

Planning

Growth & Development

Delegated officer report for planning application

Application no. 139884/JO/2024

Date registered valid: 22 July 2024

Proposal: Variation of Condition 5 (Unit Hours) of planning permission referenced 126361/FO/2020 to allow extension of operating hours to 10:00am - 03:30am Monday to Sunday.

Address: 125 Deansgate, Manchester, M3 2BY

Ward(s): Deansgate Ward

Applicant: ARC Inspirations Ltd

Agent (if any): Mr George Creamer Firstplan

Case officer: Danielle Cooper
Tel: 0161 234 1658
Email: danielle.cooper@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 12/09/2024

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Date of site visit: 7 August 2024

Standard consultations:

Printed: 7 August 2024 Expired: 29 August 2024

Neighbour notifications

Printed: 7 August 2024 Expired: 29 August 2024

Site notice

Posted: 7 August 2024 Expired: 29 August 2024

Press advert

Published: 13 August 2024 Expired: 3 September 2024

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: Albert Square (Extension) Conservation Area 1985

Tree Preservation Order: N/A

Description of area

This application relates to part of the ground floor and mezzanine of an office development. The unit occupies part of the floorplate facing Deansgate and Brazennose Street. This unit operates as a bar, BOX Deansgate.

Uses in the immediate area include offices, shops, bars, banks and restaurants and a library and the Great Northern shopping and entertainment complex.

Deansgate is an extremely busy pedestrian and vehicular route through the City Centre.

Description of development

Planning permission is sought to vary condition 5 (operating hours) of approved application ref: 126361/FO/2020 to allow extension of operating hours to 10:00am - 02:30am Monday to Sunday.

Planning history

126361/FO/2020 - Change of Use Application of previously approved Retail Unit 1, at ground floor and first floor into Bar/Restaurant (A4/A3 Use) – Approved

Consultations & Notification Responses

This application was advertised by site notice, the press and neighbour notification letters. No representations have been received.

Environmental Health - after review of the noise assessment and recently approved licenced hours. The proposed hours should align with the recently approved licenced hours.

Design for Security at Greater Manchester Police - no concerns as the proposed opening hours are in line with similar uses in the area.

Neighbourhood policing – no response

Policy

In relation to the relevance of policies for this development, in respect of food and drink uses, the following policies remain applicable.

Core Strategy

The Manchester Core Strategy – Development Plan Document 2012-2027 (“the Core Strategy”) was adopted by the City Council on the 11th of July 2012:

Policy SP1 Spatial Principles outlines that the Regional Centre will be the focus for economic and commercial development, retail, leisure and cultural activity, alongside high quality city living. The development would be highly sustainable and introduce new activity to this vacant building. It would provide good access to sustainable transport and maximise the potential of the City's transport infrastructure.

SO2. Economy - The proposed development would further improve the City's economic performance and help to spread the benefits of growth across the City. It would provide new jobs during construction along with permanent employment and facilities in the associated leisure uses, in a highly accessible location.

SO5. Transport - This site is in a highly accessible location and its development would reduce the need to travel by private car. It would make the most effective use of existing public transport facilities.

Policy CC1 Primary Economic Development Focus: City Centre and Fringe outlines that the City Centre is a strategic economic location and focus of employment growth in the City and City Region. The Council encourages the provision of a range of economic development uses, such as retail, leisure, entertainment, cultural and tourism facilities in the City Centre, to create a vibrant employment location attractive to businesses, employees and visitors.

Policy CC4 Visitors - Tourism, Culture and Leisure sets out that the City Centre is a focus for culture and leisure within the City Region. Proposals such as this that improve the appearance, use and accessibility of all cultural and visitor attractions and associated facilities will be supported and would further generate a significant number of visitors to the area.

Policy CC10 A Place for Everyone states that uses such as this which increase the diversity of activity in the City Centre will be supported.

Policy C1 Centre Hierarchy outlines that the City Centre is the regional focus for commerce, culture, leisure and tourism.

Policy C10 Leisure and the Evening Economy states that development and redevelopment such as this, which supports the evening economy, contributes to the vitality of centres and supports a balanced and socially inclusive evening/night-time economy will be permitted.

