

List No. 12

Northenden Ward **Application Number** 085391/JO/2007/S2 **Date of Appln** 14th Jan 2008 **Committee Date** 13th March 2008

Proposal Variation of condition 5 attached to application no. 064560/FO/SOUTH2/02 to allow the premises to operate between 0800 hrs to 2330 hrs Mondays to Wednesday. 0800 hrs to 0000hrs on Thursdays and Sundays and 0800 hrs to 0100 hrs on Fridays and Saturdays

Location 351 - 359 Palatine Road, Northenden, Manchester, M22 4FY

Applicant Karen Lesley Rossam, 54 Gibwood Road, Northenden, Manchester, M22 4BS

Agent

Description

The application was reported to the Wythenshawe Area Committee on the 28th February 2008. The Committee was *Minded to Refuse* the application on the grounds of disamenity to local residents. With the recommendation to Planning and Highways Committee, if they were Minded to Approve the application that it be granted for a temporary period of 1 year to test the conditions applied and that the opening hours on Friday and Saturday be restricted to 12.30am.

The application site is 'Kaz Bar' which is situated within Northenden District Centre and fronts onto the busy Palatine Road. The premises is made up of 4 smaller units that have been branded under Kaz Bar. There are also a range of other units within the same parade mainly shops and takeaways.

Planning permission was approved in 2002 for the change of use of the premises from a retail unit to a food and drink use (064560/FO/SOUTH2/02). Condition 5 of the consent stated that the premises must operate Sunday to Thursday 08:00 to 11:30pm and Friday and Saturdays 08:00 to midnight.

In January 2007 the applicants obtained approval from the licensing unit to vary their opening hours. The applicants are now seeking planning permission for the variation of condition 5, of the original approval, to operate the premises to broadly the agreed licensing hours, with the addition till 12:00pm on a Thursday and Sunday.

The table below shows the current hours, those approved by the licensing unit and those being applied for within this planning application.

Existing hours of operation (Approved under planning permission 064560)	Licensing	Proposed hours of operation
Sunday to Thursday 08:00 to 11:30 pm	Monday to Thursday 10:00 to midnight	Monday to Wednesday 08:00 to 23:30
Fridays and Saturdays 08:00 to midnight	Friday and Saturday 10:00 to 01:00	Thursday and Sunday 08:00 to midnight
	Sunday 11:00 to midnight	Friday and Saturday 10:00 to 01:00

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Consultations

Local Residents/ Businesses - 2 letters of objection have been received for this application. The comments can be summarised as follows:

1. Residents of Allanson Road have suffered from a huge increase from loud noise and nuisance coming from the back of Kaz bar premises since a smoking shelter has been erected;
2. Do the premises already have a late licence from Thursday to Sunday as during the warmer weather residents had people behind in the car park until at least 01:00 in the morning shouting and being aggressive? The bar is making its own hours up;
3. They have erected a smoking shelter at the back of the bar and at night the doors of the bar to the outside are kept open. This is causing a lot of disruption for residents who back onto it;
4. The noise from the smoking shelter is very disruptive;
5. Has the smoking shelter received planning permission?
6. At most bars where they offer a smoking facility, they have door staff manning them and make sure that noise levels are kept to a minimum to respect their neighbours – at Kaz bar it seems to be a free for all;
7. There is drink related problems which take place within the vicinity of the pubs in this area on Friday and Saturday evenings;
8. Has any study of the effect of people moving between drinking establishments been carried out? Particularity, in terms of the crime implication, the number of people on the streets and the perceived level of safety to residents;
9. An assessment of the current levels of crime in the streets of Palatine Road, Allanson Road, Brett Street and Elveston Road should be carried out to see if they are above average compared with other similar areas and consider what the expected impact would be should Kaz bar be granted an extension;
10. The Council should consider other historic problems that have been encountered with other pubs such as the Church Inn.

Northenden Civic Society – The closing hours for Friday and Saturday should be 24:00 to respect the amenities of the residents living on Palatine Road and Allanson Road.

