MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	140102/JO/2024
Date registered valid:	23 May 2024
Proposal:	Application to vary condition no. 4 attached to planning permission 124700/FO/2019 in order to allow the premises to operate between 9.00am to 11.00pm seven days a week, (including Bank Holidays).
Address:	93 Beech Road, Manchester, M21 9EQ
Ward(s):	Chorlton Ward
Applicant:	F&B Fusion Ltd
Agent (if any):	Dawson Williamson Ltd
Case officer:	Ellie Knowles Tel: 0161 219 6633 Email: ellie.knowles@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	18 July 2024

Application details

Type of application: Variation or Removal of Condition

Development type: Minor Other

Date of site visit: N/A

Standard consultations:
Printed: 4 June 2024 Expired: 25 June 2024

Neighbour notifications
Printed: 4 June 2024 Expired: 25 June 2024

Press advert
Published: 11 June 2024 Expired: 25 June 2024

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: Chorlton Green (Extension) Conservation Area 2007

Tree Preservation Order: Not applicable

Description of area

The application property is under current operation as a café/restaurant. The property comprises an end unit within a parade of shops in Beech Road local shopping centre. It is the first commercial property on the south side of Beech Road when approaching from the east. The property has a residential accommodation above, which is accessed at the front from the corner of Beech Road and Neal Road. The property turns the corner with Neale Road which is a residential road.

Description of development

Applicant is seeking to vary condition no. 4 (hours of opening) attached to planning permission 124700/FO/2019 to allow the premises to open: Monday to Sunday and Bank Holidays 9.00 am to 23.00 pm.

Consultations & Notification Responses

Local responses

One letter of representation was received from a local resident raising the following concerns:

- Site operates in an area where there are a large number of licenced premises with operating hours into the late evening.

- Extension of hours has led to increase in noise relating to rubbish being emptied at night and customers exiting the premises, further extension of hours will exacerbate this.
- Beech Road runs the risk of being turned into an area that is predominantly visited for its nightlife to drink alcohol and eat.

Consultee responses

Environmental Health – We have considered the above application in conjunction with the acoustic report that was uploaded with application CDN/24/0353 and have no objections to the variation in opening hours.

Relevant Planning History

At the application site –

CDN/24/0353 – Discharge of Conditions 6 (acoustic) and 7 (external equipment) attached to planning permission 124700/FO/2019. Approved 27.06.2024.

134481/JO/2022 – Variation of condition 4 (hours of opening) attached to planning permission referenced 124700/FO/2019 to allow the use of the building between 09:00 - 23:00 hrs daily. Withdrawn – advised to discharge outstanding conditions 6 and 7 of plan ref 124700/FO/2019.

124700/FO/2019 – Installation of canopy to front and side of premises with associated access ramp including extend opening hours from 8am to 11.00 pm Monday to Saturday and Sunday 09.00 to 17.00. Approved 20.10.2020.

062234/FO/SOUTH1/01 – First floor rear extension to bakers. Approved 20.09.2001.

061064/FO/SOUTH1/01 – Rear extension at first floor level to form office, rest room, changing room, and toilets. Refused 26.02.2001.

044240/FU/SOUTH2/93 – Change of use of part of shop to a café. Approved 20.10.1993.

At 33 Beech Road, The Laundrette –

103139/JO/2013/S1 – Variation of condition no. 4 attached to planning permission 101559/FO/2013/S1 to allow increased opening hours for the outside area from 9:30am to 10pm seven days a week. Refused 09.09.2013. Dismissed at Appeal **APP/B4215/A/14/2213684.**

101559/FO/2013/S1 – Change of use of ground floor from vacant launderette (sui generis) to restaurant with associated outdoor seating area (Class A3), together with a fume extraction flue to the rear. Approved 18.04.2013.

At 105 Beech Road –

131445/JO/2021 – Application to vary condition nos. 4 (use of front external seating area) and 5 (use of rear external seating area) attached to planning permission 123389/FO/2019 in order to allow the external seating areas to be utilised until 10.00pm and 11.00pm. Approved 02.11.2021.

History of negotiations

The planning officer requested that the opening hours were amended to 9.00am to 23.00pm daily, to be consistent with neighbouring uses and planning history. The agent agreed to this via email dated 17/7/24.

Local Planning Policies

Places for Everyone (2022-2039) – Places for Everyone is a long-term plan of nine Greater Manchester districts for jobs, new homes, and sustainable growth. It has been published by the GMCA on behalf of the nine districts and took effect and became part of the statutory development plan on March 21, 2024.

The PfE Plan and its policies are now a material planning consideration in the determination of planning applications. The PfE Plan and its policies must therefore be given full weight in the planning balance.

Manchester Core Strategy Development Plan Document (2012-2027) - The Core Strategy was adopted on the 11 July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan. Parts of the policies have been superseded by the Places for Everyone Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant **Places for Everyone** policies for this application are as follows:

JP-S1 – Sustainable Development

The relevant **Core Strategy** policies for this application are as follows:

DM 1 – Development Management
SP 1 – Spatial Principles (partially superseded by PfE)
EN 3 – Heritage (partially superseded by PfE)

The relevant saved **UDP** policies for this application are:

DC10 – Food and Drink Uses
DC18 – Conservation Areas
DC26 – Development and Noise

National Planning Policy Framework

The NPPF (2023) sets out broad national policies on themes such as housing, historic environment, town centres, design, climate change and the Green Belt. Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which effectively balances economic, social and environmental factors. The Local Planning Authority consider the following sections relevant to this proposal.

