

List No. 3

Chorlton Ward	Application Number	Date of Appln	Committee Date
	080364/JO/2006/S1	11th Sep 2006	23rd Nov 2006

Proposal Variation of Condition 2 of Planning Permission F38229 to allow extension of opening hours to 8.00a.m. to 00.30 Sunday to Thursday, 8.00a.m. till 1.30a.m. on Fridays and Saturdays.

Location 115-117 Manchester Road, Chorlton, Manchester, M21 9PG,

Applicant Mr Pascal Pascalis 115-117 Manchester Road, Chorlton, Manchester, M21 9PG,

Agent Mr Simon Richardson The Old Office, Grange Farm, Grange Road, Poulton-le-Fylde, Singleton, FY6 8LP

Description

This application relates to a two storey mid terraced building within Chorlton District Centre. Manchester Road which links into Barlow Moor Road, is an important orbital route around the Southwest and South of the city linking a number of important radial routes. The terrace lies between two residential streets, Kensington Road and Cheltenham Road.

The Iguana Bar is one of five food and drink uses located within the terrace. On the opposite side of Manchester Road, to the west of the application site stands a car park adjoining the Chorlton Leisure Centre.

Planning History

Planning application F38229 for Change of Use of ground floor from shop / office to restaurant use in connection with the adjacent restaurant at no. 115 was approved in March 1991. There was an hours condition (condition 2) attached allowing opening from 8.00 am to 11.30 pm Sunday to Thursday and 8.00 a.m to 12.00 a.m Friday and Saturday.

There have been 2 further planning applications relevant to this site. Planning application 052369/JO/South2/97 sought the variation of condition No. 2, which related to the opening hours attached to F38229 This application was refused on 27th November 1997. There was a further planning application 074913/JO/2005/S1 to vary hours of opening from 8.00 a.m to 11.30 p.m Sunday to Thursday and 8.00 a.m to 12.00 a.m Friday and Saturday to 8.00 a.m to 12.00 a.m Sunday to Thursday and 8.00 a.m to 1.00 a.m Friday and Saturday. This application was granted temporary consent for 12 months, which has now lapsed.

The applicants are proposing to vary condition no. 2 attached to planning approval F38229 to allow the opening hours to be extended to 8.00 a.m to 12.30 a.m between Sunday and Thursday, and to 8.00 a.m to 1.30 a.m on Friday and Saturday.

Consultations

Local Residents - 4 letters of objection have been received. The main grounds for objection were:

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There is already noise and traffic pollution created with the existing opening hours;

Noise generated at closing time;

Bottle collection is creating noise pollution late at night

Ward Member - Councillor Angela Gallagher has written in support of the objectors and opposes this application on the grounds of anti social behaviour and noise nuisance caused to the local residents.

Councillor Sheila Newman also objects to this application and feels that the existing hours of opening are long enough as the bar is close to residential properties.

Head of Environmental Health - There have been no objections to this proposal.

Licensing Unit - The Licensing Sub-Committee Hearing considered the revised hours on 24th April 2006. Set out below are the hours approved by the Sub-Committee.

A Plays:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

B Films:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

C Indoor Sporting Events:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

E Live Music:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

F Recorded Music:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

G Performances of Dance:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

I Provision of Facilities for Making Music:

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Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

J Provision of Facilities for Dancing:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

L Late Night Refreshment:

Sunday to Thursday	2300 hours until 0000 hours
Friday and Saturday	2300 hours until 0100 hours

M Supply Of Alcohol on/off the Premises:

Sunday to Thursday	0800 hours until 0000 hours
Friday and Saturday	0800 hours until 0100 hours

O Hours Premises are Open to the Public:

Sunday to Thursday	0800 hours until 0030 hours
Friday and Saturday	0800 hours until 0130 hours

The following condition was imposed:-

The concertina doors must be closed after 22.00 hours except for purposes of access and egress;

City Solicitors - 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 other harm of a planning nature.

