

Planning

Growth & Development

Delegated officer report for planning application

Application no. 138033/JO/2023

Date registered valid: 12 September 2023

Proposal: Variation of Condition 3 (Opening Hours) attached to Planning Permission 100001/FU/2012/C2 to change the hours to be changed to allow for opening between 12:00 - 03:00 daily

Address: 100 - 102 High Street, Manchester, M4 1HP

Ward(s): Piccadilly Ward

Applicant: Mr Adam Binnersley Bigger Boat Leisure

Agent (if any): Mr Ralph Taylor Paul Butler Associates

Case officer: Max Gibson
Tel: 0161 219 6359
Email: maximillian.gibson@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 16 October 2023

Application details

Type of application: Variation or Removal of Condition

Development type: Change of use

Date of site visit:

Standard consultations:

Printed: 18 September 2023 Expired: 9 October 2023

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

Posted: Expired:

Press advert

Published: 26 September 2023 Expired: 10 October 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

The site relates to a restaurant in the ground floor unit of 100-102 High Street.

Listed building: Not applicable

Conservation area: Smithfield Conservation Area 1987

Tree Preservation Order: n/a

Description of area

The area relates to the Northern Quarter, Manchester city centre's cultural and nightlife quarter. The area comprises many different uses, including residential, dining, drinking, office, entertainment, retail and hotel. There are many listed buildings within the Northern Quarter and it is covered by the Smithfield and Stevenson Square conservation areas. In this instance, the development site falls within the boundaries of the former.

Description of development

The application seeks to vary the approved opening hours to 12:00 - 03:00 daily. They are currently from Sunday to Thursday 12:00 - 24:00 Friday and Saturday 12:00 - 02:00.

Consultations & Notification Responses

Publicity - a notice was displayed on site to inform passers-by of the development. Letters were sent to surrounding occupiers to inform them of the development. No representations have been received as a result of this publicity.

Highways Services - no objections from a Highways perspective.

Environmental Health - after review of the noise assessment and complaints history, no objection to the change of hours.

Design for Security at Greater Manchester Police - no concerns with venue regarding crime or anti-social behaviour. Operating strategy provides sufficient mitigation against increased risk of these.

Issues

The main policies that relate to this application are DM1 (Development Management), SP1 (Spatial Principles), CC1 (Primary Economic Development Focus: City Centre and Fringe), CC7 (Mixed Use Development), C10 (Leisure and the Evening Economy) of the Manchester Core Strategy (2012), saved policies DC10 (Food and Drink Uses) and DC26 (Development and Noise) of the Unitary Development Plan for Manchester (1995) and Section 7 (Ensuring the Vitality of Town Centres the Development Plan) of the National Planning Policy Framework.

Places for Everyone (2023)

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. Once the Places for Everyone Plan is adopted it will form part of Manchester's development plan.

To date, five consultations have taken place in relation on the Plan. The Examination of Plan, following its submission in February 2022, began in November 2022. Following the completion of the Examination of the Plan, main modifications have now been proposed which will now become the subject of further public consultation.

The City Council's Executive agreed the Main Modification on 4 October 2023 and endorsed an 8-week period of public consultation on the Main Modifications commencing no earlier than 9 October 2023.

Any representations will be forwarded to the Examination team managing the Plan. The Inspectors will consider all representations on the proposed Modifications before finalising the examination report.

Given the stage the Plan has reached, and level of public consultation and scrutiny it has received, the Plan and its policies is now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance.

Policy JP-P3: Cultural Facilities

3. Promoting new, or enhanced enhancing existing, locally-distinct clusters of cultural facilities, especially where they can provide an anchor for local regeneration and town centre renewal;

8. Supporting a mix of uses which derive mutual benefits from, and do not compromise, the creative industries and cultural facilities in the Creative Improvement District in line with the Agent of Change principle. If development would potentially result in conflict between a cultural activity and another use, especially in terms of noise, then the development responsible for the change must secure the implementation of appropriate mitigation before it is completed.

Principle

The proposal relates to a variation of the opening hours controlled by condition under app. ref. 100001/FU/2012/C2, which would see the hours extended to close at 3am daily. Premises Licencing has confirmed that a licence corresponding with hours applied for under this application was granted on 15/04/2023 (ref 286570).

Policy C10 of the Manchester Core Strategy (MCS) supports nighttime uses that are not detrimental to the character of the area. The venue is in the Northern Quarter, Manchester's

foremost cultural and entertainment area. Hence there are many dining and drinking uses in the area with early morning closing times. The proposed variation of hours would be in keeping with the character of the area and therefore the principle is supported.

However, as per Policy C10 of the MCS and Saved Policy DC10 of the Unitary Development Plan, any nighttime use must not have harmful impact on residential amenity or the wider community. An assessment under these criteria is undertaken below.

Noise

The conclusion of the noise assessment submitted in support of this application states that the noise from the venue is not audible at the nearest residential properties. These findings were accepted by Environmental Health, who also stated that there was nothing in the complaint history that would preclude their supporting extended opening hours.

Risk of crime and antisocial behaviour

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 reported no concerns with the venue in relation to anti-social behaviour or crime and were of the opinion that the strategies outlined in the operating strategy were sufficient mitigation against this risk.

Highways

Highways Services had no objection to the later hours and thus it is considered that proposed hours will not negatively impact the highway network.

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 for planning permission officers will seek to work with the applicant in a positive and pro-active manner in seeking solutions to problems arising in relation to dealing with the application. In this instance, the application was considered acceptable and appropriate conditions have been attached to this approval.

Condition(s) to be attached to decision for approval

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

Drawing numbers 1102/AL001, 1102/AL012,

SWAN Projects drawings entitled 'Condensing Units', '2nd Floor/Roof Plan', '1st Floor', '2nd Floor Kitchen Ventilation', '1st Floor Kitchen Ventilation', all received by the City Council as local planning authority on 5 April 2013

Hoare Lea letter dated 4 April 2013 and accompanying noise calculations data sheet, both received by the City Council as local planning authority on 10 April 2013;;

Indigo letter dated 20 March 2013 ref. let.012.JL.LH.18700001

Indigo Briefing Note on Waste Strategy dated 11 April 2013;

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

2) No loading or unloading shall be carried out on the site outside the hours of

07:00 to 22:00, Monday to Sunday.

Reason - In order to protect the amenity of local residents and in accordance with policies SP1 and DM1 of the Core Strategy.

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

-12:00 - 03:00 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.

4) Within three months of the date of this permission the fume extraction duct and air conditioning units hereby approved shall be finished in a colour and pattern that matches the part of the building on which the equipment is to be located.

The approved scheme shall be implemented within one month of approval.

Reason - In the interests of visual amenity, pursuant to Policies EN1 (Design Principles and Strategic Character Areas), SP1 (Spatial Principles) and DM1 (Development Management) of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Appendix 2 – Planning constraints

Article 4 Direction - City Centre PD Restriction - Class B1(c) To C3
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 - Smithfield Conservation Area 1987
Area Team Boundary - Name: CENTRAL