

## List No. 6

<b>Didsbury East Ward</b>	<b>Application Number</b> 079453/JO/2006/S2	<b>Date of Appln</b> 15th May 2006	<b>Committee Date</b> 28th Sep 2006
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**Proposal** VARIATION OF CONDITION 3 imposed upon planning approval 053251/FO/SOUTH/97 to allow change of opening hours to 11am to midnight, Monday to Thursday and 11.15am to 1 am Friday and Saturday and 12noon to midnight on Sundays

**Location** Pitcher And Piano, 1D School Lane, Didsbury, Manchester, M20 6RD,

**Applicant** Wolverhampton & Dudley Breweries Plc C/o Agent

**Agent** RPS Planning Cromwell House, 3 The Meadow, St Ives, Huntingdon, Cambridgeshire, PE27 4LG

### Description

This application was placed before the Planning and Highway Committee on the 24th August 2006. The decision was taken at the meeting to defer the application to give the opportunity to more fully address the implications of the licensing decision in relation to the planning application.

The Pitcher and Piano is a relatively new purpose built two storey detached property which fronts onto the junction of School Lane and Ogden Street and is located within Didsbury District Centre. The site is the end property of a row of commercial properties with a car park and two other food and drink premises directly adjacent. To the east of the site situated at a lower land level is a strip of land which has been reserved for Metrolink and beyond that approximately 20 metres away is the residential development of Alexander Court. To the south of the site on the other side of School Lane is Shapley Court and opposite that office premises. To the south west of the site is a strip of land also used for car parking purposes

### Planning History

Application 062585/JO/SOUTH2/01 for a variation of condition No 3 attached to application 053251/FO/South1/97 to extend opening hours to 8:00am - midnight Sunday to Thursday was refused on the 30th August 2001 for the following reasons: The proposed extension of hours to allow the premises to serve until midnight between Sundays and Thursdays will create additional coming and goings late at night and give rise to an unacceptable level of noise and disturbance in the area for nearby local residents due to the nature of the use and the proposal is therefore contrary to policy Dc10.1 and Dc10.4 of the Unitary Development Plan for the City of Manchester.

The Pitcher and Piano has planning consent to open Sundays to Thursdays 8:00am to 11:30pm and Friday and Saturdays 8:00am to midnight. This current application proposes to vary condition number 3 attached to permission 053251/FO/South1/97 to permit change of opening hours to 11:00am till midnight Monday to Thursdays, 11:15 am till 1:00am Friday and Saturdays and 12:00pm till Midnight on Sundays.

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A Licensing Committee Appeal hearing on the 20th April 2006 granted permission for the premises licence to be open to the public on the following: Mondays to Thursdays inclusive 11:00 to 00:00 (midnight), Friday and Saturdays 11:00 to 01:00 and Sundays 12:00 to 00:00 (midnight) and in respect of new years Eve for the premises to be open until the closing time on new Years Day.

<b>EXISTING HOURS OF OPERATION</b>	<b>LICENSING</b>	<b>PROPOSED HOURS OF OPERATION</b>
Sundays to Thursday 8:00am till 11:30pm	Monday to Thursdays 11:00am till 00:00am	Monday to Thursday 11:00am till 00:00am
Fridays and Saturdays 8:am till 00:00am	Friday and Saturdays 11:00am till 01:00am	Friday and Saturdays 11:15am till 01:00am
	New Year's Eve premises may stay open until the closing time on New Year's Day	Sundays 12:00 till 00:00am

## Consultations

Local Residents.

The City Council received four letters of objection three from local residents and one from a near by office premises. Comments made where as follows:

Objector 1 - Local resident

- The Pitcher and Piano have frequently broken most of the conditions of their licence having operated at least three or four nights a week with their windows open;
- They had not consulted with the residents on a regular basis;
- They allowed the noise from their premises to be heard in all the nearby residences;
- Their patrons frequently came and deposited litter on our doorstep, vandalised our building and even on one occasion tried to break in and attack the objector;
- The noise of taxis beeping their horns at closing time was unbearable;
- They frequently operated with their front doors open;
- They also served people who were standing in the car park or sitting in the car park opposite;
- They allowed customers to be served at night on their patio;
- They were so overcrowded the objector on three occasions, witnessed men urinating in the sinks of the toilets because there was such a long queue for the toilets;

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- They played music so loud it was impossible to be heard by the person standing next to you;
- The overall situation was so bad that the objector had to sleep with earplugs and even then it was so loud that the objector could not sleep and sometimes their music was so loud the objector could not even hear the television;
- Since the restrictions have been in place the objector have only once seen them operate with the windows open and once with the front doors open. The objector has not been disturbed by the noise from the premises as a result so it could be said that the restrictions on the Pitcher and Piano are working very well.
- The only remaining problems are that their patrons still park on the double yellow lines in front of the objectors flat and keep them awake until 1/2 hour past closing, their patrons still come over and smash bottles outside our flats, and residents cannot go to sleep until the pub has closed.

