

Application Number	Date of Appln	Committee Date	Ward
089374/JO/2009/S1	17th Jun 2009	20th Aug 2009	Chorlton Park Ward

Proposal 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.

Location Orlando's Cafe, 380 Barlow Moor Road, Chorlton, Manchester, M21 8AZ,

Applicant Mr Rupert Campbell , C/o Agent

Agent Mr Daniel Jackson, Indigo Planning Ltd, Lowry House, 17 Marble Street, Manchester, M2 3AW,

Description

Background

This application was deferred from the meeting of Planning and Highways Committee on the 23rd July 2009, due to a late representation being received that raised issues that needed further consideration. An investigation into these issues is now being carried out and therefore, the application for the extension of the opening hours can be considered by the Committee. Further details in relation to the investigation are outlined later in the report.

Application site

The application relates to a two storey detached building occupying a broadly rectangular site located at the junction of Barlow Moor Road and Sandy Lane. The premises are currently used as a restaurant/café within class A3 of the Town and Country Planning (Use Classes) Order 2006. The building has a car parking area to the side with access from Sandy Lane, and the forecourt area to the front is used for outside eating and drinking. Previously the premises have been used for car sales, general retail and more recently the sale and fitting of car sound systems.

The site is located within the Chorlton Park ward of the City, a residential suburb to the south west of the City Centre, and is within the Chorlton District Shopping Centre. At this point the commercial uses within the centre are becoming more fragmented, though the site is located at the end of a substantial terrace of commercial units. Sandy Lane is residential. Barlow Moor Road is a major orbital route around the south west of the City, whilst Sandy Lane is a district distributor serving the residential areas to the rear of the district shopping centre.

Planning History

Since 1974 the site has been the subject of 10 applications for planning permission. In January 1975, planning permission was granted for the continuance of use of land at front and side of motor showrooms and flat, for the display and sale of cars, under ref. F01536 08. Planning permission was

refused for a single storey extension to the existing showroom under Ref. 043696/FO/SOUTH2/93 in June 1993. Another application for a single storey extension to existing showroom, was refused in March 1994 under ref. 044994/FO/SOUTH2/94. Planning application 048440/FO/SOUTH2/95 for the erection of a single storey extension to existing showroom was approved in November 1995. Finally, an application for the erection of a three storey extension to form shop on ground floor with 1 self-contained flat above was refused in March 2003 under ref. 067407/FO/SOUTH1/03.

In specific relation to this use as a cafe, an application for a change of use from retail (class A1) to restaurant and bar (sui generis) with outside seating area and parking; alterations to the elevations and erection of a glazed canopy and two storey side extension, under ref 084141/FO/2007/S1, was withdrawn in November 2007. The restaurant was granted planning permission under reference 085108/FO/2007/S1, which was for the use of ground floor as a cafe (Class A3) including formation of an outside seating area, alterations to elevations, provision of staff parking, landscaping and new boundary treatment. The application was approved on the 14th January 2008 subject to a number of conditions.

The applicant lodged an appeal on the 11th June 2008 to dispute the wording of Condition 4 of application 085108/FO/2007/S1 in relation to the permitted opening hours of the premises. The applicant requested through the appeal process for the permitted opening hours to be extended from 8am to 10pm up to 8am until midnight. The inspector concluded that he felt the condition was both necessary and reasonable in order to protect the living conditions of the occupants of No. 2 Sandy Lane. It was outlined that as Orlando's is sited within a few metres of the main living room windows of No. 2 Sandy Lane, the extension of opening hours asked for would unacceptably increase the levels of noise and disturbance for the occupants of this dwelling at times when they have the right to expect quieter conditions. The inspector confirms that paragraph 12 of PPG24 states that people are normally sleeping between 11.00pm and 7am and the extension to opening times would exceed these hours and cause a detrimental disturbance. Therefore, the appeal was dismissed on the 4th November 2008.

Two subsequent applications were then submitted in connection with the approved restaurant business. Condition 2 of the planning approval 085108/FO/2007/S1 required the development to be completed in accordance with approved drawings listed in the Condition. In this case, the relevant approved drawing was numbered 1504.05 Revision B. As constructed on site, the development differed in several areas from what was approved on drawing 1504.05 Revision B. Therefore, a new application was required to regularise the development carried out on site. The unauthorised works included temporary pergolas on the forecourt, an additional window, the omission of the side entrance to the kitchen, a canopy on the front elevation, the replacement of the window on the front elevation with concertina doors, the remodelling of the fence to the garden for the flats, and the resultant relocation of the bin store. Therefore, a planning application was then submitted under reference 087466/JO/2008/S1 to gain planning approval for the works previously completed at the site. This application was approved on the 6th November 2008.