Head of Environmental Health – No adverse comment/no objection in principle to this application.

Greater Manchester Police Architectural Liaison Officer – No comments at the time of writing this report. Any comments will be reported to the committee.

Greater Manchester Police Crime Reduction Officer – No comments at the time of writing this report. Any comments will be reported to the committee.

Palatine Road Traders Association – No comments at the time of writing this report. Any comments will be reported to the committee.

Issues

The application site is allocated within the Unitary Development Plan for the City of Manchester (Adopted 1995) as being within the Northenden District. Despite

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the District Centre location of the application site, the premises is located in close proximity to residential properties. In terms of policies within the development plan which are relevant, policies H2.1, H2.2 and E3.5 within Part One of the UDP are relevant and policies DC10.1, DC10.2, DC10.4, DC26.1 and DC26.3 within Part Two of the UDP are relevant.

Policy H2.1 states that the Council will encourage environmental improvements to make residential areas safer and more attractive.

In giving effect to this, policy H2.2 states that the Council will not allow development that will have an unacceptable impact on residential areas. Matters which the Council will consider when determining such applications are the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Furthermore, measures will be promoted which will lead to a safer environment for all people living in and using the City (Policy E3.5).

Policy DC10.4 states that where the Council considers food and drink premises to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. Such conditions include limitations in terms of the hours of opening and the need to deal adequately with the storage of refuse and collection of litter.

Policy DC26.1 (Development & 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.

Policy DC26.3 states that development likely to result in unacceptably high levels of noise will not be permitted in residential, near schools, hospitals, nursing homes and similar institutions and near open land used frequently for recreational purposes.

Other Relevant Policies and Guidance-In considering development proposals, reference is not only made to the UDP, but also other policies and supplementary planning guidance. In this case, the Regional Spatial Strategy for the North West (Formerly RPG13).

RSS for the North West (RPG13) provides planning guidance for the North West region and is part of the development plan long with the Manchester UDP.

Policy DP2 (Enhancing the Quality of Life) seeks to ensure that developments provide a high quality of life for this and future generations.

PPS1 outlines the Governments approach for sustainable development. In particular, the guidance states that good design should contribute positively to making places better for people. Design which is inappropriate in its context and does not improve the character and quality of an area should not be accepted.

PPS6 'Planning for Town Centres' states that the Government objectives is to promote their vitality and viability by:

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- Planning for the growth and development of existing centres; and
- Promoting and enhancing existing centres, by focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all.

The Guide to Development in Manchester SPD (Adopted 2007) reiterates this point by stating that developments in district centres need to help 'enhance the character and quality' of these areas by well-designed shop fronts.

Principle – The application site is a bar within the heart of Northenden District Centre. There are a number of commercial and retail premises surrounding the application site and there is a residential area behind the application site. Allanson Road, a residential street, sits directly behind the application site with the rear gardens of the properties abutting the rear of 'Kaz Bar'.

The principle of the use of the premises as a bar has been established for many years. The purpose of the application is to vary the opening hours of the premises in line with those approved by the licensing committee. As such, the Head of Planning has considered whether the proposed hours of operation are acceptable upon the existing level of residential amenity currently enjoyed by local residents, resulting noise implications and any crime and safety issues resulting from the development.

It has also been observed that an illegal smoking shelter has been erected at the premises. This matter will also be addressed within the context of the report.

Noise and disturbance – It is accepted that allowing the premises to open later will mean that the noise and activity associated with the closing time of the premises will be extended for a longer period. Indeed, it is the opinion of Northenden Civic Society that the opening hours should cease at midnight at weekends. However, it should be noted that the proposal would only see the premises open half an hour longer on Thursdays and Sundays, until midnight, and one hour later on Fridays and Saturdays. This is not deemed to be excessive extension of time which will lead to intolerable noise problems.

In addition, given that the premises is within the District Centre, this is the most acceptable location for the use and will contain the activity in one specific location. If planning permission is granted it is recommended that a condition be imposed on the permission which states that the outside area at the rear of the premises should not be used for eating or drinking in connection with the use of the premises. This will assist in containing the noise and activity inside the premises.