### Objector 2- Local resident

School lane, Warburton Street, William Street, Albert Hill street are all close residential streets which during the summer months suffer form noise caused by Loud music, patrons leaving the premises, amplified microphones and television sounds coming form the premises after midnight.

### Objector 3 - Local resident

- The Pitcher and Piano has a history of being a bad neighbour
- Near by residents suffer regularly from regular disturbances and inconvenience from bar and customers
- Loud music disturbs residents on Kings Lynn Close, Stephens terrace, Shapley Court, School lane, Beaver Road, Moorfield Road and Warburton Street
- Loud Music often leads to revellers leaving the premises in excitable conditions this environment contributes to the incidence of street violence, vandalism and disorder
- Customer leaving by taxi's create noise form horns, slamming of doors and revving engines.
- The pitcher and piano has made no attempt to engage with local residents and they are a burned on the local community

### Objector 4 - Owner of nearby business

The objector frequently has to remove discarded beer bottles and glasses form the car park. Two or three times a year the windows are broken by beer bottles being thrown at them

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The objector requests that if the application is approved stricter conditions are imposed with regard to increased security, the supervision of customers particularly when leaving the premises. Also CCTV cameras are installed to cover the surrounding area not just the premises entrance area.

Ward member Councillor Parkinson and Councillor Sandiford made the following comments:

Councillor Sandiford appeared before the licensing panel last September to object to the application for extended hours. During the committee the local resident gave evidence that the occupants had breached conditions on their entertainment license relating to;

- windows and doors frequently being left open when live or recorded music was being played
- People were still being admitted after 10:45pm
- That there was insufficient urinals in the male toilets with the result that customers were using the wash basins as toilets.

The licensing panel refused to grant any extension to the then existing hours. The applicants appealed to the City Magistrates Court. The City Solicitor agreed terms of settlement for the hours now sought in this application. This was done in spite of the willingness of two local residents and myself and Councillor Sandiford to attend the appeal hearing and give evidence opposing the application. Amongst the conditions agreed were:-

Noise limiter to be installed and set by EHO and maintained in good working order, to be undertaken prior to the 20th June 2006

Alarms to be fitted to the fire exit doors to alert staff if customers leave through these exits

Additional male sanitary provisions to be provided -urinal provision for five persons , such works to be completed within 6 months (from 20.04.06 )

It is requested that consideration of this application be deferred until satisfactory evidence is obtained that the above conditions have been complied with.

Didsbury Civic Society - No comments received

Greater Manchester Police (Architectural Liaison Officer) - No objection

Greater Manchester Police (Crime Prevention Unit) - no comments received

Head of Environmental Health

The premises should not be open outside of the proposed hours;

It was confirmed that a noise limiter was set at the Pitcher and Piano on the 22 July 2006.

All complains relating to conditions which have been attached to the licensing consent are forwarded to Environmental Health Department for further investigation. Since the Consent Order was granted on the 20th April 2006 four complaints were received which initiated the following action;

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29/4/06

Monitor out of hours. Music breakout witnessed. Nuisance confirmed.

3/5/06

Sent warning letter to manager (Andrew Rhodes) reminding him of the EPA Notice still in force and also about the time limit for the noise limiter to be set.

10/5/06

Complaint received via Cllr Parkinson re: loud noise from patrons inside premises because of windows and doors being open.

13/5/06

Monitor out of hours (23.30). Music breakout witnessed. Spoke to Andrew Rhodes at time of visit and told him to turn music down and conduct external monitoring. Also reminded him of date for noise limiter to be set.

There have been no further complaints since.