The second application 087340/FO/2008/S1 was for the erection of two permanent canopies to the front elevation of the building and retrospective permission for the installation of a chiller unit to the rear elevation of the building. The two canopies included one enclosed glass structure to form an extension to the inside eating area and an open canopy to provide cover for mainly smoking and some outside eating. This involved the removal of the existing open canopies that were previously installed on the front of the building. It is understood that this permission has not yet been implemented on site.

Current Proposal

This application was originally submitted in March 2009, and was for the change of use of the building to a mixed use bar and restaurant with extended opening hours of 8.00am to 11.30pm Sundays to Wednesdays and 8:00am to 12am Thursdays to Saturdays. This was an extension of the previously approved hours of 8:00am to 10:00pm seven days a week. The business is currently experiencing severe financial problems and the closure of the premises at 10pm is causing many customers to eat elsewhere, which have later opening hours than this premises.

Following detailed consultation on the original proposals and the receipt of significant objections, the change of use element of this scheme was withdrawn by the applicant, and a Section 73 application was submitted to request the extension of the opening hours to 8.00am to 11.30pm Sundays to Wednesdays and 8:00am to 12am Thursdays to Saturdays as originally applied for. However, again following advice that these hours still caused great concern to the City Council due to the potential impact of these late hours on surrounding residents, the applicant agreed to reduce the hours being applied for to 8:00am to 11:00pm seven days a week. This would allow the applicant an extra hour of trading for the sale of food.

Therefore, consent is now being sought for the variation of Condition 4 of the previous approval 085108/FO/2007/S1 to allow the extension of the previously approved opening hours to 8.00 am to 11.00pm seven days a week.

Consultations

Local Residents / Businesses

Five letters of representation were received from local residents for the original application submitted in March 2009 (change of use and extension of opening hours). The original comments raised can be summarised as follows:

- 1) A previous application along these lines was rejected because a Bar with late hours was considered inappropriate; it would encroach too much upon this residential end of Sandy Lane. As the circumstances have not really changed, it is thought that the previous grounds for objection should still apply. One thing that has changed since the original late hours application, is that the residents at 2 and 4 Sandy Lane are now short-term tenants. These tenants are both due to leave shortly, so may well not be motivated to contact the City Council. A previous application similar to the changes currently proposed was rejected because a bar of this sort with late hours was considered inappropriate, as it would encroach too much upon the residential end of Sandy Lane. As the

circumstances have not changed one bit, the previous grounds for objection should still apply.

2) Concerned that there will be a noticeable increase in Bar related noise and nuisance which would go on too late, especially during week days. It is hoped the distinction between quality and quantity of noise is taken into account; i.e Bar noises can be far more disturbing than the relatively innocuous traffic noises. Strongly object to the change of use on the grounds of noise and nuisance. Currently live immediately adjacent to Orlando's and the noise from the cafe is easily heard from inside the house. Can hear noise from what is believed to be external air conditioning units as well as customers entering and leaving the cafe when it is open. The proposed changes would only make these frustrating circumstances more dramatic. We can clearly hear the PA system when Orlando's host special guest evenings, it is not contained within their premises and the noise generated by people sitting out on the front porch is also audible. There is other noise associated with an open plan bar, which does travel to our rear garden, and it does disturb us. When we bought our property there was considerably less noise in the evenings.

3) Would like to raise objections to the planning application submitted by Orlando's for a change of use and extension to opening hours. Resident of Fairhaven Avenue and believe that the application will affect my and my family's enjoyment of our environment. Objected to the application originally and see this recent application as a rather cynical attempt to get the original planning permission approved on the basis of an economic argument. Fully understand the need to boost the local economy and am sympathetic to the argument that other premises have late licences; indeed objecting to the application feels a little like trying to stop a runaway train, as the City Council has already supported the increase in licensed premises in this area around Barlow Moor Rd, and Orlando's is one of those. Do not wish to live however, in an area that has what I consider to be an excessive number of bars in short proximity to one another as that sort of commercial business brings negative consequences for local residents.

4) There may also be a traffic safety issue. Since the opening of Orlando's, there can now sometimes be evening parking of up to 7 or more cars on the double yellow lines at the end of Sandy Lane. As this part gets quite congested due to the lights it can be hazardous, it is imagined this may worsen with these extended hours. Regarding traffic safety measures, there are often cars parking on the double yellow lines on Sandy Lane dropping off and collecting people from the cafe. This end of Sandy Lane is already too busy with traffic considering its residential nature and with the proposed extended opening hours this would only get worse. It is already extremely difficult for residents to park on the street due to the dearth of local car parking to serve the shops and bars locally, and the volume of parked cars noticeably increases when the local restaurants are open. Shutting the public car park at Orlando's would simply add to this congestion.

