

Application Number	Date of Appln	Committee Date	Ward
129835/JO/2021	25th Mar 2021	03 June 2021	Northenden Ward

Proposal Application to remove Condition numbers: 1 (time period for operation), 2 (personal consent) and 8 (External Seating Area) from planning approval 124313/FO/2019 to allow the business to operate permanently, remove the personal consent and allow the property to be operated by any operator, and to allow an external seating area, and the variation of Condition 4 (opening hours) to amend the opening hours to allow opening between 10am to Midnight 7 days a week and to allow the operation of an external seating area between the hours of 10am and 9pm. Permission is also sought to amend Condition 9 (Management Plan) to reflect changes in management relating to the external seating area.

Location Untapped, 67 Church Road, Manchester, M22 4WD

Applicant Mr Lee Duplex, DLD Properties Ltd, Village View, 994 Burnage Lane, Manchester, M19 1TD

Agent Ms Justine Entezari, Icen Projects, This Is The Space, 68 Quay Street, Manchester, M3 3EJ

Executive Summary

The applicant is seeking to remove and vary conditions that were placed on planning consent granted in 2019 for the change of use of 67 Church Road in Northenden to a café/bar A4.

The main issues are whether or not consent can now be granted for the use on a permanent basis, whether the premises should have a personal consent or whether or not the management plan would place sufficient controls over the operation of the premises for any operator, whether or not the introduction of an external seating area is appropriate and whether or not an increase in hours of operation into the evening would be acceptable.

The application is brought before the committee due to the original application being determined by committee and having regards to the significant amount of public interest that has been expressed with regards to the application (7 objections and 352 emails of support). A local ward member and former member have also commented on the scheme.

A full report is attached for Members consideration.

Description

This application relates to the ground floor of a two-storey end terrace property with

cellar. The property lies at the end of a commercial parade in a predominately residential area c. 125m east of Northenden District Centre on the junction of Church Road and Consul Street. The site lies within Northenden Conservation Area.

The site has historically been used as an off licence (Class A1), a hairdressers (Class A1) and an unauthorised yoga studio.

There were two applications submitted relating to the premises early in 2019, one application was for a change of use to offices (Class B1a) which was approved under reference 123464/FO/2019 and the second was for a change of use to cafe bar (Class A4) and installation of rear fire escape door which was refused under delegated powers under reference 123465/FO/2019.

Application 124313/FO/2019 was submitted on the 30th July 2019 for the change of use of ground floor to café/bar class A4 and installation of rear fire escape door together with sundry ancillary alterations. This application was reported to Planning and Highways Committee on the 17th October 2019 and was approved subject to ten conditions, the wording of the conditions to be removed or varied are set out below:

1. The permission hereby granted is for a limited period of 18 months only, expiring on 18 April 2021.

Reason - In order to assess the suitability of the use and in the interests of residential amenity and highway and pedestrian safety, pursuant to policy DM1 of the Core Strategy.

2. The change of use granted is for the temporary period set out in condition one and can only be implemented by DLD Properties Limited.

Reason - In order to assess the suitability of the use and in the interests of residential amenity and highway and pedestrian safety, pursuant to policy DM1 of the Core Strategy.

4. The premises shall not be open outside the following hours:-
Sunday to Wednesday 10am to 10pm and Thursday to Saturday 10am to 11pm.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

8. There shall be no external seating area provided in association with the use hereby approved.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply with policies SP1 and DM1 of the Core Strategy.

9. The details of the submitted Management / Operation Statement received 15 October 2019 shall be implemented when the development commences and shall remain in operation whilst the use or development is in operation.

Reason - To ensure a satisfactory development and in the interests of amenity and traffic safety pursuant to Policies SP1 and DM1 of the Core Strategy.

This application initially sought to:

Remove Condition numbers: 1 (time period for operation) and 2 (personal consent) and Vary Condition 4 (opening hours) from planning approval 124313/FO/2019 to allow the business to operate permanently, remove the personal consent and allow the property to be operated by any operator; and, to amend the opening hours to allow opening between 10am to Midnight 7 days a week.

