

Planning

Growth & Development

Delegated officer report for planning application

Application no. 136023/JO/2023
Date registered valid: 19 January 2023
Proposal: Removal of condition 3 (hours) attached to planning permission ref. 118338/FO/2017 as amended by 123093/NMC/2019), 126446/JO/2020 and 130327/JO/2021
Address: Wellington House , 39 Piccadilly Gardens, Manchester, M1 1LQ
Ward(s): Piccadilly Ward

Applicant: Mr Mark Davis Luxury Leisure
Agent (if any): Miss Imogen Zulver Lichfields
Case officer: Angela Leckie
Tel: 0161 234 4651
Email: angela.leckie@manchester.gov.uk

Recommendation: Approve
Date of recommendation: 08-03-24

Application details

Type of application: Variation or Removal of Condition
Development type: Minor Other
Date of site visit: 24 January 2023

Standard consultations:

Printed: 24 January 2023 Expired: 14 February 2023

Neighbour notifications

Printed: 24 January 2023 Expired: 14 February 2023

Site notice

Posted: 24 January 2023 Expired: 14 February 2023

Press advert

Published: 31 January 2023 Expired: 21 February 2023

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: Stevenson Square Conservation Area 1987

Tree Preservation Order: Not applicable

The application relates to the ground and first floors of a 6 storey building at the junction of Lever Street and Piccadilly on the north side of Piccadilly Gardens. There is a ground floor entrance at the corner of Piccadilly and Lever Street with a separate access to the upper floors on Piccadilly. Only the third and fourth floors are occupied and the ground floor was most recently used as a Building Society (Class A2 use). Its longest elevation is to Lever Street and a rear entrance on Back Piccadilly provides access to a basement car park and servicing and deliveries take place here.

The adjoining building is vacant and on the opposite side of Lever Street is a vacant site that is hoarded.

There are residential properties nearby at Chatsworth House on Lever Street, 3 Dale Street, Smithfield Buildings on Oldham Street and 15 Piccadilly along with a number of hotels including the Gardens Hotel at 59 Piccadilly, Abode at 107 Piccadilly, Ibis Styles at Portland Street, Mercure Piccadilly at Piccadilly Plaza, Travelodge at 19-21 Piccadilly, Easy Hotel at 35 Newton Street, The Cow Hollow Hotel at 57 Newton Street and the Holiday Inn at Aytoun Street. The latter 4 hotels have opened in the past years. The extent and growth of homes and hotels is indicative of the growing attractiveness of the Piccadilly and Northern Quarter Areas for visitors and as a place to live.

Other uses in the area include shops, bars and restaurants, take-aways and office uses. There are betting shops within the vicinity of the site including 2 at the top end of Mosley Street, one in the ground floor of City Tower and at 51-53 Piccadilly.

The site is close to the Commercial Core and the Northern Quarter, with the latter containing independent retail and leisure outlets and noted for its vibrant independent and 'alternative' offer. It is a popular destination for visitors.

The site is within the Stevenson Square Conservation Area. The building is not listed but there are listed buildings in close proximity including the Queen Victoria Monument, Watt Statue and Wellington's statue, all within around 50m of the building, with others including 15, 17, 47 and 49 Piccadilly and 8, 10, 12 and 14 Lever Street which are all Grade II listed.

Relevant Planning History

Ref: 118338/FO/2017

Description: Change of use of the ground and first floors to an amusement centre (sui generis), with external alterations, and associated works.

Determination: Approved subject to S106 agreement

Ref: 123093/NMC/2019

Description: Non material amendment to application ref no 118338/FO/2017 to vary condition 2 (approved plans) to allow access to the window displays and improve visibility on Piccadilly elevation.

Determination: Approved

Ref: CDN/18/0745

Description: Discharge of conditions 5 (Noise Assessment) and 6 (Plant Acoustics) attached to application ref no 118338/FO/2017

Determination: Approved

Ref: 126446/JO/2020

Description : Variation of condition 4 (hours) attached to planning permission referenced 118338/FO/2017 (associated non-material minor amendment referenced 123093/NMC/2019) to allow the use of the premises 24 hours, 7 days a week for a temporary 18 month period only, including provisions to allow the permitted operational hours to revert back to those originally approved thereafter.