5) This proposal strikes me as a cynical attempt to take advantage of the Council's good will in accepting the revised plans for Orlando's. I can see why residents will often object to proposals because of the fear of "getting a foot in the door" and "thin end of the wedge". It looks like this is the stunt they are trying to pull off! The application is made strongly on the basis of commercial

viability. It suggests that it wishes to be a family friendly local restaurant yet the application is clearly to function as a late bar. I do not imagine a late license is necessary to serve the family market and find the application confusing in that respect. It is noted by GMP that the lack of anti-social behaviour associated with the premises may be due to the fact that it serves food, I would wonder then if a greater emphasis on its use as a bar would affect that? I am concerned that if this application is successful a bar culture and all that it brings will dominate in this area and make it less attractive for us all to live in. Do not wish to see local businesses close but do feel that there needs to be balance in what is available to us to meet everyone's needs.

Re-notification of Local Residents / Businesses

Following the withdrawal of the change of use element of this application and the submission of the amended Section 73 application on the 17th June 2009 for the variation of the opening hours condition, one further letter of representation has been received. This is the late representation that was received just before the meeting on the 23rd July, and the comments made were as follows:

- 1) The venue has been visited on a number of occasions and have been able to buy a drink without buying any food, as was everyone in the group. This seemed to be norm, as everyone at the bar being served were not asked to purchase food. It is believed that the place is run as a bar that happens to sell a bit of food rather than a restaurant that serves drinks.
- 2) In relation to the air conditioning units, it can be confirmed that they were on at 23.50 on Sunday 19th July.
- 3) Strongly against any lengthening of the opening hours on the basis of the reasons previously outlined in objection letters.

Greater Manchester Police

The comments made on the original application were that the Planning Consultant acting for the applicant had previously contacted GMP, and the correspondence with Indigo has been included in the planning submission. To reiterate, GMP have no objections to the proposal, subject to the adherence to the Operating Statement supplied by the applicant and the retention of the food offer in the premises. It may be appropriate for a condition to be included that ensures that there is at least a 50:50 balance between the food and drink.

Re-notification of Greater Manchester Police

Following the withdrawal of the change of use element of this application and the submission of the amended Section 73 application on the 17th June 2009 for the variation of the opening hours condition, no objections have been received from Greater Manchester Police.

Head of Regulatory and Enforcement Services

The Head of Regulatory and Enforcement Services raised very serious concerns in relation to the original application for the change of use of this premises from a restaurant to a mixed use bar/restaurant.

The comments were that noise complaints have been received against this property. The concern is that the proposed use will include the provision of

louder music/live entertainment to which the original complaints relate. The noise report supporting the application suggests that when the music system was turned full volume that noise had no effect on nearby residential properties. This statement was not supported by an actual quoted measured level inside and outside the building at the same time, and would have been in ideal conditions with all windows and doors closed. Neither did it account for the hiring of live performers and the use of a separate amplification system to that fitted. There are no objections to the actual hours extension proposed, as these are in line with several other bars in the vicinity, but it is up to the applicant to manage the business in a way that will not subject neighbours to noise disamenity. The recent noise complaints were a disappointment in the circumstances and reflect on the management and a failure to observe simple noise controls and contradict assurance to planning about noise control.

Regarding the location of the premises, the location is much closer to a larger number of residential properties, than other bars located in the commercial areas of Chorlton. For this reason if there are problems, for example with excessive noise breakout, then effectively there will be more immediate residents to be affected, and as the application is for extended hours, for later into the evening than with existing hours.

Statements and assurances from the applicant or agents, as to how the premises would be managed if given the change of use, and an extension to its opening times, are not guarantees that there will be no problems in the future. However, continued operation as a restaurant would likely result in less likelihood of noise disamenity to neighbours for example. The numbers of patrons attending a restaurant are less likely to reach the numbers attending a bar, and customer focus is usually more on the meal than alcohol or loud entertainment which disrupts conversation, and for that reason restaurants are invariably less of a source of public nuisance and crime and disorder complaints than are 'typical' bars. As a bar use, one can expect more patrons to be in attendance, and to be drinking more alcohol. Although assurances have been given about retaining the food element of the business, if planning permission is given to the change of use, the business emphasis might well be over time to concentrate less on food service and more on a typical bar use, and louder music and more entertainment to attract more patrons. This perhaps can be demonstrated by the recent 'trial' of live bands entertainment which resulted in the problems, significant neighbour complaints and warnings to the owner.

In addition to an expected increase in numbers of patrons attending the premises if operated as a bar, then one would expect a greater number of patrons 'coming and going' about the adjacent residential area, on foot and some in cars, and later into the evening if the hours extension is permitted.