Licensing Unit - Following an appeal submitted by the Pitcher and Piano under section 181 (5) of the Licensing Act 2003 it was allowed by consent order that the premises license be varied to the following extent;

i) Standard Hours for the sale of alcohol, the provision of late night refreshments and regulated entertainment on Monday to Thursdays inclusive to remain at 11:00 to 23:30 and Sundays to remain at 12:00 to 23:30. The standard hours for sale of alcohol, the provision of late night refreshment regulated entertainment on Friday and Saturdays to be extended to 11:00 to 00:30

ii) To allow seasonal variation stipulated within non-standard timing to allow the sale of alcohol to 11:00 New Years Eve until terminal hour on New Years Day.

i) The Hours which the premises will be open to the public shall be Mondays to Thursdays inclusive 11:00 to 00:00 (midnight), Fridays and Saturdays 11:00 to 01:00 and Sundays 12:00 to 00:00 (midnight) and in respect of New Years Eve for the premises to be open until closing time on new Years day.

The following conditions are to be imposed on the Premises licence:-

i) Windows and doors are to remain closed at all times when live or recorded music takes place (except access and egress).

ii) Noise limiter to be installed and set by EHO and maintained in good working order, to be undertaken prior to the 20th June 2006.

iii) Alarms to be fitted to the fire exit doors to alert staff if customers leave through these exists.

iv) No external speakers to be used.

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- v) Door staff to be employed on Friday, Saturday and Sundays from 20:00 to 30 minutes after closure of the premises through out the year and on Thursday evening from 20:00 between May and September inclusive to 30 minutes after closure of the premises.
- vi) First floor patio area, otherwise known as the terrace balcony, to be clear of patrons from 22:00 on days when door staffs are working.
- vii) Signs to be displayed requesting patrons respect residents and leave quietly.
- viii) Arrangement to be made with a local taxi firm who is to be actively encouraged to use ring back service.
- ix) Additional male sanitary provisions to be provided- urinal provision for five persons, such works to be completed within 6 months.
- x) Regular meeting to be held between management and residents, a copy of minutes of such meetings to be sent to the licensing unit.
- xi) There shall be no re entry to the premises as follows- Sundays to Thursdays after 23:00 and on Fridays and Saturdays 23:45.

City Solicitor - The opening hours approved by the Licensing Sub-Committee are a material consideration. However, members should be aware that they are not automatically required to follow the Licensing Sub-Committee's hours and must make a decision based on whether the proposed hours will have a detrimental effect on residential amenity and cause other harm of a planning nature.

## Issues

Unitary Development Plan (UDP)- Policy H2.2 states that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters which will be considered in coming to such decisions will include the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Policy DC10 (Food and Drink Uses) states that in determining planning applications for developments involving the sale of food or drink for consumption on the premises the Council will have regard to, in this instance:

the general location of the proposed development

the effect on the amenity of neighbouring residents

The policy states further that the Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in

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shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

Policy DC26 (Development and Noise) states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider the effect of new development proposals, which are likely to be generators of noise. The Policy states further that developments likely to result in unacceptably high levels of noises will not be permitted in residential areas; near schools, hospitals, nursing homes and similar institutions; and near open land used frequently for recreational purposes.

Regional Spatial Strategy for the North West - Formerly RPG13, this provides planning guidance for the North West region. Since 2004, the RSS has formed part of the development plans, as such the weight to be attached to its policies has increased. It contains policies that address core principles of development including the following:

Policy DP2, Enhancing the Quality of Life, ensuring development provides a high quality of life for this and future generations.

Policy UR1, Urban Renaissance, reviving local economies and communities.

The North West Plan, draft Regional Spatial Strategy (RSS) - Publicised in January 2006, this draft RSS document provides a framework for the physical development of the region over the next 15 to 20 years. Policy W1, Strengthening the Regional Economy, states that plans and strategies should promote opportunities for economic development.

Principle of the Proposal - Though the principle of a food and drink use has been established for many years, the impact of the proposed extended opening hours upon the existing levels of residential amenity enjoyed by local residents must be considered.

Residential Amenity - The Pitcher and Piano is located within close proximity of residential properties. Planning application 062585/JO/SOUTH2/01 proposed to extend opening hours from the existing 8:00am to 11:30pm Sundays and Thursdays to a proposed 8:00am to 00:00am this application was refused at the time due to the potential impact it was thought that the extended hours would have on residential amenity.

However, five years later following the submission of the current application 079453/JO/2006/S2 and a review into extending opening hours of the Pitcher and Piano, it is considered that circumstances are different and that any potential impact on residential amenity can be sufficiently resolved through both relevant planning conditions and the comprehensive conditions, which have been imposed by the licensing consent order.