Issues

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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.

There is already a high proportion of units currently in use as, or with permission for, food and drink in this frontage. It is undesirable to allow further conversions, which would detract from the local retail function of the frontage. There are residential properties immediately to the rear of the frontage, which would be at risk from increased disamenity if further conversions were to be permitted.

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.

Principle of the Proposal - Although 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 Iguana Bar is located approximately 10 metres (33 feet) away from the nearest residential accommodation on Kensington Road and approximately 19 metres (63 feet) from the nearest residential accommodation on Cheltenham Road. The concerns of residents about the extended opening hours are noted. However, the property is located within the Chorlton District Centre where a number of late night uses are operational, some of which open beyond the proposed hours of these premises. It is not considered that the proposal will have a detrimental impact upon the current levels of residential amenity enjoyed by the occupants of the properties on Cheltenham Road.

Notwithstanding this, Licensing Committee considered it prudent to attach a condition to the license, to ensure that residential amenity is protected. The condition will ensure that:

The concertina doors must be closed after 22.00 hours except for purposes of access and egress;

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Failure to comply with these conditions may result in legal action being initiated against the applicants in order to remedy the matter. 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.

Conclusion

Though this property is located within the Chorlton District Centre and there is therefore a presumption in favour of allowing extended opening hours, the proximity of residential accommodation must be taken into consideration. As The Iguana Bar is located some distance away from the nearest residential accommodation and the applicants are only proposing to open the premises within the operational hours of other businesses within the Centre, it is considered that the impact of the extended opening hours will be minimal. Notwithstanding this, as stated above, suitable conditions are suggested to ensure that the existing levels of residential amenity are protected.

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 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

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 CB1, H2.2, DC10, DC26 and CB10; 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 -

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

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

Sunday to Thursday, 8.00 a.m. to 12.30 a.m. Fridays and Saturdays, 8.00 a.m. to 1.30 a.m

Reason -

To Safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Policies CB1, H2.2, DC10 and DC26 in the Unitary Development Plan for the City of Manchester

3) Provision shall be in accordance with the approved scheme, to the satisfaction of the City Council, for the adequate storage and disposal of refuse.

Reason -

Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 and to safeguard the amenities of the occupiers of nearby residential accommodation.

4) The forecourt shall not be used for the purpose of the business carried on in the building outside the following hours:

Everyday 8.00am to 10.00pm

Reason -

To protect the amenity of nearby residential accommodation pursuant to policy H2.2 and DC10 of the Unitary Development Plan for the City of Manchester.

5) Deliveries, servicing and vehicle/equipment movements on the premises shall not take place outside the following hours:

7.00am to 8.00pm Monday to Saturday

Reason:

In the interests of residential amenity pursuant to policies H2.2 and DC10 of the Unitary Development Plan for the City of Manchester.

6) The concertina doors must be closed after 22.00 hours except for purposes of access and egress.

Reason -

To Safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Policies CB1, H2.2, DC10 and DC26 in the Unitary Development Plan for the City of Manchester

Local Government (Access to Information) Act 1985

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The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 080364/JO/2006/S1 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 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:

Seasons Holidays 108 Manchester Road Chorlton Manchester M21 9TX
Unicorn Grocery 89 Albany Road Chorlton Manchester M21 0BN
Treasure Pot Take Away 101 Manchester Road Chorlton Manchester M21 9GA
103 Manchester Road Chorlton Manchester M21 9GA
107 Manchester Road Chorlton Manchester M21 9GA
Abel School Of Motoring 97 Manchester Road Chorlton Manchester M21 9GA
Idaho Bar 99 Manchester Road Chorlton Manchester M21 9GA
1 Kensington Road Chorlton Manchester M21 9GH
11 Kensington Road Chorlton Manchester M21 9GH
13 Kensington Road Chorlton Manchester M21 9GH
15 Kensington Road Chorlton Manchester M21 9GH
17 Kensington Road Chorlton Manchester M21 9GH
19 Kensington Road Chorlton Manchester M21 9GH
3 Kensington Road Chorlton Manchester M21 9GH
5 Kensington Road Chorlton Manchester M21 9GH
7 Kensington Road Chorlton Manchester M21 9GH
9 Kensington Road Chorlton Manchester M21 9GH
1 Cheltenham Road Chorlton Manchester M21 9GL
11 Cheltenham Road Chorlton Manchester M21 9GL
13 Cheltenham Road Chorlton Manchester M21 9GL
15 Cheltenham Road Chorlton Manchester M21 9GL
17 Cheltenham Road Chorlton Manchester M21 9GL
19 Cheltenham Road Chorlton Manchester M21 9GL
3 Cheltenham Road Chorlton Manchester M21 9GL
5 Cheltenham Road Chorlton Manchester M21 9GL
7 Cheltenham Road Chorlton Manchester M21 9GL
9 Cheltenham Road Chorlton Manchester M21 9GL
111 Manchester Road Chorlton Manchester M21 9PG
Guardslip 119 Manchester Road Chorlton Manchester M21 9PG
Compfix 121 Manchester Road Chorlton Manchester M21 9PG
123 Manchester Road Chorlton Manchester M21 9PG
Orca Divers 125 Manchester Road Chorlton Manchester M21 9PG
127 Manchester Road Chorlton Manchester M21 9PG
Bargain Booze 129 Manchester Road Chorlton Manchester M21 9PG
10 Kensington Road Chorlton Manchester M21 9QJ
12 Kensington Road Chorlton Manchester M21 9QJ
14 Kensington Road Chorlton Manchester M21 9QJ
16 Kensington Road Chorlton Manchester M21 9QJ
18 Kensington Road Chorlton Manchester M21 9QJ
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10 Cheltenham Road Chorlton Manchester M21 9QN
12 Cheltenham Road Chorlton Manchester M21 9QN
14 Cheltenham Road Chorlton Manchester M21 9QN
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22 Cheltenham Road Chorlton Manchester M21 9QN
24 Cheltenham Road Chorlton Manchester M21 9QN
26 Cheltenham Road Chorlton Manchester M21 9QN
28 Cheltenham Road Chorlton Manchester M21 9QN
4 Cheltenham Road Chorlton Manchester M21 9QN
6 Cheltenham Road Chorlton Manchester M21 9QN
8 Cheltenham Road Chorlton Manchester M21 9QN
129a Manchester Road Chorlton Manchester M21 9PG
Chorlton Leisure Centre Manchester Road Chorlton Manchester M21 9PQ
21 Kensington Road Chorlton Manchester M21 9GH
23 Kensington Road Chorlton Manchester M21 9GH
Kensington Grocers 109 Manchester Road Chorlton Manchester M21 9GA
Digital Mobile Phones 105 Manchester Road Chorlton Manchester M21 9GA
121a Manchester Road Chorlton Manchester M21 9PG
Quarters Ltd 93 Manchester Road Chorlton Manchester M21 9GA
Samllis Gents Hairdressers 95b Manchester Road Chorlton Manchester M21
9GA
The Baths Supper Bar 113 Manchester Road Chorlton Manchester M21 9PG
95a Manchester Road Chorlton Manchester M21 9GA
105a Manchester Road Chorlton Manchester M21 9GA
119a Manchester Road Chorlton Manchester M21 9PG
95c Manchester Road Chorlton Manchester M21 9GA
95 Manchester Road Chorlton Manchester M21 9GA
103a Manchester Road Chorlton Manchester M21 9GA
95d Manchester Road Chorlton Manchester M21 9GA

Representations were received from the following third parties:

Relevant Contact Officer: : Tracie Simpson
Telephone No. : (0161) 234 4537
Email : t.simpson@manchester.gov.uk