In relation to adding more conditions, it is always a question of them being suitably worded so as to be practical and enforceable, and in past experience bars can be a source of disamenity to local residents notwithstanding even good conditions. This can often be due to simple 'human' / poor management factors such as failure of staff to close windows or doors whilst loud entertainment is being provided (typically in summer months), failure to maintain amplification levels at a level which will not be a problem to neighbours, but also because management and bar/door staff do not have control of noisy patrons once they have actually left the premises and are milling about the general area

en route home or even journeying to other bars. Signage requesting patrons leave the area quietly is not a practical solution to this problem.

Reconsultation of the Head of Regulatory and Enforcement Services

Following the withdrawal of the change of use element of this application and the submission of the amended Section 73 application on the 17th June 2009 for the variation of the opening hours condition, further comments have now been received from the Head of Regulatory and Enforcement Services. It has been noted that the change of use to A4 in the original application has been removed and that the applicant wishes to continue to operate the premises as a café/restaurant, with music only at background levels, but to later in the evening. On this basis, there are no objections to the proposed opening hours variation, but that the opening hours for the seating area should be controlled, together with other conditions as existing relating to servicing times, hours for disposal of refuse etc.

Head of Highway Services

Any comments received will be reported to Committee.

Ward Councillors

Any comments received will be reported to Committee.

South Manchester Regeneration

Any comments received will be reported to Committee.

Chorlton Civic Society

Any comments received will be reported to Committee.

John Leech MP

Any comments received will be reported to Committee.

Policy Context

Relevant National Policies

Planning Policy Statement No.1 Creating Sustainable Communities

PPS1 encourages the promotion of urban and rural regeneration to improve the well being of communities, improve facilities, promote high quality and safe development and create new opportunities for the people living in those communities. Policies should promote mixed use developments that create linkages between different uses and create more vibrant places.

Relevant Regional Policies

Regional Spatial Strategy (RSS) (September 2008)

The Regional Spatial Strategy (RSS) for North West England was adopted in September 2008 and replaces the previously published Regional Planning Guidance (RPG13). The RSS provides a framework for development and investment in the region over the next fifteen to twenty years. There are a

number of policies relevant to this development proposal within the RSS including the following:

Policy DP1 'Spatial Principles' outlines the main principles that underpin the RSS to which all other regional, sub-regional and local plans and strategies and all individual proposals, schemes and investment decisions should adhere to. These include to promote sustainable communities, promote sustainable economic development, make the best use of existing resources and infrastructure, manage travel demand, reduce the need to travel, and increase accessibility, marry opportunity and need, promote environmental quality, mainstreaming rural issues, and to reduce emissions and adapt to climate change.

Policy DP2 'Promote Sustainable Communities' states that building sustainable communities are places where people want to live and work. This is a regional priority in both urban and rural areas. Sustainable Communities should meet the diverse needs of existing and future residents, promote community cohesion and equality and diversity, be sensitive to the environment, and contribute to a high quality of life.

Relevant Local Policies

Unitary Development Plan for the City of Manchester (1995)

All of the UDP policies listed below are saved by the Secretary of State on the 27th September 2007, until the Unitary Development Plan is replaced by Core Strategy.

The application site is located within Area 13 of the Unitary Development Plan for the Chorlton and Barlow Moor areas. The relevant area policies in this case are CB1 and CB9. Policy CB1 states that the Council will;

- a) protect and improve the quality of both the built and the open environment;
- b) protect and improve Chorlton as a major district centre, while strongly discouraging its expansion beyond its current boundaries;
- c) retain the primarily residential character of the area;
- d) control pressure for office development;
- e) safeguard major areas of open land, especially in the Mersey Valley;
- f) make better use of existing recreational facilities, particularly open spaces, to provide an increasing range of leisure activities.

Policy CB9 relates directly to the District Centre of Chorlton where the application site is located. Policy CB9 outlines that the change of use of residential premises to retail and commercial uses will not be permitted adjacent to Chorlton District Centre immediately beyond the District Centre boundary as shown on the proposals map. There is a danger that residential areas on the fringe of Chorlton District Centre will lose their residential character and suffer disamenity through further encroachment by district centre functions. Consequently, the Council wishes to prevent the continued linear expansion of retail and commercial functions along Wilbraham Road, Barlow Moor Road and Manchester Road beyond the existing District Centre, as defined on the Proposals Map, and to protect other residential areas close to the District Centre from further incursion by retail facilities.

When dealing with applications of this nature, regard is given to Development Control Policies No. 10 and 26. Policy DC10 sets down the criteria to be considered in determining applications for food and drink uses, including the need to protect the amenity of the occupiers of nearby residential properties. Policy DC26 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 both the effect of new development proposals, which are likely to be generators of noise; and the implications of new development being exposed to existing noise sources, which are effectively outside planning control.

Further relevant policies include H2.2, where Policy H2.2 states that the Council will not allow development, which will have an unacceptable impact on residential areas. The matters that the Council will consider will include the scale and appearance of the development and its impact in terms of noise, vibration, traffic generation, road safety and air pollution.

