

Planning

Growth & Development

Delegated officer report for planning application

Application no. 141254/JO/2024

Date registered valid: 16 October 2024

Proposal: Variation of condition 3 (Hours) associated with planning permission 107543/FO/2014/C2 to permit 24hr opening

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

Ward(s): Piccadilly Ward

Applicant: MCD Manchester Ltd

Agent (if any): Mr Connor Wigley Broadgrove Planning and Development

Case officer: James Bridgman
Tel: 0161 219 6202
Email: james.bridgman@manchester.gov.uk

Recommendation: Refused

Date of recommendation: 10.12.2024

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Date of site visit: 29 October 2024

Standard consultations:

Printed: 24 October 2024 Expired: 14 November 2024

Neighbour notifications

Printed: 24 October 2024 Expired: 14 November 2024

Site notice

Posted: 29 October 2024 Expired: 19 November 2024

Press advert

Published: 29 October 2024 Expired: 12 November 2024

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: Smithfield Conservation Area 1987

Tree Preservation Order: Not applicable

Description of 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.

Description of development

Permission is sought for the variation of the wording of Condition 3 of Planning Permission reference 107543/FO/2014/C2, to increase the operating hours of the restaurant to 24 hours, seven days a week. The current permitted opening hours are 6:00 to 24:00 daily.

131068/JO/2021 - 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. Decision: Refused 29 April 2022

Reason for refusal:

- 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).*

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 08.04.2015

Condition 3 of the above permission:

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

06:00 to 24:00 daily

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.

Adjacent sites

129741/FO/2021 - Creation of four residential apartments (1 x 1 bed and 3 x 2 bed) (Class C3a). 17 Piccadilly, Manchester, M1 1LS. Decision: Approved 04.08.2022

Consultations & Notification Responses

Highway Services – No objections

Transport For Greater Manchester – No comments

Metrolink – No comments

Greater Manchester Police – Objection with significant concerns with the extension of hours.

Environmental Health Officer – Recommendation for refusal as it has not been shown that residential will not be impacted by noise disamenity.

Publicity – The proposal has been advertised, by way of site notice and press advertisement for the public interest. Letters have also been sent out to local businesses and residents. 4 individual objections have been received and a letter on behalf of a resident's association.

- Increase in anti-social behaviour
- Issues with associated rubbish from this takeaway

- Noise impact from deliveries
- Antisocial noise in early hours of the morning
- Inundated with delivery cycles hanging around front doors
- Experience of abuse at nighttime trying to access their property

Policy

Local Development Framework

The principal document within the framework is the Manchester Core Strategy which sets out the spatial vision for the City and includes strategic policies for development during the period 2012 – 2027.

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

The following policies within the Core Strategy are considered relevant:

Policy SP1 (Spatial Principle) refers to the key spatial principles which will guide the strategic development of Manchester together with core development principles. It is stated that developments in all parts of the city should create well designed places which enhance or create character, make a positive contribution to the health, safety and well-being of residents, consider the needs of all members of the community and protect and enhance the built environment. Further, development should seek to minimise emissions, ensure the efficient use of natural resources, reuse previously developed land wherever possible, improve access to jobs, services and open space and provide good access to sustainable transport provision.

Policy DM1 (Development Management) states that new development should have regard to more specific issues for which more detailed guidance may be given within supplementary planning documents. Issues include: the appropriate siting and appearance of development, the impact upon the surrounding area, the effects on amenity, accessibility, community safety and crime prevention, health, the adequacy of internal accommodation and amenity space and refuse storage/collection.

Policy C 10 – 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 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.

Unitary Development Plan for the City of Manchester, 1995 (Saved Policies)

The below saved policy of the Unitary Development Plan is also considered relevant:

Policy DC10 (Food and Drink Uses) relates to development for the consumption of food and drink. Amongst the criteria with the policy, the Council should have regard to the general location of the proposed development and the effect upon the amenity of neighbouring residents.

Subsection DC10.4 states that where the proposed development is considered acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may amongst other things include a limitation on the hours of opening.

Policy DC26 (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 the City. In particular, consideration will be given to the effect of new development proposals which are likely to be generators of noise.

National Planning Policy Framework

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role.

The Framework underlines a “presumption in favour of sustainable development”. This means approving development, without delay, where it accords with the development plan and where the development is absent or relevant policies are out-of-date, to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

Sections 4, 12 and 15 are considered relevant to the consideration of this application.

National Planning Policy Guidance (2014)

The Government produced a suite of documents to act as a live resource which set out advice and best practice on a wide range of planning issues following a detailed review of planning policy guidance as a way of streamlining policy.

The relevant sections of the NPPG in this case are as follows:

Noise

Noise needs to be considered when development may create additional noise or would be sensitive to the prevailing acoustic environment (including any anticipated changes to that environment from activities that are permitted but not yet commenced).

Local planning authorities' should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

Issues

Residential amenity

The property is located within Piccadilly gardens, consisting of a mix of commercial businesses and residential properties. Immediately adjacent to the site include existing restaurants and takeaways such as Wing Stop and Five Guys. These units are open until 11pm.