Having said that, in order to ensure that noise is contained within the building a further condition should be imposed which states that all windows and doors, at the rear of the premises, shall remain closed after 7:00pm. In addition, the front concertina window shall be closed after 9:30pm.

Residential amenity – Whilst the premises is located in the centre of Northenden, there are residential properties in close proximity to the application site. Directly behind Kaz Bar are the rear gardens of properties along Allanson Road. Policy DC26.1 states that the Council will try and reduce the level of noise, as a result of developments, on people living in the City.

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There have been a couple of objections from residents who live along Allanson Road who are concerned about the extension of the opening hours upon their residential amenity due to current problems that exist at the premises.

Given the District Centre location of the application site it is considered that a certain level of noise and activity is expected for residents who choose to live in such close proximity to the premises which operate in the night time economy. Having said that, residents' amenity should not be adversely affected by commercial proposal in a negative way. As has already been demonstrated, it is not considered that allowing the extended hours will not generate any intolerable levels of noise and disturbance. However, it is considered that the controls need to be imposed, in line with the objectives of policy DC10.4, which will restrict drinking at the rear of the premises and reduce the effect on their amenity.

Crime and Disorder – Local residents have cited that there are existing problems with crime and anti-social behaviour as a result of the premises. An inevitable consequence of allowing later opening hours will be that patrons will be lingering in the vicinity for longer. As such, the management and dispersal of patrons is important to avoid trouble in the area during and after closing.

Under the terms of the licensing agreement, which the owners of the premises have signed up to, an effective and adequate CCTV system must be installed and maintained at the premises. In addition, an effective door policy must be imposed along with all windows and doors being kept closed during regulated entertainment. If the licensee fails to adhere to these provisions then the licence will be revoked.

These measures will therefore assist in reducing the incidence of crime and disorder in the local area and evidence of these details have been conditioned as part of the approval.

Smoking Shelter – During an officer site visit of the premises it was observed that a smoking shelter had been erected at the rear of the premises. Planning Permission has not been granted for this development. The Enforcement Division are currently liaising with the owners of the premises in respect of this matter.

There is concern that the smoking shelter is contributing to the noise and disturbance experienced by the residents on Allanson Road. Until the Enforcement investigations have been brought to a conclusion, planning permission should only be granted on the basis that no eating or drinking should take place at the rear of the premises.

Conclusion – The Head of Planning believes that allowing the variation of the condition to extend the hours to those given by licensing will not lead to unacceptable levels of noise and disturbance. The hours are not excessive and will cease at an appropriate time to ensure that patrons can be dispersed appropriately in accordance with the terms of the licensing agreement. The business will help support the evening economy in a controlled and appropriate manner. However, the suggestion by Wythenshawe Members that a temporary consent would allow monitoring of compliance with conditions is acknowledged as being a good way of testing the matter.

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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)/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. He believes that any restriction on these rights posed by the 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

The application will see the variation of the opening hours for the premises. Given the premises location within the heart of the District Centre it is not considered that the modest lengthening of the hours will cause unnecessary noise and disruption. Whilst there are residential properties in close proximity to the bar, conditions will be imposed which will help control the use of the premises and contain any noise within the building.

**Wythenshawe
Area Committee Minded to Refuse**

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

Monday to Wednesday 08:00 to 23:30

Thursdays and Sundays 08:00 to 00:00

Fridays and Saturdays 08:00 to 01:00

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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.

3) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse shall be submitted to and approved in writing by the City Council as local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the use or development is in operation.

Reason - To protect surrounding environmental and health safety, pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester (Adopted 1995).

3) A notice shall be placed at all exists to the premises reminding patrons to leave quietly and in an orderly fashion.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

4) No externally mounted speaker system shall be operated on the premises unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

5) All windows and doors, at the rear of the premises, are to remain closed after 7pm and during regulated entertainment unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road and Palatine Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

6) No part of the rear car park shall be used for the purpose of eating or drinking, including no outside seating or covered areas unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

In order to prevent undue noise disturbance the occupants of nearby residential accommodation, particularly those on Allanson Road and Palatine Road,

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pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

7) A scheme shall be submitted to and approved by the City Council relating to the delivery arrangements to the site, which will include no deliveries to the rear of the premises on Sundays and Bank Holidays.