Determination: Amendment to hours approved for a temporary 18 month period which expired on 07-12-21.

Concerns were raised from Greater Manchester Police (GMP) specifically regarding the potential for increased crime and disorder. They highlighted that this immediate area (Piccadilly Gardens) suffers from some of the worst crime related statistics in Manchester. Raised concerns regarding the potential for the increased operating of the venue attracting victims of crime to the area and associated homeless persons begging nearby. They accepted that the venues operational management procedures seek to reduce crime and disorder through security guards, CCTV coverage and other crime prevention operational procedures. Through further discussions with the applicant and Officers considered that a temporary period of extended hours may be an appropriate way to assess if the increased operating hours.

As a positive way forward it was agreed with the applicant that a temporary trial period of extended hours may be an appropriate way to monitor and assess any potential impacts. GMP agreed with this approach.

At that time it was considered that generally a 12 month period would usually be considered as an appropriate amount of time to assess impacts of planning applications in this case, however due to the global pandemic (COVID19) at the time of determining the application and noting that the use of the venue was not anywhere near full and normal capacity it was considered that any immediate testing, given movement restrictions enforced by the Government, would likely provide skewed results.

Given this context, it was agreed that an 18 month temporary extended hours period would be an appropriate initial timeframe to try and assess the impacts of the extended operating hours on crime and disorder issues.

It was noted in the Officer Report that if social restrictions were not lifted for a significant period of time during these initial 18 months, a further trial period may be sought thereafter, and would be subject to a new application of planning permission as appropriate.

Subsequently application ref no 130327/JO/2021 approved a further period of monitoring (as it was considered that there had not been a sufficient period of monitoring following the final lifting of all restrictions) was agreed until 30-03-23. Under the current consent after that date the permitted opening hours would revert to back to 8am until 4am from 30 March 2023.

Description of Proposal

Consent is now sought to remove condition 4 and to allow the use of the premises 24 hours, 7 days a week following the above periods of appropriate monitoring of the potential impacts of extended operational hours in regard to crime and disorder in the vicinity.

Consultations & Notification Responses

Publicity The application was advertised in the local press and a site notice was displayed adjacent to the site. Occupiers of adjoining and adjacent properties were notified about the proposals. No representations have been received.

Environmental Health - No objections.

Greater Manchester Police (Design for Security) and Piccadilly Local Police – Have no objections.

Ward Councillors - No comments received.

City Centre Regeneration - No comments received

Premises Licensing - No objections.

Issues

Policy

Relevant National Policy

The revised National Planning Policy Framework (Feb 2019) sets out the Government's planning policies for England and how these are expected to apply. 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 revised NPPF (2019) outline a "presumption in favour of sustainable development". The approach advocates approving development, without delay, where it accords with the development plan. Paragraph 12 provides: "Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

Local Development Framework

The principal document within the framework is The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted on 11 July 2012 and is the key document in Manchester's Local Development Framework. It replaces significant elements of the Unitary Development Plan (UDP) and sets out the long term strategic planning policies for Manchester's future development.

As the proposal would replace an existing amusement centre and maintain the balance of uses in the area, it is considered to be consistent with the following Core Strategy Policies CC2, CC4, CC7, CC8, CC10, SP1, C10 and DM1 for the reasons set out below.

Saved UDP Policies

Whilst the Core Strategy has now been adopted, some UDP policies have been saved. The proposal is considered to be consistent with the following saved UDP policies DC26 for the reasons set out below.

Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

The adopted Core Strategy contains a number of Strategic Spatial Objectives that form the basis of its policies. The following objectives are of relevance to consideration of this proposal:

SO2. Economy - supports further improvement of the City's economic performance and seeks to spread the benefits of growth across the City to reduce economic, environmental and social disparities, and the creation of inclusive sustainable communities. The proposal would increase jobs available at the site and promote growth in the night-time economy.

S06. Environment - The continued of this vacant unit would help to ensure that this part of the City is inclusive and attractive to residents, workers, investors and visitors.