The application was then amended to:

Remove Condition numbers: 1 (time period for operation), 2 (personal consent) and 8 (External Seating Area) from planning approval 124313/FO/2019 to allow the business to operate permanently, remove the personal consent and allow the property to be operated by any operator, and to allow an external seating area, and the variation of Condition 4 (opening hours) to amend the opening hours to allow opening between 10am to Midnight 7 days a week and to allow the operation of an external seating area between the hours of 10am and 9pm. Permission is also sought to amend Condition 9 (Management Plan) to reflect changes in management relating to the external seating area.



Consultations

Notification letters were sent out to an extensive area of neighbouring properties for both notification processes associated with this application.

Local residents – Objections in relation to the original notification

Letters of objection have been received from 4 properties on Consul Street and 1 property on Church Road in close proximity to the application site. (5 objections)

Some residents on Consul Street state that the applicant has provided a great bar and that they support them personally, however, they state that there are people with young families and that they do not believe opening times until midnight will suit residents of Church Road or Consul Street, they believe there is a fine line between a subtle enjoyable bar and significant antisocial behaviour and disruption from noise and traffic at late night to residents. They support their current opening times.

One resident on Consul Street states that the existing operation causes problems with parking on Consul Street, noise from customers leaving at closing and from the clearing up after closing and makes the further comment that customers outside during lockdown have been causing an obstruction on the street and that the resident feels intimidated and is not the only sole female living on Consul Street who feels this way. They feel that the street used to be a quiet residential street and that any amendment to the previous consent is not conducive to the residential nature of the area.

One further resident on Consul Street outlines that the business should operate within the constraints of their original consent, they reference the problems associated with the seating area being within 3m of a neighbouring property, they comment that patrons cause noise disturbance, traffic makes the junction dangerous, they state that Untapped has no fire escape and that they have no commercial waste removal and utilise residents bins to get rid of rubbish. The resident also states that they have already converted the rear parking area for the above flat into a prospective beer garden.

The resident on Church Road states that the increase in hours will increase noise and traffic which will disrupt the sleep of residents. They state they are an essential worker who has had their sleep patterns disrupted associated with the existing hours of operation. They refer to the noise and disturbance at closing time. They refer to another essential worker moving out of tenanted accommodation above the parade of shops due to the impact of noise disturbance.

Local residents – Objections in relation to the renotification

Two further letters of objection (2 objections) were received from residents on Consul Street and Church Road in relation to the further alterations to the conditions on the scheme to accommodate external seating. The objection is on the basis that:

- There should be no seating located on Church Road due the footpath only being 2m wide and that this may impact on people utilising wheelchairs and mobility scooters, walking dogs.
- There should be no seating located on Consul Street due to the footpath only being 1.7m wide. Users of seating in either location would be subject to breathing in fumes from passing cars.
- Cars frequently partially park on pavements on Church Road and Consul Street reducing the width of pavements further.
- The area designated for the seating area appears to be a small back yard which is only accessible by exiting the bar through the front door and walking down Consul

Street to get to it. The opening to the back yard is on Consul Street between a wall and the building which would only serve to project the sound into Consul Street directly opposite property. This would impact on residents ability to open their windows during the summer months greatly impacting upon amenity and upon young families on Consul Street. There would also be overlooking from up to 15 patrons within the external seating area to windows of residents opposite for 11 hours a day.

- Where will customers be dispersed to after 9pm if the bar itself is at full capacity.
- One objector queries the compliance of the applicant with regards to the placement of tables on Consul Street in Summer 2020 which led to problems with customers impeding access to residents vehicles. They state that this is a very quiet street of 12 terraced properties and it is difficult to understand why it was considered appropriate for a bar to be located here when placement in Northenden centre would have been more appropriate.

Local residents – At the time of writing this report 352 emails of support have been received

The grounds for support are as follows:

Excellent small friendly covid compliant family owned bar with good procedures and well behaved clientele, respectful of local residents. The right sort of atmosphere and license controls for a good bar adding benefit to the Northenden community. The business contributes to many local charities regularly holding charity events to support the local community, donates to foodbanks, makes women and families feel welcome and safe and is supportive of the LGBTQ+ community hosting a local pride. A valuable contributor to Northenden during difficult times.