The planning conditions will ensure that windows and doors remain closed during regulated entertainment; that no external speakers are installed on the premises; that there is no disposal of refuse (including bottles) late at night and early in the morning; that there is no drinking in external areas after 22:00hrs including the terrace balcony. Failure to comply with these conditions may result

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in legal action being initiated against the applicants in order to remedy the matter.

A list of the conditions allowed at the licensing appeal hearing is outlined above. If the licence holder breaches a licence condition then they risk either being prosecuted in the Magistrates Court or having the licence reviewed by the Licensing Committee which may involve revoking or suspending the licence or reducing hours & activities etc.

Crime and Disorder - It is not considered that allowing these premises to open until 12:00 am and 1:00am will have a detrimental impact upon public safety in this part of Didsbury District Centre and the surrounding residential area.

Cumulative Impact of the Condition Variation Applications - In line with Government Guidance this application has been considered on its own individual merits. However, it is considered that the cumulative impact of a number of other applications, which have recently received planning consent for extended operating hours, (The Slug and Lettuce, Hogs Head and The Pear Tree) is material consideration in the determination of this application. In this instance it is not considered that the cumulative effect of extending the opening hours of the Pitcher and Piano in addition to the three above premises will have an unduly detrimental impact upon the current levels of residential amenity enjoyed in the vicinity of the area.

### Conclusion

This site is located within the busy and lively area of Didsbury District Centre. However, the site also lies within Close proximity of residential accommodation such as Shapley Court to the south, Alexander Court to the east and residential properties along Warburton Street to the north west of the site. Notwithstanding this, in this instance it is believed the attachment of suitable conditions will ensure that the impact on existing levels of residential amenity is minimal.

As the applicants are only proposing to open the premises an extra half an hour on Monday to Thursday and an additional hour on Fridays and Saturdays it is not considered that the proposal will have a detrimental impact upon current levels of residential amenity. Given the above and the fact that the Pitcher and Piano is located within Didsbury District Centre and the proposed hours would not cause any harm the proposal is considered acceptable.

**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 the right to a fair hearing and to this end the Committee 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 Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these Articles on the applicant(s)/objectors/residents 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

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development proposal. He believes that any restriction on these rights posed by approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

### **Recommendation APPROVE**

On the basis that the increase in the hours of operation of the premises will not have an adverse effect on residential amenity; the proposal is in accordance with the Unitary Development Plan for the City of Manchester, in particular policies H2.2 and DC10.2 and there are no material considerations of sufficient weight to indicate otherwise.

### **Conditions and/or Reasons**

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason -

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) No premises in use as a Class A4 use under the Town and Country Planning (Use Classes) Order 1987 shall be open outside the following hours: 0800hrs to 2330hrs Sunday to Thursday, 0800hrs to midnight Friday and Saturdays, except for the following premises which shall not be open outside the hours specified:

1D School Lane, Didsbury :-	Monday to Thursday	11:00hrs until 00:00hrs
	Friday to Saturday	11:15hrs until 0100hrs

Reason

To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant of policies H2.2, DC10.4 and DC26.1 in the Unitary Development Plan for the City of Manchester

3) No windows nor doors shall be open when music is played or performed within the premises

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Moorland Road and Warburton Street, pursuant of policies DC10.4 and DC26.1 of the Unitary Development Plan for the City of Manchester

4) For premises in use as a Class A1 use or a Class A2 use of the Town and Country Planning (use Classes) order 1987 no other activity shall take place outside the following hours:

0800hrs to 0900hrs Monday to staurdays  
1000hrs to 1700hrs Sundays and bank Holidays

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Reason:

To safeguard the amenities of the occupiers of nearby residential accommodation once the development is completed, pursuant of policy H2.2 of the Unitary Development Plan for the City of Manchester

5) ) No externally mounted speaker system shall be operated on the premises.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Moorland Road and Warburton Street, pursuant of policies DC10.4 and DC26.1 of the Unitary Development Plan for the City of Manchester

6) No refuse, glasses, nor glass bottles, shall be disposed of in outside receptacles between the hours of 21:00 and 08:00.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Moorland Road and Warburton Street, pursuant of policies DC10.4 and DC26.1 of the Unitary Development Plan for the City of Manchester

7) No balcony, terrace nor other outside area shall be used after 22:00 hrs.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Moorland Road and Warburton Street, pursuant of policies DC10.4 and DC26.1 of the Unitary Development Plan for the City of Manchester

8) Level access shall be available at all times to the ground floor of the proposed building.