Supplementary Guidance

The Guide to Development in Manchester Supplementary Planning Document and Planning Guidance was formally adopted in April 2007, and is therefore relevant in this case. Planning Policy Statement 3 'Housing' states that to facilitate efficient delivery of high quality development, Local Planning Authorities should draw on relevant guidance and standards and promote the use of appropriate tools and techniques, such as Design Coding alongside urban design guidelines, detailed masterplans, village design statements, site briefs and community participation techniques.

In the City of Manchester, the relevant design tool is the Guide to Development in Manchester Supplementary Planning Document and Planning Guidance. The Guide states the importance of creating a sense of place, high quality designs, and respecting the character and context of an area. The Guide to Development in Manchester Supplementary Planning Document and Planning Guidance provides a framework for all development in the City and requires that the design of new development incorporates a cohesive relationship with the street scene, aids natural surveillance through the demarcation of public and private spaces and the retention of strong building lines and appropriate elevational detailing and strong design particularly to corner plots.

Issues

Late Representation

As outlined at the beginning of the report, this application was deferred from the 23rd July meeting, due to a late representation being received that required further investigation. An email was received from a local resident that raised concerns about the nature of the business being operated at Orlandos. This premises has planning permission to be operated as a restaurant under Class A3 of the Town and Country Planning (Use Classes) (Amendment) Order 2005. However, it has been claimed that the premises is actually being run predominantly as a drinking establishment rather than a restaurant, where customers can purchase drinks without having to purchase any food.

Following receipt of the email, Planning Enforcement is now carrying out an investigation into this alleged breach of the authorised use. The investigation is to find out if there is a continued breach of the use previously approved under planning application 085108/FO/2007/S1. A number of site visits have already been completed and a letter has been received from the applicant outlining how he operates the business.

However, it has to be noted that the application before Committee does not relate to the previously approved use and is only to consider the extension of the opening hours of the premises from 10pm to 11pm seven days a week. The consideration of these two issues must be taken separately, and therefore the acceptability of this application must be assessed only in relation to the opening hours of a restaurant. As outlined in the report below, it is considered that the extension of the opening hours by one hour to a restaurant use is acceptable and that this application is recommended for approval. However, the enforcement investigation into the use of the premises will be continued and if it is found that there is a continued breach, then enforcement action will be taken.

Principle

It was considered that the original application for the change of use of these premises to a bar with extended hours of 11.30pm and midnight was unacceptable in principle, due to the potential significant detrimental impact on the occupants of the surrounding residential properties. The general comings and goings from a drinking establishment late at night would have resulted in disturbance to residents as they were sleeping, and therefore the applicant was advised that the application would have been refused. Also as outlined above, the Planning Inspectorate agreed with this view as the appeal lodged by the applicant in June 2008 to request an extension of the permitted hours to midnight was dismissed due to an unacceptable impact on the residents of No. 2 Sandy Lane.

However, for the reasons outlined below, the amended application to retain the existing restaurant use with extended hours until 11pm seven days a week, is considered to be acceptable in principle subject to the inclusion of several restrictive conditions.

Business Operations

The applicant has confirmed that the proposed extended opening hours will enable Orlando's to offer a wider variety of evening entertainment, while still retaining the food element. This is crucial in making the premises a viable ongoing concern in a competitive sector. The applicant has put forward a number of measures that will be put in place at the premises in relation to operation management, to reduce the impact of this business on local residents. These are included in the Operations Statement that has been submitted to accompany the application. Measures include closing the doors and windows from 10pm, ensuring the external equipment fans are turned off after 10.30pm, the outside seating area only being used for smoking purposes after 8pm, no additional amplification both internally and externally to the existing built-in system, the car park only being used by staff at Orlando's or the residents from the flat on the first floor and that all refuse, glasses or glass bottles from the building will not be disposed in outside receptacles between the hours of 9pm and 8am. Some of these measures are already in place at the business, however further actions have been suggested to improve the efficiency of the

business in terms of impact. These are all outlined within the conditions listed at the end of this report.

The applicant has acknowledged that a number of live music and comedy events have been organised at the premises in the past on a temporary events license, and these have resulted in noise and disturbance complaints from local residents. However, as the continued use of this business is as a restaurant and it is no longer intended to change this to a mixed use with a bar, there will be no further events of this nature held at Orlando's. Therefore, it is considered that with operational management measures in place, the hours of opening of this restaurant can be extended to 11pm seven days a week without creating a serious detrimental impact on the occupants of the surrounding residential properties.