Policy T2 Accessible Areas of Opportunity and Need seeks to ensure accessible developments. In doing so, the Council will support developments which are accessible by walking, cycling and public transport and connect residents and visitors to jobs, centres, health, leisure, open space and educational opportunities.

Policy EN19 Waste - The development would be consistent with the principles of waste hierarchy. In addition the application is accompanied by a Waste Management Strategy which details the measures that will be undertaken to minimise the production of waste both during construction and operation.

Policy DM 1 Development Management outlines a range of general issues that all development should have regard to. Of these, the following are of relevance to this proposal:

appropriate siting, layout, scale, form, massing, materials and detail;

- * Design for health;

- * Adequacy of internal accommodation and amenity space.

- * impact on the surrounding areas in terms of the design, scale and appearance of the proposed development;

- * that 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;

- * accessibility to buildings, neighbourhoods and sustainable transport modes;
- * impact on safety, crime prevention and health; adequacy of internal accommodation , external amenity space, refuse storage and collection, vehicular access and car parking; and
- * impact on biodiversity, landscape, archaeological or built heritage, green Infrastructure and flood risk and drainage.

Saved Unitary Development Plan for Manchester

Policy DC10.1 outlines that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises, the Council will have regard to its location, its effect on the amenity of neighbouring residents; the ease of access for all, and the storage and collection of refuse and litter.

Policy DC10.1 Food and Drink Use - In determining planning applications for food and drink uses, the Council will have regard to the general location of the proposed development, the effect on the amenity of neighbouring residents, the availability of safe and convenient arrangements for car parking and servicing, ease of access for all, including disabled people, and, the storage and collection of refuse and litter.

Policy DC10.2 states that food and drink uses will be acceptable, in principle, in the City Centre.

Policy DC26.1 Development and Noise - This policy details how the development control process will be used to reduce the impact of noise on people living and working in the City and states that this will include consideration of the impact that development proposals which are likely to be generators of noise will have on amenity.

Policy DC26.4 explains that where the Council believe that a new proposal will generate potentially unacceptable levels of noise, the applicant will need to provide a noise assessment to define any such impacts and any measures to deal with that noise.

Policy DC26.5 sets out that the Council will, where appropriate, require insulation in new development as well as noise barriers where high levels of noise are expected.

Policy DC26.5 Development and Noise - which states that the Council will control noise levels by requiring, where necessary, high levels of noise insulation in new development, as well as noise barriers where this is appropriate.

Policy DC26.6 outlines that exceptions to the general policy will be considered on their merits. Any such proposal will be considered in the light of consultation with local residents and others, and the practicability of appropriate conditions on any approval.

National Planning Policy Framework (NPPF)

- Chapter 12 – Achieving well-designed places

Other Legislative Requirements

Places for Everyone

The Places for Everyone Plan is a Joint Development Plan Document, providing a strategic plan and policies, for nine of the 10 boroughs which make up Greater Manchester.

The following policies are considered relevant to this application.

Policy JP-P1 - Sustainable Places

Policy JP-S1 - Sustainable Development

Issues

Principle of the development

The use of the site has been historically established. It is considered that the characteristics of the operation of the bar will not be affected by the variation of the opening hours, including noise and disturbance to neighbouring residents.

The LPA does not that a number of conditions attached to the original planning consent have not been discharged relating to noise, odours and refuse. As such, the applicant has been made aware to discharge these conditions as a matter of urgency and within 3 months from the date of this planning approval.

Variation of condition 5 (Operation hours)

The proposal relates to a variation of the opening hours controlled by condition under app. ref. 126361/FO/2020.

Premise Licencing for the unit has operation hours for the premise confirmed as 10:00am – 2:30am daily.

Environmental Health have requested that the opening hours are reduced to the following so that they are in line with the approved licencing hours –

10:00am – 2:30am daily.

The extended opening hours are in line with the licencing hours. The extended hours are considered appropriate and given its location which is within close proximity to other similar uses with similar opening hours, will not be unduly harmful to amenity.