Councillor Mary Monaghan - Wishes to support the application for Northenden Untapped to continue to trade as a bar. They have enhanced the area, attracted both local customers and attracted new ones from nearby neighbourhoods. They have improved the immediate area with a nice looking and attractive premises. They have engaged well with the community, they have contributed to the continuing success of the district centre and continually raise money for a local food project in Benchill. Customers love it and support it. In a time when many centres are losing bars and hospitality, we need to keep this popular and well managed bar and support this business. States that only ever personally received one concern raised and the owners dealt with it speedily. The business will close without support.

I ask this application is approved please. We need more like this in Northenden.

Former Sharston Member Madeline Monaghan - Would like it noted that she fully supports the opening of Northenden Untapped, Church Road, Northenden. Fully supports the application for a pavement licence on Consul Street. Fully supports the application for a small beer garden in the rear of the property.

Northenden Untapped is a small family owned and family run Bar on the corner of Church Road and Consul Street in Northenden. It is owned and operated by Lee & Debbie Duplex.

It originally opened 18 months ago, with some restrictions, but has remained closed during Lockdown. It has fully complied with every condition and request made by

MCC and its agents. The Family are seeking to reapply for its Licence, hopefully with none of the restrictions previously made.

It is an extremely well run Bar, is a valuable asset to our local community and adds to the local offer. It contributes to many local charities, regularly holding Charity Events to support our local community.

As a local woman and resident, she finds it a very safe place for women.

Environmental Health

Comments can be summarised as follows –

When the initial planning consent was submitted for this property, refusal was recommended as it was felt that this was not a suitable location for this type of use. The application site is on the end of a small parade of shops, but there are residential properties on Consul Street, which runs down the side of the property; residential properties on Church Street to the right of the property, flats above the shops in the parade and a flat above the proposed café bar.

A temporary consent was granted “In order to assess the suitability of the use and in the interests of residential amenity and highway and pedestrian safety, pursuant to policy DM1 of the Core Strategy” but the premises only operated for a few months until the lockdown / regional tier restrictions meant it had to close.

The applicant has confirmed that the premises was open to customers during the summer months of 2020, and no complaints were received, they would therefore support the premises operating as a café/bar.

However, the applicant now wishes to operate an external seating area in the rear yard from 10am-9pm each day. The proposed external seating area / beer garden is approximately 10m away from the nearest residential garden, 3m away from the nearest dwelling and there is a flat above the proposed application site which would also be affected by noise from the external seating area.

A beer garden is for people to remain in the same location to drink and socialise which could result in a constant disturbance rather than a transient one. The applicant has stated that there would be no more than 12-15 people in the outside seating area at any one time, but noise from 12-15 customers drinking and socialising has the potential to be disruptive.

Would want to ensure that should planning choose to approve the external seating area then there was still a waste storage area within the curtilage of the premises.

Support the operation of the premises to operate as a café/bar with the extended hours, but raise concern relating to noise from the external seating area which could have some detrimental impacts on the amenity of residents above the premises and in the close vicinity.

Highway Services

No highways issues are likely to arise as a consequence of this proposal.

Northenden Civic Society

Any comments received will be reported to Committee

Northenden Village Partnership

Any comments received will be reported to Committee

Policy

National Planning Policy Framework (NPPF) - This Framework came into effect on 27th March 2012 and was amended and updated in July 2018. It sets out the Government's planning policies for England and how these are expected to be applied. It defines the Government's requirements for the planning system 'only to the extent that it is relevant, proportionate and necessary to do so'. It provides a mechanism through 'which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities'.

The Framework re-iterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory status of the development plan remains as the starting point for decision making. However, paragraph 10 states that 'at the heart of the Framework is a presumption in favour of sustainable development' and, in 'decision-taking', this means that development proposals should accord with the development plan should be approved without delay unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted. Paragraph 185 of the Framework stipulates that local planning authorities should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats.

Paragraph 189, requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 190 states Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.