- Section 2 – Achieving sustainable development
- Section 7 – Ensuring vitality of town centres
- Section 8 – Promoting healthy and safe communities

Issues

Principle of the proposal:

There is no objection in principle to amending the proposed opening hours of the internal premises, especially as they have been reduced to 11.00pm to reflect those already in existence within this part of Beech Road neighbourhood centre. However, any potential disamenity to nearby residents must be assessed and the possibility of attached additional conditions to mitigate against any such disamenity considered.

Residential Amenity:

The application form sets out that the applicant wishes to extend the internal premises opening hours to the following hours – Monday to Sunday, including Bank Holidays, 9.00 am to 23.30 pm.

These proposed hours have been assessed by Environmental Health and it is considered that they are appropriate subject to the recent assessment of the acoustic report submitted in support of CDN/24/0353.

Notwithstanding this, existing levels of residential amenity should be preserved as much as possible, after reviewing recent hours applications for this part of Beech Road, the amended hours are as follows:
Monday to Sunday, and Bank Holidays, 9.00 am to 23.00 pm

These revised opening hours are considered consistent with other nearby commercial uses and in real terms represent the following changes:

- opening Monday-Saturday an hour later (8.00am as existing to 9.00am as proposed)
- an increase in hours of operation on Sundays only (from 17.00pm close as existing to 23.00pm as proposed)

This would equate to a net change in opening hours of the premises.

It is further acknowledged that the external seating area hours approved under the original planning application, 124700/FO/201, remain unaffected. These remain as Monday to Saturday 08.00 to 22.00 and Sundays and Bank Holidays 09.00 to 17.00.

Therefore, on balance it is considered that the increase in opening hours of the internal premises would not result in an increase in noise and disturbance that would be detrimental to the nearby residential amenity. As such, the revised opening hours would not conflict with saved policies DC10 and DC26 of the UDP and policies DM1 and SP1 of the Core Strategy.

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.

Recommendation: Approve

Article 35 Declaration
Officers have worked with the applicant/agent in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Condition(s) to be attached to decision for approval

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

Monday to Sunday (Including Bank Holidays) 09.00 am to 23.00 pm.

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Policies SP1 and DM1 of the Core Strategy and saved Policy DC26 of the City of Manchester Unitary Development Plan

5) The external seating area associated with the premises shall not be open outside the following hours:

Monday to Saturday 08.00 to 22.00 and Sundays and Bank Holidays 09.00 to 17.00.

and shall not allow for the use of amplified sound or any music in these external areas at any time.

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

8) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours: 07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

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.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Chorlton Voice

103A Beech Road, Manchester, M21 9EQ
103 Beech Road, Manchester, M21 9EQ
7 Copgrove Road, Manchester, M21 9FP
5 Copgrove Road, Manchester, M21 9FP
89 Beech Road, Manchester, M21 9FD
87 Beech Road, Manchester, M21 9FD
85 Beech Road, Manchester, M21 9FD
105A Beech Road, Manchester, M21 9EQ
36B Beech Road, Manchester, M21 9EL
95 Beech Road, Manchester, M21 9EQ
Flat B, 93 Beech Road, Manchester, M21 9EQ
Basement And Ground Floor, 32 Beech Road, Manchester, M21 9EL
The Lead Station, 99 Beech Road, Manchester, M21 9EQ
34 Beech Road, Manchester, M21 9EL
9 Copgrove Road, Manchester, M21 9FP
3 Copgrove Road, Manchester, M21 9FP
40A Beech Road, Manchester, M21 9EL
49 Crossland Road, Manchester, M21 9DU
43 Crossland Road, Manchester, M21 9DU
37 Crossland Road, Manchester, M21 9DU
Flat A, 93 Beech Road, Manchester, M21 9EQ
Flat D, 93 Beech Road, Manchester, M21 9EQ
40 Beech Road, Manchester, M21 9EL
First Floor, 32 Beech Road, Manchester, M21 9EL
Flat C, 93 Beech Road, Manchester, M21 9EQ
53 Crossland Road, Manchester, M21 9DU
45 Crossland Road, Manchester, M21 9DU
42 Beech Road, Manchester, M21 9EL
38 Beech Road, Manchester, M21 9EL
97 Beech Road, Manchester, M21 9EQ
44 Beech Road, Manchester, M21 9EL
36A Beech Road, Manchester, M21 9EL
51 Crossland Road, Manchester, M21 9DU
47 Crossland Road, Manchester, M21 9DU
41 Crossland Road, Manchester, M21 9DU
39 Crossland Road, Manchester, M21 9DU
35 Crossland Road, Manchester, M21 9DU
33 Crossland Road, Manchester, M21 9DU
36 Beech Road, Manchester, M21 9EL
105 Beech Road, Manchester, M21 9EQ
101 Beech Road, Manchester, M21 9EQ
1 Copgrove Road, Manchester, M21 9FP
91 Beech Road, Manchester, M21 9FD
83 Beech Road, Manchester, M21 9FD
101A Beech Road, Manchester, M21 9EQ
40B Beech Road, Manchester, M21 9EL

Appendix 2 – Planning constraints

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
Conservation Area - Chorlton Green (Extension) Conservation Area 2007
Area Team Boundary - Name: SOUTH AREA