The applicant's Noise Impact Assessment refers to Burger King which is located approximately 80m away from the site on Mosley Street. It is acknowledged that this use was approved in 1978, and it currently is open 24 hours as there were no conditions limiting the opening hours.

The principle of the proposed use has been established by the previous approvals at the site. 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 set approximately 25 metres away and are separated from the application site by one building. The applicant has provided a management plan with strategies that would be put in place to prevent amongst other things 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 through the early hours of the morning, which could disturb residents.

The submitted acoustic report has calculated the impact to the 2nd floor residential window as the nearest NSR of 15-17 Piccadilly. However, it is noted there is an extant planning permission 129741/FO/2021 for the creation of four residential apartments at 1st floor of this building. Therefore, the calculations should have referred to the 1st floor as it will be closer to the noise source.

Whilst the report indicates that noise levels did not significantly drop within the period the restaurant is closed, it is considered that extending the hours for this McDonald's restaurant will attract more people to the area during the proposed hours of 00.00 until 06:00 when residents are 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 03:00 and to a lesser extent between the hours of 03:00 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.

Greater Manchester Police have objected to the proposal due to high levels of crime and anti-social behaviour within this location. Following an analysis of their logged data from this year, it indicates there are spikes in the evenings, particularly after 9pm within this location/area. Therefore, it is considered to extend the hours beyond the existing hours will generate further incidents.

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.

A site history of units in close proximity to the site shows application 129741/FO/2021 was approved for the creation of four apartments at the upper floors of No.17 Piccadilly.

The growth of the night-time economy is an important component of the area's overall success. However, 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 antisocial 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.

In July 2023, a landscape architectural company were selected to lead of the design of Piccadilly Gardens. Works have begun earlier this year on improvement works which are to help mitigate and hopefully reduce the crime and antisocial behaviour within this location.

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.

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: Refuse

Article 35 Declaration

Officers have communicated their concerns about this proposal to the applicant during the course of the planning application. The proposal is considered to be contrary to the development plan, national policy and saved policies and therefore cannot be supported.

OR Reasons for recommendation to refuse

- 1) The proposed extension of opening hours of the existing fast-food restaurant 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. In addition, the proposal would exacerbate existing crime and antisocial behaviour within the immediate area and around Picadilly Gardens. The proposed application is therefore contrary to Policies DM1, C10, and SP1 and saved Unitary Development Plan Policies DC10.1 and 10.4, DC26, and the National Planning Policy Framework (NPPF) which seek to safeguard amenity and protect the character of an area.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
GMP - CC Neighbourhood Policing
Greater Manchester Police
Transport For Greater Manchester
Metrolink

Unit 3, 11 - 13 Piccadilly, Manchester, M1 1LY
7 - 11 Oldham Street, Manchester, M1 1LG
GREGGS, 7 - 9 Piccadilly, Manchester, M1 1LZ
Superdrug, 7 Piccadilly, Manchester, M1 1LZ
Flat 18, 15 Piccadilly, Manchester, M1 1LT
Flat 17, 15 Piccadilly, Manchester, M1 1LT
Flat 16, 15 Piccadilly, Manchester, M1 1LT
Flat 15, 15 Piccadilly, Manchester, M1 1LT
Flat 14, 15 Piccadilly, Manchester, M1 1LT
Flat 13, 15 Piccadilly, Manchester, M1 1LT
Flat 12, 15 Piccadilly, Manchester, M1 1LT
Flat 11, 15 Piccadilly, Manchester, M1 1LT
Flat 10, 15 Piccadilly, Manchester, M1 1LT
Flat 9, 15 Piccadilly, Manchester, M1 1LT
Flat 8, 15 Piccadilly, Manchester, M1 1LT
Flat 7, 15 Piccadilly, Manchester, M1 1LT
Flat 6, 15 Piccadilly, Manchester, M1 1LT
Flat 5, 15 Piccadilly, Manchester, M1 1LT
Flat 4, 15 Piccadilly, Manchester, M1 1LT
Flat 2, 15 Piccadilly, Manchester, M1 1LT
Flat 1, 15 Piccadilly, Manchester, M1 1LT
Flat 3, 15 Piccadilly, Manchester, M1 1LT
Unit 1, 11 - 13 Piccadilly, Manchester, M1 1LY
Ground Floor And First Floor, 8A Tib Street, Manchester, M4 1PQ
First Floor, 17 Piccadilly, Manchester, M1 1LS
11 Piccadilly, Manchester, M1 2HY
8A Tib Street, Manchester, M4 1PQ
Unit 2, 11 - 13 Piccadilly, Manchester, M1 1LY
1 - 3 Piccadilly, Manchester, M1 1LZ
17 Piccadilly, Manchester, M1 1LS
Halifax, 5 Piccadilly, Manchester, M1 1LZ
Mezzanine Floor, 11 Piccadilly, Manchester, M1 2HY

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3
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: CENTRAL