Paragraph 192 states that in determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Core Strategy

Policy DM1 is relevant to this application as it seeks to protect the amenity of an area from the adverse impact of development. The policy states all development should have regard to the following specific issues, amongst others:

Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.

Community safety and crime prevention.

Design for health.

Refuse storage and collection.

Vehicular access and car parking.

Policy C10 Sets down the criteria to be considered in determining applications that impact on the evening and night time economy. The policy states new development and redevelopment that supports the evening economy, contributes to the vitality of district centres and supports a balanced and socially inclusive evening/night-time economy will be permitted, subject to the following considerations:

1. Cumulative impact – in areas where there is already a concentration of bars (A4), hot food takeaways (A5) and other night-time uses which are detrimental to the character or vitality and viability of the centre, there will be a presumption against further facilities.
2. Residential amenity – the proposed use should not create an unacceptable impact on neighbouring uses in terms of noise, traffic and disturbance.
3. Balance - new uses in Manchester centres should support both the day-time and evening/night-time economies whilst not undermining the role of the primary shopping area. When considering the impact of a proposed bar or hot food take away regard will be had to the above policy and also:
 - The existing number of similar establishments in the immediate area and their proximity to each other;
 - The type and characteristics of other uses, such as housing, shops and public houses;
 - The existence of vacant shop units and the condition of the unit;
 - The importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
 - The character of the centre and its frontage, and the nature of the use proposed;
 - The potential impacts of the proposal on the wider community; and
 - Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

Policy EN3 – Heritage - States that new developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment, the character, setting and accessibility of areas and buildings of acknowledged importance, including listed buildings and conservation areas. The application relates to a site within the Northenden Conservation Area as set out within this report.

Unitary Development Plan

Policy DC10 sets down the criteria to be considered in determining applications for food and drink uses. The policy states DC10.1 In determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises (whether or not other activities, such as a nightclub, are included), the Council will have regard to:

- a. the general location of the proposed development, including any reference to the area in other policies in the Plan;
- b. the effect on the amenity of neighbouring residents;
- c. the availability of safe and convenient arrangements for car parking and servicing;
- d. ease of access for all, including disabled people; and
- e. the storage and collection of refuse and litter.

DC10.2 The Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

DC10.3 Development will not normally be permitted where:

- a. it is proposed outside the general locations mentioned above, or
- b. there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

DC10.4 Where, having regard to the preceding policies, the Council considers the proposed development to be acceptable in principle, conditions may be imposed in order to protect the amenity of nearby residents. These conditions may, amongst other things, include limitations on the hours of opening, and the need to deal satisfactorily with noise, fumes, smells, the storage of refuse and the collection of litter.

Policy DC26 says 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; b. the implications of new development being exposed to existing noise sources which are effectively outside planning control.

Saved policy DC18.1 states that the Council will give particularly careful consideration to development proposals within Conservation Areas.

- a. The Council will seek to preserve and enhance the character of its designated conservation areas by carefully considering the following issues:
 - i. the relationship of new structures to neighbouring buildings and spaces;
 - ii. the effect of major changes to the appearance of existing buildings;
 - iii. the desirability of retaining existing features, such as boundary walls, gardens, trees, (including street trees);
 - iv. the effect of signs and advertisements;

- v. any further guidance on specific areas which has been approved by the Council.
- b. The Council will not normally grant outline planning permission for development within Conservation Areas.
- c. Consent to demolish a building in a conservation area will be granted only where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal or replacement would benefit the appearance or character of the area.
- d. Where demolition is to be followed by redevelopment, demolition will be permitted only where there are approved detailed plans for that redevelopment and where the Council has been furnished with evidence that the development will be undertaken.
- e. Development proposals adjacent to Conservation Areas will be granted only where it can be shown that they will not harm the appearance or character of the area. This will include the protection of views into and out of Conservation Areas.

Legislative requirements

Section 72 of the Listed Building Act 1990 provides that in considering whether to grant planning permission for development that affects the setting or character of a Conservation Area the local planning authority shall have special regard to the desirability of preserving or enhancing the character or appearance of that area.