Policy CC2 Retail and CC8 Change and Renewal - Policy CC2 states that ancillary commercial and leisure uses such as those within the A Use Class, are acceptable within the PSA, providing retail remains the predominant use and proposals do not conflict with other policies within the Local Development Framework.

The use needs to be assessed against relevant design policies and must respect built heritage and public realm. Proposals should be consistent with Policy CC8 (Change and Renewal) to ensure that development delivers the most attractive and usable shopping environment and it should fully improve the City Centre in terms of character and function, taking account of other policies in the Core Strategy.

Policy CC 4 Visitors - Tourism, Culture and Leisure - The use would provide an offer for tourists and is considered as leisure activity.

Policy CC7 Mixed Use Development - The relocation of the amusement centre would retain the balance of activity in the area.

Policy CC 10 A Place for Everyone - The development remains fully accessible.

Policy SP1 (Spatial Principles) - Manchester should be the focus for economic and commercial development, including leisure activity alongside high quality City Centre living and as the proposal involves the relocation of the amusement centre and would retain the balance of activity in the area it would be compatible with that policy.

Policy C 10 (Leisure and the Evening Economy) - Encourages new development and redevelopment that would support the evening economy and supports a balanced and socially inclusive evening/night-time economy. The proposal would continue to provide uses aimed at both the daytime and night time economies.

Policy DM 1- Development Management - sets out the requirements for developments and outlines a range of general issues that all development should have regard to. The following issues that are or relevance to this proposal:

- development should have regard to the character of the surrounding area;

- consideration of effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation; and
- impact on safety, crime prevention and health;

The nature of the use and the proposed hours of opening could adversely impact, on the safety and amenity of residents and users of the area around the application site. These impacts are considered in more detail below.

DC26 Development and Noise - Seeks to reduce the impact of noise on people living and working in, or visiting the City. The proposed hours of opening could have an adverse impact on the amenity of adjacent residents. These impacts are considered in more detail below.

Other National Planning Legislation

Legislative requirements

S149 Equality Act 2010 provides that in the exercise of all its functions the Council must have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between person who share a relevant protected characteristic and those who do not. This includes taking steps to minimise disadvantages suffered by persons sharing a protect characteristic and to encourage that group to participate in public life.

S17 Crime and Disorder Act 1998 provides that in the exercise of its planning functions the Council shall have regard to the need to do all that it reasonably can to prevent crime and disorder

Principal of proposal

The principal of the use has already been established by the previous permission.

Residential Amenity

The Amusement Centre would operate for 24 hours 7 days a week. The Head of Environmental Health has made no objection to the extended operating hours.

Saved UDP policy DC26 seeks to reduce the impact of noise on people living and working in, or visiting, the City and Policy DM1 seeks to ensure that all development should have regard to the impact of noise. Therefore, the impact that that the proposed use may have on nearby residents needs to be considered carefully. A mixed-use environment inevitably involves the location of different uses being in close proximity to residential accommodation. However in order to preserve the character of areas and protect the amenity of residents, it is essential to ensure that evening uses are properly controlled. Whilst the Head of Environmental Health has not raised any objection to the proposed hours of operation it is acknowledged that there a number of residential properties near to the application site (although none directly adjacent). It is anticipated by the applicant that during the extra operational hours applied for, the extra foot fall to the premises would be relatively low compared to standard daytime use, and therefore it is not considered likely any significantly increased undue noise or disturbance, more than already exists in the area, would occur. No issues have arisen during the previously approved periods of monitoring. Crime and Disorder issues discussed in more detail below.

Given the above it is considered that the proposal in terms of potential impact on residential amenity in relation to noise would be acceptable and consistent with revised NPPF, Core Strategy policies SP1 and DM1 and saved UDP policy DC26.

Crime and Disorder

As highlighted above when the previous application was considered GMP had concerns with the increased hours applied for, specifically the hours between 4am and 6am, where Piccadilly Gardens normally sees spikes in crime and disorder. These issues are being actively managed by both GMP and the Council, but GMP had concerns that the extra operational hours would serve to potentially attract potential victims and homeless to the area, which already suffers from high rates of antisocial and criminal behaviour.