Reason

To protect the current levels of residential amenity enjoyed by local residents, particularly those on Allanson Road, pursuant to policies H2.2, DC10.1, DC10.2, DC26.1 and DC26.3 in the Unitary Development Plan for the City of Manchester (Adopted 1995).

8) The six pane concertina opening window/ door to the front elevation shall remain closed between the hours of 9.30 p.m. and 8.00 a.m

Reason

To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to policy H2.2 of the Unitary Development Plan for the City of Manchester (1995).

9) Details of an external CCTV system at the premises, including their location, shall be submitted to the City Council as Local Planning Authority.

Reason – To ensure that there are adequate measures in place for crime and safety reasons pursuant to policy E3.5 of the Unitary Development Plan for the City of Manchester (Adopted 1995).

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: 085391/JO/2007/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 other applications or appeals, copies of which are held by the Planning Division.

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

Environmental Health
Greater Manchester Police
Steve Hobson, Crime Reduction Officer
Northenden Civic Society
Northenden Village Partnership
381a, Palatine Road, Manchester, M22 4FY
Ozone, 361 Palatine Road, Manchester, M22 4FY
387 Palatine Road, Manchester, M22 4FY
Acorn Veterinary Surgery, 366 Palatine Road, Manchester, M22 4FZ
368 Palatine Road, Manchester, M22 4FZ
370 Palatine Road, Manchester, M22 4FZ
Rains & Son, 372 Palatine Road, Manchester, M22 4FZ
Barnardos, 374 Palatine Road, Manchester, M22 4FZ
Clover Leaf Florists, 378-380, Palatine Road, Manchester, M22 4FZ
1 Heyridge Drive, Manchester, M22 4HB

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Greys Hair Design, 346 Palatine Road, Manchester, M22 4HD
Pets Paradise, 348 Palatine Road, Manchester, M22 4HD
Hampsons (bolton) Ltd, 350 Palatine Road, Manchester, M22 4HD
Co-operative Chemist, 352-354, Palatine Road, Manchester, M22 4HD
356 Palatine Road, Manchester, M22 4HD
364 Palatine Road, Manchester, M22 4HD
Done Bros (cash Betting) Ltd, 344 Palatine Road, Manchester, M22 4HE
Nabarro Poole Ltd, 31 Church Road, Manchester, M22 4NN
33 Church Road, Manchester, M22 4NN
377a, Palatine Road, Manchester, M22 4FY
374a, Palatine Road, Manchester, M22 4FZ
382a, Palatine Road, Manchester, M22 4FZ
344a, Palatine Road, Manchester, M22 4HD
344b, Palatine Road, Manchester, M22 4HD
346a, Palatine Road, Manchester, M22 4HD
348a, Palatine Road, Manchester, M22 4HD
350a, Palatine Road, Manchester, M22 4HD
352a, Palatine Road, Manchester, M22 4HD
354a, Palatine Road, Manchester, M22 4HD
354b, Palatine Road, Manchester, M22 4HD
356a, Palatine Road, Manchester, M22 4HD
358a, Palatine Road, Manchester, M22 4HD
360a, Palatine Road, Manchester, M22 4HD
362a, Palatine Road, Manchester, M22 4HD
364a, Palatine Road, Manchester, M22 4HD
364b, Palatine Road, Manchester, M22 4HD
Post Office, Northenden Post Office, 382 Palatine Road, Manchester, M22 4FZ
358-362, Palatine Road, Manchester, M22 4HD
Woolworths Plc, 342 Palatine Road, Manchester, M22 4HE
363 Palatine Road, Manchester, M22 4FY
Rainbow, 365 Palatine Road, Manchester, M22 4FY
Cafe Issano Pizzeria, 367 Palatine Road, Manchester, M22 4FY
373 Palatine Road, Manchester, M22 4FY
375 Palatine Road, Manchester, M22 4FY
William Hill Bookmakers, 369-371, Palatine Road, Manchester, M22 4FY
Vision Service Opticians, 379 Palatine Road, Manchester, M22 4FY
Appetizer, 381 Palatine Road, Manchester, M22 4FY
Simply Delicious, 383 Palatine Road, Manchester, M22 4FY
385 Palatine Road, Manchester, M22 4FY
389 Palatine Road, Manchester, M22 4FY
376 Palatine Road, Manchester, M22 4FZ
New World House 372a, Palatine Road, Manchester, M22 4FZ
373a, Palatine Road, Manchester, M22 4FY
363a, Palatine Road, Manchester, M22 4FY
372a, Palatine Road, Manchester, M22 4FZ
Flat 1, 25 Church Road, Manchester, M22 4NN
Flat 2, 25 Church Road, Manchester, M22 4NN
Flat 3, 25 Church Road, Manchester, M22 4NN
Flat 4, 25 Church Road, Manchester, M22 4NN
Flat 5, 25 Church Road, Manchester, M22 4NN
Flat 6, 25 Church Road, Manchester, M22 4NN
Flat 1, 27 Church Road, Manchester, M22 4NN
Flat 2, 27 Church Road, Manchester, M22 4NN
Flat 3, 27 Church Road, Manchester, M22 4NN
Flat 4, 27 Church Road, Manchester, M22 4NN