Later opening hours carry the risk of greater anti-social behaviour and hence appropriate consideration and mitigation must be given to this issue. The Design for Security team at Greater Manchester Police has no objection to the extended hours given its city centre

location which is also located close to other premises of similar uses with the same opening hours.

Conclusion

In light of the above the proposed variation to planning permission 126361/FO/2020 have been taken into consideration and have been determined acceptable and in accordance with sections 12 of the National Planning Policy Framework (NPPF); Core Strategy Policies SP1, CC1, CC10, EN1 and DM1; and Saved Unitary Development Plan Policies DC10 and DC26.

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

In assessing the merits of an application officers will seek to work with the applicant in a positive and proactive manner to seeking solutions to problems arising in relation to

dealing with the application. In this instance this has included ongoing advice about the information required to be submitted to support the application

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

1) The development must be begun not later than the 01 July 2023.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

Location plan showing site edged red - dated 27.02.20

Drawing 1016/2000 - Existing Ground Floor Plan - dated 27.02.20

Drawing 1016/2001 - Existing First Floor Plan - dated 27.02.20

Drawing 1016/2005A - Tenant Roof Plant Area - dated 27.02.20

Drawing 1016/2006A - Proposed Bin Store Layout - dated 27.02.20

Drawing 1016/2007 - Proposed Kitchen Extract and Ventilation Unit Elevations - dated 27.02.20

Drawing 3803-03N - Proposed Ground Floor Plan - dated 27.02.20

Drawing 3803-04G - Proposed First Floor Plan - dated 27.02.20

The Box Manchester - Kitchen Extract Strategy - Rev A - dated 27.02.20

The Box Manchester - Operation Statement - dated 27.02.20

The Box Manchester - Waste Management Strategy - dated 27.02.20

Design and Access Statement - Box Bar and Restaurant - 125 Deansgate - dated 27.02.20

Crime Impact Statement - Ref 2010/0450/CIS/01 - Version A - dated 27.02.20

Acoustic Report - Ref DC3129-R2 - dated 27.02.20

Commercial Kitchen Extract Specification by Purified Air - dated 03.06.20

Acoustic Report - dated 22.07.2024

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to Core Strategy policies DM1 and SP1.

3) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, deliveries/waste collections on Sundays/Bank Holidays confined to 10:00 to 18:00

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Core Strategy policy DM1

4) Within 3 months of the date of this permission a noise study of the premises, a scheme shall be submitted and approved in writing by the City Council as local planning authority outlining how fumes, vapours and odours shall be extracted and discharged from the premises along with a verification report to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the odour statement report and subject to additional requirements set out below. The report shall also include photographs of the filters and odour abatement in situ within the ductwork before being boxed along with a diagram and photographs of the inspection access hatches.

Any instances of non-conformity with the recommendations in the report or approved measures shall be detailed along with any measures required to ensure compliance with the agreed criteria.

Reason - In the interests of the amenities of occupiers of nearby properties, pursuant to Core Strategy policy DM1.

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

10:00am to 02:30am Monday to Sunday

Reason - To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Core Strategy policies DM1 and SP1.

6) Within 3 months of the date of this permission a noise study of the premises, a scheme of acoustic treatment shall be submitted to and approved in writing by the City Council as local planning authority along with a verification report 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 has been met and that noise levels detailed in Table 2 and Table 3 are not exceed. Any instances of non-conformity with the noise levels detailed in Table 2 and Table 3 shall be provided along with any measures required to ensure compliance with the Table 2 and Table 3 values respectively.

Internal noise levels within the premises from music only, must not exceed the following noise levels when measured as an LAeq, 15 minute value:

Table 1

Frequency (Hz)

63	125	250	500	1000	2000	4000	Overall Noise Level (dBA)				
0800h to 1800h Leq, 15mins				93.0	95.0	95.0	90.0	95.0	90.0	85.0	97.9

1800h to Close Leq, 15mins Levels	88.0	90.0	90.0	85.0	85.0	85.0	80.0	91.5
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External music noise levels due to the operation of the premises must not exceed the following noise levels when measured as an LAeq, 15 minute value at the nearest noise sensitive residential receptor in existence at the date of this permission:

Table 2

Frequency (Hz)

