



Paul Butler Associates

Planning, Development & Heritage Consultants

10 June 2022

Mrs Julie Roscoe
Head of Planning
Manchester City Council
Town Hall
Albert Square
Manchester
M60 2LA

22.1682

Dear Mrs Roscoe

Lux Lounge, 380 Barlow Moor Road, Manchester, M21 8AZ
Application for variation of Condition 5 (Opening Hours) of Planning Permission
089374/JO/2009/S1

Introduction

On behalf of my client, Lux Lounge, please find attached an application made under Section 73 of the Town and Country Planning Act to vary Condition 5 of planning permission 089374/JO/2009/S1. The application seeks to extend the consented opening hours of the restaurant, which will enable Lux Lounge to successfully compete with neighbouring restaurants / eateries on Barlow Moor Road and in the surrounding Chorlton area. The extension to the existing opening hours is crucial for making the premises viable.

The Application Site and Surroundings

The application site relates to a two storey detached building located at the junction of Barlow Moor Road and Sandy Lane. The ground floor of the premises is in use as a restaurant within class E of the Town and Country Planning (Use Classes) Order 1987 (as amended). The first floor is occupied by a residential flat (C3 use) which is occupied and owned by Lux Lounge staff. The building has a car parking area to the side with access from Sandy Lane and has been extended at the front with a glazed canopy to provide an additional dining area. Lux Lounge primarily offers food and beverage, and is associated with a relatively relaxed and quiet atmosphere when compared to other leisure uses such as lively restaurants or bars.

Residential properties exist to the north and east on Sandy Lane. Commercial properties primarily comprising restaurants and bars exist to the south and west on Barlow Moor Road.

Planning History

Planning permission 085108/FO/2007/S1 granted approval change of use from a car showroom to a café (A3 use) on 14th January 2008.

Application 089374/JO/2009/S1 granted approval for the "Variation of condition no. 4 of previous approval 085108/FO/2007/S1 (for the use of the premises as a cafe/restaurant) to allow the extension of the previously approved opening hours to 8.00 am to 11.00pm seven days a week" on 20th August 2020.

Condition 5 attached 089374/JO/2009/S1 states:

The premises shall not be open outside the following hours, unless otherwise agreed in writing by the City Council as local planning authority:-

8.00am to 11.00pm seven days a week

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with Policies H2.2 and DC26 and the Unitary Development Plan for the City of Manchester.

Application Proposals

This planning application seeks to vary condition 5 to allow permitted opening hours of:

- 8.00am – 11.30pm Sunday to Thursday.
- 8.00am – 00.30am Friday and Saturday.

The extended opening hours being applied for would include a 30 minutes 'drinking up' period during which time no further food or drink would be served and the gradual dispersal of patrons encouraged.

It is acknowledged that there have been various applications submitted in the past which have sought to extend the opening hours of the premises. With the exception of 089374/JO/2009/S1 (which this application seeks to vary), these applications have either been withdrawn or refused. Where applications have been refused the reason for refusal cites: "a detrimental impact upon the level of amenity for nearby residential occupiers. The restaurant is located in close proximity to residential dwellings. It is therefore considered that the additional hours sought would generate an unacceptable level of additional activity, vehicle movements and general noise and disturbance at an unsociable hour."

Planning Appraisal – Impact on Residential Amenity

None of the refused or withdrawn applications have been supported by an acoustic assessment. This application fully addresses the reason for refusal and concern relating to impact on neighbouring residential amenity by providing a 'Noise Assessment for Planning Purposes' prepared by AEC.

The submitted acoustic report has been informed by a baseline noise measurement survey undertaken when Lux Lounge was in operation, and for a period after it had closed. The assessment considers noise egress from the Lux Lounge building during the extended opening hours, and how it potentially affects existing nearby residential receptors. The internal noise transfer to the residential flat above the Lux Lounge has also been considered.

With regard to external breakout noise, the assessment demonstrates that even to the residential flat window directly above the Lux Lounge and/or the flat above Man Eats Frog (6m away from the front glazing), MCC's criteria within their Planning & Noise – Technical Guidance

(P&NTG) (2015) document would be achieved. At receptors further away and on Barlow Moor Road and Sandy Lane, the break-out noise levels would be lower.