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Flat 5, 27 Church Road, Manchester, M22 4NN
378a, Palatine Road, Manchester, M22 4FZ
Rafters Cafe Bar, 351-359, Palatine Road, Manchester, M22 4FY
10 Brett Street, Manchester, M22 4EX
12 Brett Street, Manchester, M22 4EX
4 Brett Street, Manchester, M22 4EX
6 Brett Street, Manchester, M22 4EX
8 Brett Street, Manchester, M22 4EX
35 Church Road, Manchester, M22 4NN
37 Church Road, Manchester, M22 4NN
39 Church Road, Manchester, M22 4NN
41 Church Road, Manchester, M22 4NN
43 Church Road, Manchester, M22 4NN
45 Church Road, Manchester, M22 4NN
47 Church Road, Manchester, M22 4NN
49 Church Road, Manchester, M22 4NN
51 Church Road, Manchester, M22 4NN
53 Church Road, Manchester, M22 4NN
38 Allanson Road, Manchester, M22 4WW
40 Allanson Road, Manchester, M22 4WW
42 Allanson Road, Manchester, M22 4WW
44 Allanson Road, Manchester, M22 4WW
46 Allanson Road, Manchester, M22 4WW
48 Allanson Road, Manchester, M22 4WW
50 Allanson Road, Manchester, M22 4WW
52 Allanson Road, Manchester, M22 4WW
54 Allanson Road, Manchester, M22 4WW
56 Allanson Road, Manchester, M22 4WW
58 Allanson Road, Manchester, M22 4WW
60 Allanson Road, Manchester, M22 4WW
62 Allanson Road, Manchester, M22 4WW
343a, Palatine Road, Manchester, M22 4FY
349 Palatine Road, Manchester, M22 4FY
County Financial Services Ltd, Venture House, 341 Palatine Road, Manchester,
M22 4FY
The Mouth, 343 Palatine Road, Manchester, M22 4FY
Katmandu Restaurant, 345-347, Palatine Road, Manchester, M22 4FY
349a, Palatine Road, Manchester, M22 4FY
Peelgate Ltd, Venture House, 341 Palatine Road, Manchester, M22 4FY
Godfrey Holland Ltd, Venture House, 341 Palatine Road, Manchester, M22 4FY

Representations were received from the following third parties:

Northenden Civic Society
Mr Michael Fallows, Allanson Road
M Matt Evans, 38 Allanson Road, Northenden

Relevant Contact Officer : Jennifer Atkinson
Telephone number : 0161 234 4517
Email : j.atkinson@manchester.gov.uk