Reason

In order to maintain ease of access for all, including disabled people.

9) The car parking spaces in and around the servicing area shall be made available for use between the hours of:

1800hrs to 12 midnight Monday to Fridays

12 midday to 12 midnight Saturdays, Sunday and Bank Holidays

Reason

To ensure that the proposed development has sufficient off - street parking spaces, pursuant to Policy T2.4 of the Unitary Development Plan for the City of Manchester

## Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 079453/JO/2006/S2 held by Planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on

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other applications or appeals, copies of which are all held by the Planning Division.

### **The following residents, businesses and other third parties in the area were consulted on the application:**

Lifestyle Events Hill House 1-7 Albert Hill Street Didsbury Manchester M20 6RF  
Post Office Didsbury Village Post Office 1-7 Albert Hill Street Didsbury Manchester M20 6RJ

Didsbury Conservative Club 659 Wilmslow Road Didsbury Manchester M20 6RA

The Third Eye 661 Wilmslow Road Didsbury Manchester M20 6RA

Ashley Brown 663 Wilmslow Road Didsbury Manchester M20 6RA

Fortress Cantonese Take Away 669 Wilmslow Road Didsbury Manchester M20 6RA

Andrew Graham Shoes 673 Wilmslow Road Didsbury Manchester M20 6RA

Help The Aged 675 Wilmslow Road Didsbury Manchester M20 6RA

House 677 Wilmslow Road Didsbury Manchester M20 6RA

2 Stephens Terrace Didsbury Manchester M20 6WB

Graham Peart & Co Stroll House 681a Wilmslow Road Didsbury Manchester M20 6RA

661a, 663a, 677a, 711a Wilmslow Road Didsbury Manchester M20 6RA

9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 Albert Hill Street Didsbury Manchester M20 6RF

Dog & Partridge 665-667 Wilmslow Road Didsbury Manchester M20 6RA

6-28 Moorland Road Didsbury Manchester M20 6BD

1-10, 11, 15, 17 Warburton Street Didsbury Manchester M20 6WA

1-19 Stephens Terrace Didsbury Manchester M20 6WB

1-8 Kings Lynn Close Didsbury Manchester M20 6WD

Halifax Plc 703-705 Wilmslow Road Didsbury Manchester M20 6RE

Hargreaves Farrell & Hobbs Solicitors Xenon House 10 School Lane Didsbury Manchester M20 6RD

Club 2000 Hill House 1-7 Albert Hill Street Didsbury Manchester M20 6RF

Savjani 711 Wilmslow Road Didsbury Manchester M20 6RE

M J Leeming Opticians 1a School Lane Didsbury Manchester M20 6RD

Dental Surgery 1b School Lane Didsbury Manchester M20 6RD

Kansas Fried Chicken 701 Wilmslow Road Didsbury Manchester M20 6RE

Boots The Chemists Ltd 683-687 Wilmslow Road Didsbury Manchester M20 6RE

Johnson Cleaners Uk Ltd 707-709 Wilmslow Road Didsbury Manchester M20 6RE

Reeds Rains 713 Wilmslow Road Didsbury Manchester M20 6RE

Natwest 699 Wilmslow Road Didsbury Manchester M20 6RE

675a Wilmslow Road Didsbury Manchester M20 6RA

Natwest Customer Service Centre 699 Wilmslow Road Didsbury Manchester M20 6NW

Philip James Partnership 679-681 Wilmslow Road Didsbury Manchester M20 6RA

Shapley Court 1-35 12 School Lane Didsbury Manchester M20 6QX

Flat 4,9 12 School Lane Didsbury Manchester M20 6RG

Jem & I 1c School Lane Didsbury Manchester M20 6RD

O'neills 655-657 Wilmslow Road Didsbury Manchester M20 6RA

L'epi D'or 671 Wilmslow Road Didsbury Manchester M20 6RA

Beaver Park Baptist Church School Lane Didsbury Manchester M20

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**Representations were received from the following third parties:**

Miss P Jones 29 Albert Hill Street Didsbury Manchester

Mr A Martin 18 Moorland Road Didsbury Manchester

Mr D De Backer 5 Kings Lynn Close Didsbury Manchester

Farrell And Hobbs Solicitors Hargreaves Farrell & Hobbs Solicitors Xenon  
House 10 School Lane

Mr B Findlay Shapley Court 8 12 School Lane

**Relevant Contact Officer:** : Louise Snook  
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**Email** : l.snook@manchester.gov.uk