Residential Amenity

The City Council and local residents raised a significant amount of concern over the proposed change of use of this building to a mixed use restaurant and bar. This was due to the potential detrimental impact of a drinking establishment on the surrounding local residents, in particular the occupants of 2 and 4 Sandy Lane. Significant concerns were also raised about the proposed extension to the opening hours of the premises until 11.30pm and midnight. Paragraph 12 of PPG24 states that people are normally sleeping between the hours of 11.00pm and 7am. The applicant was therefore advised that the impact of extending the opening hours of this building past 11.15pm seven days a week was not considered to be acceptable to the City Council. The general noise and disturbance that would be generated by customers leaving the premises from 11.30/midnight and beyond would be unacceptable and was considered unacceptable in previous application submissions, resulting in the current hours stated within Condition 4 of approval 085108/FO/2007/S1. As stated in the amended submission, there are other premises in the vicinity that have longer hours than this restaurant, however none of these other premises have the same close relationship with residential properties.

Therefore, the applicant has now agreed to the recommendation of the opening hours of 8am to 11pm Monday to Sundays, to allow the premises to trade for an extra hour every day, whilst protecting the residents that live in the immediately adjacent properties at 2 and 4 Sandy Lane and the surrounding area. This would not include the outdoor area, which is controlled through a different condition. As the main activity will be to the front of the building onto the busy Barlow Moor Road, customers leaving an eating establishment at 11pm should not cause detrimental disturbance to the surrounding residents. With the inclusion of several restrictive conditions listed below, it is considered that the extension of the hours as requested is acceptable.

Therefore, on the basis of the above assessment, it is not considered that the continued use of this building as a restaurant with a minor increase in opening hours will have a significant detrimental impact on the residential amenity enjoyed by the occupants of the surrounding properties.

Traffic Generation

Certain concerns have been raised regarding the traffic generated by the proposed use, the congestion problems the business is causing and the lack of parking being provided. This premises is located within the Chorlton District

Centre, which is very well served by public transport and there is also adequate taxi facilities for late night transport. A high percentage of people visiting this restaurant will be on foot, with only a small percentage driving and needing to park a vehicle. It should be noted that this is an existing business that has been in operation since April 2008, and it is considered that the traffic and parking generated by the extended opening hours for this use will be minimal and will not adversely affect the current situation in the area. Therefore, the Head of Planning considers this to be acceptable in this case.

Restrictive Conditions

Conditions 3 to 14 in the list below have all been included to reduce the overall impact of noise and disturbance of this business on the residential amenity currently enjoyed by nearby occupants. These include the control over opening and servicing hours, the control over the operational hours of the outside seating area, the opening of windows and doors and the use of externally mounted kitchen equipment, the sensitive disposal of refuse in particular glass, and the acoustic insulation of the building, external equipment and the canopy extension, to outline some of the suggested conditions. It is considered that with these conditions over operational management measures in place, the hours of opening of this restaurant can be extended to 11pm seven days a week without creating a serious detrimental impact on the occupants of the surrounding residential properties.

It has been confirmed that the applicant has not yet applied for a licence for these extended hours. However, if a licence is applied for in the near future, in addition to the suggested conditions listed below, the Licensing Committee can also impose a comprehensive list of conditions if a later licence is applied for. 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.

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

On the basis that the proposal is in accordance with the City Council's Unitary Development Plan in particular area Policies CB1 and CB9 in that the proposal protects and improves the quality of the built environment and protects and improves Chorlton as a major district centre, Policy H2.2 which seeks to protect residential properties from the adverse impact of developments, Policy DC10 which sets down the locational requirements for food and drink uses and Policy DC26 which seeks to protect residents from the adverse impact of noise generating developments and there are no material considerations of sufficient weight to indicate otherwise.

Conditions and/or Reasons

1) The premises shall be used as a cafe/restaurant under Class A3 only and for no other purposes, including any other purpose in Class A4, A5 or Sui Generis of the Town and Country Planning (Use Classes) Order 2005, unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason

For the avoidance of doubt and to protect the amenity of the occupiers of nearby residential properties from the adverse impact of a bar or cafe/bar pursuant to policies DC10, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

2) Notwithstanding the closing times stipulated within the following documents, the development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

The letter from Indigo Planning dated 17th June 2009, the Section 73 application forms, the site location plan numbered 1504.04, the site layout plan numbered 1504.04 Rev D, the noise assessment completed by Wardell Armstrong dated March 2009, the Operating Statement dated June 2009, the Planning Supporting Statement dated June 2009 and the waste management strategy proforma, all received via email to the City Council as Local Planning Authority on the 17th June 2009.

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies CB1, CB9, H2.2, DC10 and DC26 of the Manchester Unitary Development Plan.

3) The development hereby approved shall be operated in strict accordance with the scheme for the acoustic insulation for the external equipment, including the 'Description of Kitchen Ventilation and Chiller Unit' document received on the 21st August 2008 and the Acoustic Analysis Report by Blacka Acoustics Ltd dated 17th October 2008. The approved scheme shall be fully implemented and shall remain operational thereafter, unless otherwise agreed in writing by the City Council as the Local Planning Authority.

