cullen, BARRY CULLEN ARCHITECTURE LTD
Case officer:	Joshua Lee Tel: 0161 219 2851 Email: joshua.lee@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 18 July 2025

APPLICATION DETAILS

Type of application: Variation or Removal of Condition

Development type: Minor Office

Date of site visit: 11 June 2025

Standard consultations: Printed: 4 June 2025 Expired: 25 June 2025

Neighbour notifications: Printed: 4 June 2025 Expired: 25 June 2025

Site notice: No site notice has been produced

Press advert: No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of site/building

The proposal relates to a Class E end terrace property on Kingsway. The property features a rear extension, with existing ventilation arrangements, and a rear yard.

Description of area

The proposal is located in a parade of commercial premises within a mostly residential part of the Burnage ward of Manchester. Residential dwellings are located to the side and rear of the property beyond an alleyway, which serves the commercial premises.

Description of development

Consent is sought to vary Condition 2 (hours of operation) attached to planning permission 046575/FO/CENTL3/94 to enable opening hours of 09.00hrs until 23.00 hrs (Mondays to Sundays)

The proposal would vary a historic planning consent (approved in 1994), which enabled a change of use of the property to office use. Both former office use, and the current use as a café/ restaurant would fall under Class E Commercial, Business and Service, and as such a change of use is not needed for the current use of the premises.

The hours approved in connection with planning permission 046575/FO/CENTL3/94 were 0900-1800 daily. (9 hours)

PLANNING HISTORY

082614/FO/2007/N2

Description: Single storey rear extension to form additional office space
Decision: Refused 30/05/2007

079400/FO/2006/N2

Description: Erection of single storey rear extension in connection with existing office use

Decision: Refused 23/08/2006

069214/FO/2003/N2

Description: First floor rear extension to form additional office floorspace

Decision: Refused 07/11/2003

055504/FO/CENTL2/98

Description: Single storey side and rear extension to office and erection of 1.8m high waney lap boundary fence.

Decision: Approved 15/12/1998

046575/FO/CENTL3/94

Description: Change of use of ground floor hairdressing salon to office use (immigration consultancy) including alterations to front elevation to bring entrance door forward

Decision: Approved 20/12/1994

CONSULTATION, NOTIFICATION & PUBLICITY RESPONSES

Consultations

Environmental Health - recommended several conditions be attached to the decision for approval related to hours of operation ,servicing hours , acoustic insulation, and limitations to the use of external areas.

Highways Services - have no objections to the variation of opening hours

Notifications

Local Residents

1 objection to the proposed development has been received expressing concerns regarding.

- Impact on local parking with extended hours

RELEVANT POLICIES & THE PRINCIPLE OF DEVELOPMENT

Relevant Policies

Section 38 (6) of the Town and Country Planning Act 2004 states that applications for development should be determined in accordance with the adopted development plan unless material considerations indicate otherwise.

The following policies are considered relevant.

- The Manchester Core Strategy Development Plan Document 2012-2027
  - Development Management and Planning Obligations
    - DM 1 - Development Management
  - Objective 1 - Spatial Principles
    - SP 1 - Spatial Principles (Partially replaced by PfE Policy JP-S 1)
  - Objective 2 - Economy and the City Centre
    - EC 1 - Employment and Economic Growth in Manchester
    - EC 2 – Existing Employment Space
    - EC 9 – South Manchester
  - Objective 6 Environment
    - EN 1 - Design Principles and Strategic Character Areas
- Extant Unitary Development Plan (UDP) –
  - Citywide Development Control Policies
    - DC26 - Development and Noise
  - Environmental Improvement and Protection
    - E3.3 – City major radial and orbital roads and rail routes.
- Places for Everyone Plan Joint Development Plan Document 2022-2039-
  - Strategy
    - JP-Strat9: Southern Areas
  - Sustainable and Resilient Places
    - JP-S1: Sustainable Development
  - Places for Jobs
    - JP-J1: Supporting Long-Term Economic Growth

        - JP-J2: Employment Sites and Premises
    - Places for People
        - JP-P1 Sustainable Places
- The National Planning Policy Framework (The NPPF) –
    - Section 2 - Achieving sustainable development
    - Section 4 – Decision-making
    - Section 6 – Building a strong, competitive economy
    - Section 12 – Achieving well-designed places

Principle

The City Council recognises that Class E uses may require change of opening hours to suit the needs of the varied uses enabled by Class E. In this case the principle is accepted.

ISSUES

Appropriate siting, layout, scale, form, massing, materials, and detail

There are no elevational changes proposed. It is noted that external extraction equipment is in place which does not have planning approval. The applicant has been made aware. For the avoidance of doubt this planning application for the amendment to opening hours does not constitute consent for any external equipment at the property.

The proposed hours would shift the opening hours of the existing Class E use from 0900-1800 to 09.00 - 2300 hrs daily.

Impact on the surrounding areas in terms of the design, scale, and appearance of the proposed development.

There are no elevational changes proposed.