63	125	250	500	1000	2000	4000	Overall Noise Level (dBA)				
0700h to 2300h Leq, 15mins				47.0	45.0	42.0	39.0	39.0	33.0	25.0	42.5
2300h to 0700 Leq, 15mins Levels				45.0	42.0	40.0	37.0	35.0	30.0	22.0	39.5

External music noise levels due to the operation of the premises must not exceed the following noise levels when measured as an LAeq, 15 minute value at the Brazennose Street façade of Centurion House:

Table 3

Frequency (Hz)

63	125	250	500	1000	2000	4000	Overall Noise Level (dBA)				
0700h to 1800h Leq, 15mins				58.1	54.1	53.1	41.1	35.1	37.1	28.1	47.3
2300h to 0700 Leq, 15mins Levels				62.8	58.8	57.8	45.8	44.8	41.8	32.8	52.5

Reason - In the interests of the amenities of occupiers of nearby properties, pursuant to Core Strategy policy DM1.

7) Within one month of the date of any sale or transfer of the entire building to a new owner as an individual unit inclusive of any Sui Generis use, an updated acoustic assessment of noise transfer between the ground / first floor sui generis use and the upper floor office units shall be submitted and noise limits recommended to meet a criteria in the office space above to be submitted to and agreed in writing by the City Council as local Planning Authority.

Reason - In the interests of the amenities of occupiers of nearby properties and future occupiers of the office space, pursuant to Core Strategy policy DM1.

8) Within 3 months of the date of this permission a noise study of the premises, externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive receptor.

The scheme shall be submitted to and approved in writing by the City Council as local planning authority, alongside a verification report to validate that the noise levels from external plant and equipment installed as part of the development do not result in an increase in the measured typical background noise level.

Any instances of non-conformity with the above criteria shall be detailed along with any additional measures required to ensure compliance with the agreed noise criteria.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to Core Strategy policy DM1.

9) The consent hereby granted shall not allow for the use of amplified sound or any music in the external areas at any time and the external areas shall not be open outside the following hours:-

09:30am to 23:00pm Monday to Friday,
09:30am to 23:00pm Saturday, and,
09:30am to 23:00pm on Sundays and Bank Holidays

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to Core Strategy policy DM1.

10) Within three months of the date from this permission, a scheme for the storage and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

New developments shall have refuse storage space for segregated waste collection and recycling. Internal and external storage areas are required.

Reason - In the interests of amenity and public health, pursuant to Core Strategy policy DM1.

11) Any external doors proposed for the Brazennose Street elevation, shall only be open if the full requirements of all acoustic measures and levels are met

Reason - In the interests of amenity and public health, pursuant to Core Strategy policy DM1.

Informatives

1) In relation to Condition 4 (Fumes), the applicant will need to consult with a suitably qualified ventilation engineer and submit a kitchen fume extract strategy report for approval. The strategy should include risk assessments for odour and noise and be based on appropriate guidance such as that published by EMAQ titled 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' dated September 2018. Details should also be provided in relation to replacement air.

2) In relation to Condition C10 (Waste), the applicant will be required to confirm collection frequency for the proposed containers.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Greater Manchester Police
GMP - CC Neighbourhood Policing

5 Brazennose Street, Manchester, M2 5AD
Seventh To Eleventh Floors, 125 Deansgate, Manchester, M3 2BY
Third Floor, 125 Deansgate, Manchester, M3 2BY
Second Floor, 125 Deansgate, Manchester, M3 2BY
First Floor, 125 Deansgate, Manchester, M3 2BY
Fourth Floor, 125 Deansgate, Manchester, M3 2BY
Sixth Floor, 125 Deansgate, Manchester, M3 2BY
123 Deansgate, Manchester, M3 2BY
Seventh Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Sixth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Ninth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Eight Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Fifth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Tenth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Fourth Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Second Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Ground Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Basement, Centurion House, 129 Deansgate, Manchester, M3 3WR
Eleventh Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
First Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR
Third Floor, Centurion House, 129 Deansgate, Manchester, M3 3WR

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 - Albert Square (Extension) Conservation Area 1985
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: CENTRAL