Reason - In the interests of the amenities of the occupiers of nearby properties in order to comply with Policies DC10, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

4) The externally mounted fume extraction and air conditioning equipment located to the rear of the building shall only be operated during the hours of 8.00am and 10.30pm seven days a week and shall be switched off at all other times, unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason - In the interests of the amenities of the occupiers of nearby properties in order to comply with Policies DC10, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

5) 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.

6) No servicing, deliveries, loading or unloading shall be carried out on the site outside the hours of 8.00am to 8.00pm daily.

Reason - In order to protect the amenity of local residents and in accordance with Policies DC26 and H2.2 in accordance with the Unitary Development plan for the City of Manchester.

7) The development hereby approved shall be operated in strict accordance with the scheme for the acoustic insulation for the building outlined within Wardle Armstrong Noise Assessment dated March 2009, submitted to the City Council via email on the 17th June 2009. The approved scheme shall be implemented prior to occupancy and shall remain operational thereafter, unless otherwise agreed in writing by the City Council as the Local Planning Authority.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply with Policies DC10, DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

8) The outside seating area shall only be used between the hours of 8.00am and 8.00pm seven days a week. The open canopy shall be used for smoking purposes only outside the hours of 8.00am and 8.00pm seven days a week. No amplified sound or any music shall be produced or played in any part of the site outside of the building.

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to policies DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

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

8.00am to 10.00pm 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.

10) No refuse, glasses or glass bottles shall be disposed of in outside receptacles between the hours of 9.00pm and 8.00am, as outlined within the 'Operating Statement - Orlando's Bar' dated June 2009, unless otherwise agreed in writing by the City Council as Local Planning Authority.

Reason - To protect the amenity of the occupiers from noise caused by putting out refuse, glasses or bottles late in the evening and early morning pursuant to policies H2.2, Dc10 and Dc26 of the Unitary Development Plan for the City of Manchester.

11) The car parking area to the side of the building, shown on drawing numbered 1504.04 Rev D received by the City Council on the 17th June 2009, shall only be used in accordance with a management scheme to be submitted to and approved in writing by the City Council as Local Planning Authority within one calendar month from the date of this permission, which includes the provision of gates and a secure access, and where the car parking area shall not be made available to the general public and must only be used by employees of Orlando's or occupants of the first floor flat above the restaurant, as outlined within the 'Operating Statement - Orlando's Bar' dated June 2009, unless otherwise agreed in writing by the City Council as the Local Planning Authority. The approved scheme shall remain operational thereafter, unless otherwise agreed in writing by the City Council as the Local Planning Authority.

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to policies DC26 and H2.2 of the Unitary Development Plan for the City of Manchester.

12) All external windows and doors must remain closed after 10pm seven days a week, and at all times during any regulated entertainment, except for access and egress, as outlined within the 'Operating Statement - Orlando's Bar' dated June 2009, unless otherwise agreed in writing by the City Council as Local Planning Authority.

Reason

To protect the current levels of residential amenity enjoyed by local residents, pursuant to Policies H2.2, DC10 and DC26 in the Unitary Development Plan for the City of Manchester.

13) No externally mounted speaker system shall be operated on the premises and no additional and/or separate amplification systems shall be used over the in-built music system, as outlined within the 'Operating Statement - Orlando's

Bar' dated June 2009, 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, pursuant to Policies H2.2, DC10 and DC26 in the Unitary Development Plan for the City of Manchester.

14) The development hereby approved shall be operated in strict accordance with the scheme for the disposal of waste and recycling outlined within the waste management strategy proforma and as shown on the drawing numbered 1504.04 Rev D, submitted to the City Council via email on the 17th June 2009. The approved scheme shall remain operational thereafter, unless otherwise agreed in writing by the City Council as the Local Planning Authority.

Reason - In the interests of the amenities of the occupiers nearby properties and visual amenity in the area in order to comply with Policy DC10 and H2.2 of the Unitary Development Plan for the City of Manchester.

15) Within one calendar month of the date of this approval, a hard and soft landscaping treatment scheme shall be submitted to and approved in writing by the City Council as local planning authority. The approved scheme shall be implemented not later than 12 months from the date the buildings are first occupied. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless otherwise agree in writing by the City Council as local planning authority.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with policy H2.2 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: 089374/JO/2009/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 held by the Planning Division.

