

Planning and Transport Statement

Proposed change of use from Café (E(b)) to a Hybrid use of Café (E(b)) between the hours of 12 noon and 10pm and a Dark Kitchen (Sui Generis) between the hours of 10pm and 4.00am

**Dixy Chicken
26 Bury New Road
Manchester
M8 8EL**

Applicant Ms Sanam Rafiq

Introduction

Background

This Planning and Transport Statement has been prepared following discussions with Council planning officers who advise that the Council would not validate a variation of condition application for the continued use of the premises existing commercial kitchen beyond the hours of 10pm to serve as a Dark Kitchen on the grounds that such a use is Sui Generis and therefore requires a full change of use application.

The applicant does not accept this view, instead considering that the proposal should be considered as one that falls clearly within use class E (g)(iii); and would not therefore require a change of use application; and that the proposal should be considered under a variation of condition application to the original E(b) permission granted in 2016 (ref 113358/FO/2016) which allows the Café and its commercial kitchen to operate (including preparing food for consumption off the premises provided that this is not the majority of the trade) between the hours of 12 noon and 10pm.

The Council have cited “some” case law that considers “new” Dark Kitchens to be Sui Generis in their nature to support their view. However, the applicants position is that in this instance there is already planning permission in place which allows that “same use” to operate between the hours of 12 noon and 10pm and that to seek permission to extend those hours of operation for an activity that is of the same character does not constitute a change of use.

The applicant notes the Councils initial comments that they are “*unlikely*” to support this change of use application in any event; and should the Council refuse same the applicant will pursue the variation of condition route in addition to any appeal to the Planning Inspectorate.

Existing Planning Permission

The Council granted planning permission for the premises to be used as a Café (A3) in 2016 (application ref 113358/FO/2016). The subsequent changes in the Use Classes Order now deem that this use is use class E(b), which is a use where “sale of food and drink for consumption (mostly) on the premises” are allowed.

The 2016 permission restricted by condition the hours of operation, specifically conditions :-

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

12.00 to 22.00 hrs 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) Deliveries, servicing and collections, including waste collections shall not take place outside of the following hours:

08.00 to 20.00 Monday to Saturday
No deliveries/waste collections on Sundays and Bank Holidays

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

Site Description and Surroundings

The application site is located on Bury New Road in the heart of the Strangeways commercial area.

Bury New Road (A56) is a major thoroughfare giving access into and out of the City Centre.

The area is dominated by commercial premises with the nearest residential units in excess of 350m away (Wellmead Close and Derby Street).

The application site is located at the junction of Bury New Road and Dewhurst Street with good vehicle access to the premises.

Proposal

The applicant seeks permission planning permission retaining the existing café function and also to allow the trade kitchen area only to continue to operate from 22.00 hrs through to 04.00 hrs daily to prepare food for collection only by online delivery platforms such as Uber Eats, Deliveroo etc. as part of a business to business relationship with no interaction / visiting of the premises by the public.

The proposed operation between the hours of 22.00 and 04.00 hrs will be entirely contained within the premises with the exception of the online delivery driver companies employees who will park their vehicles / scooters / bicycles on Dewhurst Street (to the East of the application site there are no parking restrictions on Dewhurst Street) collect the food prepared in the kitchen and return to their vehicles / cycles.

It is anticipated that the employees of the online delivery platforms will on average visit the premises 5 to 6 times an hour during the proposed hours of operation.

The proposal will provide employment for 2 additional employees to work the additional hours and thereby help build the economy.

By providing a continuous commercial operation in the area, which would otherwise be relatively deserted, with regular visits from authorised / licensed delivery drivers the proposal will provide a high level of natural surveillance within an area that would otherwise be relatively abandoned during the proposed hours of operation.

Transport Statement

The 2 additional members of staff will be able to utilise the night time bus services that frequent Bury New Road and are within easy access of transport hubs at the centre of Manchester.

The only other external transport issues relating to the proposed extended hours of operation relate to the online delivery drivers / cyclists who will, it is anticipated, visit the site on average 5-6 times per hour through the night.

The delivery drivers / cyclists can park within 15 meters of the application site at the Eastern end of Dewhurst Street where there are no on street parking restrictions.

Having regard to the potential transport impacts for the additional hours of operation it is considered that transport implications for the proposal will be imperceptible.

Planning Merits of the Proposal

The proposal will provide employment for 2 additional employees to work the additional hours and help build a strong, competitive economy which is a core objective of the NPPF.

The proposal will have no discernible effect on the nearest residential communities, the nearest of which are located some 350m from the application site.

The premises can be easily and safely accessed by vehicles / cycles and there will be no discernible impact on the A56 / Bury New Road.

The use of the premises during the proposed hours will enhance security in the area with regular activity in an area that is currently served by little natural surveillance.

Conclusion

The material planning considerations fall firmly in favour of approving the proposed change of use.