In terms of internal noise transfer to the flat above Lux Lounge, the noise assessment demonstrates that based on an existing worst-case scenario MCC's noise criteria would be achieved. The separating floor has a reasonable to good sound insulation performance and will control noise transfer to meet MCC's requirements in the flat above. No specific noise mitigation is required, however AEC recommend that noise level should be limited to not typically exceed the noise levels measured by AEC of 72 to 75dBLAeq,T.

Overall, the report confirms that noise should not be considered a determining factor in relation to the proposed extension to the opening hours. The report also confirms that the assessment can support opening hours until 00.30am daily, albeit such hours are not being applied for.

The proposed extension to the opening hours would not result in any loss of amenity to neighbouring occupiers, and the proposals have been demonstrated to be compliant with Core Strategy Policies C10, DM1, and SP1, Saved UDP Policy DC10, and chapter 12 of the NPPF.

Noise Management and Operating Procedures

Acoustic measures are already in place at the establishment. Condition 2 of permission 089374/JO/2009/S1 requires that the use is carried out in accordance with the approved Operating Statement dated June 2009. Whilst this statement is now somewhat outdated since it was prepared when the unit was operating as 'Orlando's', the general principles with regard to operating plant and extraction equipment, closing doors and windows, and training of staff are still applicable and will continue to be applied during the extended opening period proposed by this application. Such matters are also controlled by specific conditions attached to 089374/JO/2009/S1, as set out below:

- Condition 3 requires acoustic insulation to the external equipment.
- Condition 4 requires that the fume extraction and air conditioning equipment operates only between 8am and 10.30am daily.
- Condition 6 requires servicing and deliveries to be carried out between 8am and 8pm daily.
- Condition 7 requires the building is acoustically insulated.
- Condition 10 requires that no refuse or glass bottles shall be emptied between the hours of 9pm and 8am.
- Condition 11 requires that the car park is only used by staff or occupants of the first floor flat, and not members of the public.
- Condition 12 requires that all external windows and doors must remain closed after 10pm.

In addition to the above matters which are controlled by way of condition, Lux Lounge will also implement the following operating procedures

- Lux Lounge Management will ensure that the conditions of the Premises Licence are strictly adhered to.

- Lux Lounge operates a 30 minute 'drinking up' period, during which time no further food or drink is served, lighting levels increased, music amplification lowered and ambient 'walkout' music played to encourage the gradual dispersal of patrons.
- Staff aim to encourage a gradual dispersal and ask customers to have regard to local residents when they are leaving the premises.
- Telephone numbers for taxi firms will be displayed in prominent locations within the premises.
- Prominent notices will be placed around the exit, requesting customers to leave quietly with consideration and respect for local residents.
- Door staff are trained to politely disperse people away from the doorway at the close of business.

Conclusion

The proposed extended opening hours will bring those of Lux Lounge in line with other restaurants / eateries on Barlow Moor Road. The submitted noise assessment confirms that noise levels during the extended opening hours will continue to accord with MCC guidelines as they do at present. Acoustic mitigation measures in place at the premises and an established Management Plan will also operate during the extended opening hours to ensure that the use is managed responsibly.

The proposals constitute sustainable development in accordance with the provisions the National Planning Policy Framework:

- **Economic** – the proposals will enable an existing Class E commercial premises within a designated district centre to compete with neighbouring uses, to operate efficiently and contribute to the sustained vitality and viability of the centre.
- **Social** – appropriate acoustic measures and management procedures will ensure that Lux Lounge is compatible with neighbouring uses, and does not result in a loss of amenity to neighbouring residential properties.
- **Environmental** – the proposals will enable an existing commercial premises located in a highly sustainable and accessible location to remain viable.

On this basis we would respectfully request that planning permission is granted.

The application includes the following information which has been submitted by the Planning Portal:

1. Covering Letter (22.1682) prepared by Paul Butler Associates
2. Completed Planning Application Form and Certificates
3. 'Noise Assessment for Planning Purposes' prepared by AEC

A fee of £234 is payable with this application. Payment of this fee has been made by the applicant at the time of submission.

We trust that this information is sufficient to enable the positive determination of this planning application, but please do not hesitate to get in touch if you do require anything further. We look forward to working with you in progressing the application through to determination.

Yours Sincerely

Lynsay Ewart

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Senior Planner

Cc Kardo Martino