The premises already operates in accordance with a fairly robust crime and disorder management procedures, as previously approved as part of the original permission, and it is understood they actively engage with GMP on such issues were possible.

As a compromise GMP considered that a temporary period of extended hours would be an appropriate way to monitor and assess if the proposal increases such issues in the vicinity. They have now confirmed following the approved periods of monitoring that they have no objection to the hours of operation that are now being sought.

It is therefore considered that the proposal accords with the revised NPPF and local policies and guidance previously identified.

Other matters

Concerns have previously been raised that Piccadilly Gardens already suffers from antisocial and criminal issues and increasing hours would contribute to such issues. As detailed in more depth in the above report, such issues has been considered in depth and no issues have arisen during the approved temporary monitoring period. As such the removal of any limitations on the hours of operation is accepted.

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

Officers worked with the applicant / agent in a positive manner to address issues that arose during the determination of the application. In this instance the Council and applicant / agent mutually agreed to an 18 month temporary period of extended operating hours to allow a suitable period to monitor and assess the potential impacts of the development with regard to potential crime and disorder issues. Appropriate conditions were attached with the agreement of the applicant.

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

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

Site location plan GIS20521-01;

Dwg 1395 SK06 P1, 1395 (0)09 C4 and 1395 (0) 15 C2;

Management and operational measures detailed in the Standard security provisions for Admiral Adult Gaming Centres, Luxury Leisure: Security Statement - Piccadilly Gardens. measures outline in GMP (Design for Security) dated 19-02-18 and Rebecca Hilton's e-mail dated 22-06-18;

Waste Management Proforma received on 21-12-17;

APPROVED AMUSEMENT ARCADES, WELLINGTON HOUSE, 39 PICCADILLY,
MANCHESTER NOISE IMPACT ASSESSMENT by Hepworth Acoustics On behalf of: Luxury Leisure Ltd dated Sept 2018 Report No: P18-472-R01v; and

Smoking Policy Manchester Piccadilly.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to Core Strategy SP 1, CC1, T2, and DM1 and saved Unitary Development Plan Policy DC26.

2) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

07:30 to 20:00 Monday to Saturday

10:00 to 18:00 Sundays and Bank Holidays

Reason - In the interests of residential amenity in order to reduce noise and general disturbance in accordance policies SP1 and DM1 of the Core Strategy and saved Unitary Development Plan Policy DC26.

3) The scheme for acoustically insulating the adjoining offices (including in the floors above) against noise from within the premises and for managing the noise from people congregating externally to smoke shall be retained, managed and operated in accordance with the previously submitted and approved documents:

APPROVED AMUSEMENT ARCADES, WELLINGTON HOUSE, 39 PICCADILLY,
MANCHESTER NOISE IMPACT ASSESSMENT by Hepworth Acoustics On behalf of: Luxury
Leisure Ltd dated Sept 2018 Report No: P18-472-R01v; and

Smoking Policy Manchester Piccadilly

Reason - To secure a reduction in noise in order to protect adjacent building occupiers from noise nuisance, pursuant to policies SP1 and DM1 of the Core Strategy and saved Unitary Development Plan Policy DC26.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
City Centre Renegeration
Premises Licensing
Greater Manchester Police

Third Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
Second Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
First Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
DATASYS LIMITED, Fifth Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
Ground Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
Second Floor Rear, 47 Piccadilly, Manchester, M1 2AP
Second Floor Front, 47 Piccadilly, Manchester, M1 2AP
First Floor, 47 Piccadilly, Manchester, M1 2AP
47 Back Piccadilly, Manchester, M1 1HP
Wellington House, 39 Piccadilly, Manchester, M1 1LQ
47 Piccadilly, Manchester, M1 2AP
Fourth Floor, Wellington House, 39 Piccadilly, Manchester, M1 1LQ
Ground Floor, 47 Piccadilly, Manchester, M1 2AP
Basement, 47 Piccadilly, Manchester, M1 2AP
Fifth Floor, 33 - 35 Piccadilly, Manchester, M1 1LQ
33 - 35 Piccadilly, Manchester, M1 1LQ

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
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - Stevenson Square Conservation Area 1987
Area Team Boundary - Name: CENTRAL