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

Engineering Services
Environmental Health
South Manchester Regeneration
Greater Manchester Police

Steve Hobson, Crime Reduction Officer
Chorlton Civic Society
John Leech MP
Environmental Health
Environmental Health
South Manchester Regeneration
Engineering Services
John Leech MP
Chorlton Civic Society
Steve Hobson, Crime Reduction Officer
Greater Manchester Police
Flat 2, 55 Zetland Road, Manchester, M21 8TJ
Flat 3, 55 Zetland Road, Manchester, M21 8TJ
Flat 4, 55 Zetland Road, Manchester, M21 8TJ
Flat 3, 53 Zetland Road, Manchester, M21 8TJ
Flat 4, 53 Zetland Road, Manchester, M21 8TJ
Flat 2, 53 Zetland Road, Manchester, M21 8TJ
Flat 1, 53 Zetland Road, Manchester, M21 8TJ
477 Barlow Moor Road, Manchester, M21 8AG
477a, Barlow Moor Road, Manchester, M21 8AG
Co-operative Retail Services Ltd, 479 Barlow Moor Road, Manchester, M21 8AG
481 Barlow Moor Road, Manchester, M21 8AG
Sacred Art Tattoo & Body Piercing Studio, 483a, Barlow Moor Road, Manchester, M21 8AG
483a, Barlow Moor Road, Manchester, M21 8AG
Bar Braw, 483 Barlow Moor Road, Manchester, M21 8AG
Motor Tech, 483 Barlow Moor Road, Manchester, M21 8AG
Flat, 485 Barlow Moor Road, Manchester, M21 8AG
New Maiwah Restaurant, 485-487, Barlow Moor Road, Manchester, M21 8AG
499 Barlow Moor Road, Manchester, M21 8AG
481a, Barlow Moor Road, Manchester, M21 8AG
Flat, 489 Barlow Moor Road, Manchester, M21 8AG
489-491, Barlow Moor Road, Manchester, M21 8AG
493a, Barlow Moor Road, Manchester, M21 8AG
Azad Manzil Restaurant, 493-495, Barlow Moor Road, Manchester, M21 8AG
Special Fx, 497 Barlow Moor Road, Manchester, M21 8AG
501a, Barlow Moor Road, Manchester, M21 8AG
Auctioning4u, 501 Barlow Moor Road, Manchester, M21 8AG
48 Hartington Road, Manchester, M21 8UY
Foodmasters, 362 Barlow Moor Road, Manchester, M21 8AZ
362a, Barlow Moor Road, Manchester, M21 8AZ
Videotech Uk Ltd, 378 Barlow Moor Road, Manchester, M21 8AZ
378a, Barlow Moor Road, Manchester, M21 8AZ
Ken Fosters Cycle Logic, 374-376, Barlow Moor Road, Manchester, M21 8AZ
The Newsagents, 372 Barlow Moor Road, Manchester, M21 8AZ
372a, Barlow Moor Road, Manchester, M21 8AZ
370a, Barlow Moor Road, Manchester, M21 8AZ
Escape Bar, 370 Barlow Moor Road, Manchester, M21 8AZ
Flat 1, 368a, Barlow Moor Road, Manchester, M21 8AZ
Flat 2, 368a, Barlow Moor Road, Manchester, M21 8AZ
Stanley Racing, 368 Barlow Moor Road, Manchester, M21 8AZ
366a, Barlow Moor Road, Manchester, M21 8AZ

366 Barlow Moor Road, Manchester, M21 8AZ
364 Barlow Moor Road, Manchester, M21 8AZ
18 Fairhaven Avenue, Manchester, M21 8TW
14 Fairhaven Avenue, Manchester, M21 8TW
16 Fairhaven Avenue, Manchester, M21 8TW
12 Fairhaven Avenue, Manchester, M21 8TW
10 Fairhaven Avenue, Manchester, M21 8TW
8 Fairhaven Avenue, Manchester, M21 8TW
6 Fairhaven Avenue, Manchester, M21 8TW
4 Fairhaven Avenue, Manchester, M21 8TW
2 Fairhaven Avenue, Manchester, M21 8TW
Orlandos, 380 Barlow Moor Road, Manchester, M21 8AZ
380a, Barlow Moor Road, Manchester, M21 8AZ
4 Sandy Lane, Manchester, M21 8TN
2 Sandy Lane, Manchester, M21 8TN
Dental Surgery, 7 Sandy Lane, Manchester, M21 8TL
5 Sandy Lane, Manchester, M21 8TL
3 Sandy Lane, Manchester, M21 8TL
1 Sandy Lane, Manchester, M21 8TL
Flat 1, 55 Zetland Road, Manchester, M21 8TJ

Representations were received from the following third parties:

378a, Barlow Moor Road, Manchester, M21 8AZ
12 Fairhaven Avenue, Manchester, M21 8TW
2 Sandy Lane, Manchester, M21 8TN
1 Sandy Lane , Chorlton, M21 8TL
8 Fairhaven Avenue, Manchester, M21 8TW
1 Sandy Lane, Chorlton-cum-Hardy, M21 8TL

Relevant Contact Officer : Jeni Regan
Telephone number : 0161 234 4164
Email : j.regan@manchester.gov.uk