

Planning

Growth & Development

Delegated officer report for planning application

Application no.	141819/JO/2024
Date registered valid:	27 December 2024
Proposal:	Variation of Condition 5 (opening hours) attached to planning permission 071247/FU/2004/N2 to extend the opening hours to 0900hrs to 0100hrs 7 days a week
Address:	113 Wilmslow Road, Manchester, M14 5AN
Ward(s):	Rusholme Ward
Applicant:	Tufail Ahmed, Renovive
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	14 April 2025



Application details

Type of application: Variation or Removal of Condition

Development type: Change of use

Date of site visit: 16 January 2025

Standard consultations:

Printed: 13 January 2025 Expired: 3 February 2025

Neighbour notifications

Printed: 13 January 2025 Expired: 3 February 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

Description of site/building/area

113 Wilmslow Road is a three storey mid-terraced commercial building within the Rusholme District Centre. There is a food outlet on the ground floor with associated accommodation above. Food and drink uses are located on either side of the application site, while on the other side of Wilmslow Road there are food and drink uses. To the rear of the site, beyond the rear yard, lies Basil Street and a number of commercial uses.

Listed building: No

Conservation area: No

Tree Preservation Order: No

Description of development

The applicant is applying to vary condition no. 5 (opening hours) attached to planning permission 071247/FU/2004/N2 to extend the opening hours to 09:00 to 01:00 7 days a week.

The original opening hours are as follows:

- Sunday to Thursday – 0900hrs to 2330hrs
- Friday and Saturdays – 0900hrs to 0000hrs

Consultations & Notification Responses

Local Residents/Businesses – No comments received.

Highway Services – No objection to the proposal from a highway perspective.

Environmental Health – Suggests the imposition of two condition, one requiring the acoustic insulation of the property, the other requiring the acoustic insulation of any new external plant.

Policies

The National Planning Policy Framework (December 2024) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear strong reason for refusing the development proposed; or
 - ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Core Strategy Development Plan Document – 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. Relevant policies in the Core Strategy are detailed below: Policy

SP1, Spatial Principles – 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 and protect and enhance the built and natural environment.

Policy DM1, Development Management – This policy states that all development should have regard to a number of specific issues, of which the following are most relevant:

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

- Community safety and crime prevention.

Saved UDP Policy DC26, “Development and Noise” – Policy DC26.1 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 DC26.2 states that new noise-sensitive developments (including large-scale changes of use of existing land or buildings), such as housing, schools, hospitals or similar activities, will be permitted subject to their not being in locations which would expose them to high noise levels from existing uses or operations, unless the effects of the noise can realistically be reduced. In giving effect to this policy, the Council will take account both of noise exposure at the time of receiving a planning application and of any increase that may reasonably be expected in the foreseeable future.

Issues

Principle of the Proposal – The closing times of the various food and drink outlets in the district centre vary from 11.30pm to 3.00am depending what day of the week it is, those closest to the site are shown below. In addition, there are several food and drink uses that do not have any opening restrictions at all. The application property, when used in conjunction with no. 111 Wilmslow Road, did have planning permission (052910/FO/CENTL1/97) to open until 1.00 am on Sundays to Thursdays and until 2.00am on Fridays and Saturdays. Given this, there is no objection in principle to the proposed hours. However, any potential disamenity to nearby residents must be assessed and the possibility of attaching additional conditions to mitigate against any such disamenity shall be considered.

- 54/56 Wilmslow Road - Sunday to Thursday, 08:00 hrs to midnight and Fridays and Saturdays, 08:00 hrs to 00:30 hrs
- 66 Wilmslow Road - Sunday to Thursday, 8.00 a.m. to 11.30 p.m. Fridays and Saturdays, 8.00 a.m. to midnight.
- 109 Wilmslow Road - Sunday to Thursday 8:00am to 11:30pm, Friday and Saturday 8:00am to Midnight.
- 109a Wilmslow Road – 24 hour taxi base
- 111 Wilmslow Road - The shop shall be closed between midnight and 8.00 a.m. on Mondays to Fridays and between 1.00 a.m. and 8.00 a.m. on Saturdays and Sundays.
- The restaurant will be closed between midnight and 6.00 p.m. on Mondays to Fridays and between 1.00 a.m. and 6.00 p.m. on Saturdays and Sundays.
- 111/113 Wilmslow Road – Sunday to Thursday, 8.00 a.m. to 1.00 am. Fridays and Saturdays, 8.00 a.m. to 2.00 am.
- 115 Wilmslow Road - 8.00a.m. to 11.30p.m. Monday to Thursday, 8.00a.m. to Midnight Fridays and Saturdays.
- 117 Wilmslow Road - Sunday to Thursday, 8.00 a.m. to 11.30 p.m. Fridays and Saturdays, 8.00 a.m. to midnight.

Residential Amenity – It is recognised that the level of residential amenity expected to be enjoyed when living close to a district centre such as Rusholme, which is known for its food and drink offers, is much lower than that expected in a predominantly residential area. Notwithstanding this, existing levels of residential amenity should be preserved as much as possible, and it is for this reason that Environmental Health have suggested the two conditions.

However, given the previous consent (052910/FO/CENTL1/97) required the premises to be insulated, the lack of residential accommodation nearby and the levels of activity now experienced in this vibrant district centre, it is not considered necessary to require the premises to be insulated further. In addition, as the applicant has confirmed that no new external plant is to be installed as part of this application, there is no requirement to impose the condition requiring such plant to be acoustically insulated.

Visual Amenity – The proposal would not have a detrimental impact upon the existing levels of visual amenity enjoyed within the district centre.

Pedestrian and Highway Safety – The proposal would not have a detrimental impact upon the existing levels of pedestrian and highway safety enjoyed within the district centre.

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 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: Approve

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner to resolve any matters arising in relation to dealing with the planning application.

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

1) The premises shall not be open outside the following hours:-

a) 0900hrs to 0100hrs

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 Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services

Environmental Health

2A Walmer Street East, Manchester, M14 5SS

113A Wilmslow Road, Manchester, M14 5AN

58 Wilmslow Road, Manchester, M14 5AL

Flat At, 117 Wilmslow Road, Manchester, M14 5AN

Flat At, 115 Wilmslow Road, Manchester, M14 5AN

31 Aspinall Street, Manchester, M14 5UD

23 Aspinall Street, Manchester, M14 5UD

27 Aspinall Street, Manchester, M14 5UD

62 Wilmslow Road, Manchester, M14 5AL

60 Wilmslow Road, Manchester, M14 5AL

64 Wilmslow Road, Manchester, M14 5AL

360 Lounge, 54 - 56 Wilmslow Road, Manchester, M14 5AL

66 Wilmslow Road, Manchester, M14 5AL

115 Wilmslow Road, Manchester, M14 5AN

109 Wilmslow Road, Manchester, M14 5AN

117 Wilmslow Road, Manchester, M14 5AN

33 Aspinall Street, Manchester, M14 5UD

29 Aspinall Street, Manchester, M14 5UD

25 Aspinall Street, Manchester, M14 5UD

Appendix 2 – Planning constraints

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

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH AREA