The proposed hours would extend the opening hours of the existing Class E use from 0900-1800 to 09.00 -23.00 hrs daily. Given the existing Class E uses in the parade of commercial premises the hours of operation sought are not out of the ordinary for this kind of use in this location. Furthermore, there are 3 Hot food take aways in the vicinity, and these premises in the area benefit from approved later opening including:

No55: 0800-1130 Sun-Thu, 0800-0000 Fri-Sat

No53: 0800-1130 Sun-Thu, 0800-0000 Fri-Sat

No49: 1130 - 0000 a.m. Mondays - Fridays 1830 -0100 on Saturdays and Sundays

Effects on amenity

Light

The main impact on local light is the potential spillage of light from the premises. The harm of this is minimal given the location on a busy main arterial route and associated street lighting.

Noise

The main impact to residential amenity would be the noise generated from additional comings and goings in connection with business activities being operational until 11p.m. at night

To ensure that any potential impacts related to noise generation are minimised, conditions are recommended to be attached to any approval related to:-

Restricting hours of operation, limiting servicing hours, acoustic insulation of the premises to reduce any potential for noise breakout from the building, and limitation to the use of external areas

Given the location on a busy arterial route and existing activity in the area, together with the measures needed to discharge of the attached noise conditions, it is considered that the proposed changes to the hours of operation would not have a significant harmful effect to residential amenity.

The application as originally submitted, proposed hours of opening up until 1am. However, due to the concerns expressed about the potential for noise and disturbance due the application premises forming the end unit within the parade and its proximity to residential properties, the hours of use have been reduced to 23.00hrs. It is considered that is strikes an appropriate balance between the commercial interests of the applicant and safeguarding the living conditions of nearby occupiers.

Due to the location of the application site along a busy, main arterial routes and other premises located nearby with comparable operational hours, the impact to residential amenity is considered acceptable in this location, subject to the planning conditions proposed.

Traffic Generation/car parking

The expansion of the operating hours would not have a significantly harmful impact beyond the existing opening time in relation to highway matters. The property does not benefit from off street parking, and there is a TRO related to a bus stop outside of the property. However, there are no on street parking restrictions in front of the other premises, and as such parking on street is available in proximity to the property .

Refuse storage and collection.

The change in hours of operation is not considered to have a significant impact to waste generation from the site. The business has existing storage and collection methods on site.

A condition is proposed to be attached to any approval to ensure servicing hours are limited to safeguard the residential amenity of local residents in proximity to the site.

OTHER LEGISLATIVE REQUIREMENTS

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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 polices 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.

CONCLUSION

The proposed variation to extend the operating hours of the premises at 65 Kingsway is considered acceptable in planning terms. The change aligns with the character of the area, is consistent with other nearby commercial uses, and is subject to conditions that mitigate potential impacts on residential amenity, particularly regarding noise and servicing. The application has been assessed against relevant local and

national planning policies and, with the recommended conditions, is deemed to comply. Therefore, approval is recommended.

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. The proposal is considered to be acceptable and therefore determined within a timely manner.

CONDITIONS TO BE ATTACHED TO DECISION FOR APPROVAL

1. Opening hours

The premises shall not be open outside the following hours:

09.00 until 23.00 (Monday to Sunday)

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 for the City of Manchester.

2. Servicing hours

Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

a. 07:30 to 20:00, Monday to Saturday
b. no deliveries/waste collections on Sundays/Bank Holidays.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation 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 for the City of Manchester.

3. External use

a)The use of any external areas within the application site, shall be used in accordance with a schedule of days and hours of operation to be submitted to and approved in writing by the City Council as local planning authority, prior to any external areas (including any areas of the forecourt) are brought into use.

b) There shall be no amplified sound, or any music played in these external areas at any time.

Reason - To safeguard the amenities of the occupiers of nearby properties 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 for the City of Manchester.

4. Premises sound insulation

a. The premises shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as local planning authority.
    i. Where entertainment noise is proposed the LAeq (entertainment noise) shall be controlled to 5dB below the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive location, and internal noise levels at structurally adjoined residential properties in the 63HZ and 125Hz octave frequency bands shall be controlled so as not to exceed (in habitable rooms) 47dB and 41dB (Leq,5min), respectively.

b. Prior to occupation of the development a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria have been met. Any instances of non-conformity with the recommendations in the verification report shall be detailed along with any measures required to be undertaken prior to occupation of the development to ensure compliance with the internal noise criteria.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties 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 for the City of Manchester.

5. Roller Shutters

The existing roller shutters shall remain open/up during daytime hours (between 09:00 to 17:00 hrs Monday to Sunday).

Reason - To ensure vibrancy of the host parade and to safeguard the visual appearance of the street-scene, pursuant to saved policy E3.3 of the Unitary Development Plan for the City of Manchester and policy DM1 of the Manchester Core Strategy.

APPENDIX 1 – LIST OF CONSULTEES & NEIGHBOURS NOTIFIED

Environmental Health

10 Austin Grove, Manchester, M19 2BH

Aaa (uk) Ltd, 244 - 250 Moseley Road, Manchester, M14 6PD

244 - 250 Moseley Road, Manchester, M14 6PD

6 Austin Grove, Manchester, M19 2BH

4 Austin Grove, Manchester, M19 2BH

69 Kingsway, Manchester, M19 2LL

67 Kingsway, Manchester, M19 2LL

61A Kingsway, Manchester, M19 2LL

59 Kingsway, Manchester, M19 2LL

63 Kingsway, Manchester, M19 2LL

61 Kingsway, Manchester, M19 2LL

8 Austin Grove, Manchester, M19 2BH

APPENDIX 2 – PLANNING CONSTRAINTS

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH AREA