Issues

Removal of Condition 1 – Time Period for Operation

Planning permission was granted under reference 124313/FO/2019 at Planning and Highways Committee on the 17th October 2019 which established the principal of the use in this location for a temporary 18 month period expiring on the 18th April 2021, this permission was implemented.

18 months have now expired, this application for removal of and alteration of conditions attached to that consent being lodged prior to the expiration of the temporary consent on the 25th March 2021.

The unit is not far removed from the District Centre, being only c. 125m east of the District Centre boundary. During the 18 months since consent was granted the applicant has operated the use in a limited way due to the imposition of COVID-19 related restrictions, operating a click and collect and home delivery service.

The applicant points towards success in relation to their operation with regards to waste management, abiding by the restricted operating hours, restricting background music, not laying out street furniture and operating in accordance with the management and operation statement submitted, specifically within periods between November 2019-March 2020 (inclusive of Christmas 2019) and 4th July to 5th November 2020 (inclusive of Summer 2020 when restrictions were eased). A significant amount of support has been expressed for the applicant and their operations, specifically stating that the business has contributed positively to the community of Northenden at this difficult time. A number of objections received to this application include within them support for the current operations and the applicant.

Planning and Highways Committee in October 2019 recommended a temporary consent to test the impacts of granting consent. Due to the extraordinary circumstances which have been faced in the last 14 months there has been limited opportunity to assess the impacts of the proposal operating as the original approval anticipated. However, it is agreed that the applicant has operated within two busy timeframes within that period, for c. 8.5 months and have abided by the terms of their restrictive consent. The applicant has also operated in accordance with a management plan and the future use would also be in accordance with a strict management plan. Environmental Health are satisfied that the premises were open to customers and that no complaints were received and support the premises operating as a café/bar.

There is therefore no objection to the removal of Condition 1 attached to planning permission 124313/FO/2019 and that planning permission is granted for the permanent use of the premises. This also provides confidence in continued operations and investment in the premises and that this is not restricted to another temporary period.

Removal of Condition 2 – Implementation by DLD Properties

A reason for the approval of the previous scheme was that the unit would be managed by a known operator who is reputed in the community. A case has been made that to maintain vitality along Church Road that the property should be allowed to move into new ownership should it need to. It is stated that the owner does not intend to sell the bar in the near future, but as they move toward retirement they may bring a partner in to assist with day to day operations.

The applicant states that conditions relating to opening hours, playing of live or amplified music, control of waste and the operational management plan which sets out that:

- No live or amplified music to be played in the outside seating area at any time.
- No more than 12-15 people to be seated outside at any given time. The limited number of chairs placed in the outdoor area will be adhered to by all staff, and no additional furniture will be used.
- The outside seating area shall not be open outside the following hours: Monday to Sunday 10am to 9pm.
- A dedicated member of staff will be responsible for monitoring customer behaviour within the outdoor seating area and ensuring that no additional chairs are brought outside from inside the premises.
- Notices will be displayed in the outdoor seating area, requesting our customers to behave in an orderly manner out of consideration to neighbours and their attention will be drawn to these notices by members of staff.
- Empty tables and chairs to be removed at 8pm and last orders taken before this, with people being dispersed at 9pm.
- Patrons within the outdoor area will receive table service and will be asked not to physically attend the bar to place an order;

should suitably safeguard residential amenity regardless of the operator.

It is agreed that the justification to remove Condition 2 attached to planning permission 124313/FO/2019 is acceptable subject to the reimposition of appropriate conditions controlling the impacts of the development including the continued operation of the management plan.

Removal of Condition 8 – External Seating Area and alteration to Condition 9 (Management Plan) to reflect changes in management in relation to the external seating area.

Planning consent was granted on the basis that there were no external seating areas associated with the use due to concerns relating to the relationship to neighbouring residential property on Consul Street and above the parade of shops fronting Church Road.

Consul Street is a residential street comprising two storey terraced dwelling houses and the application site is separated by a narrow rear alleyway from the nearest residential property No.2 Consul Street.

Residents have expressed a concern that the proposed external area would see an increase in comings and goings at unsociable hours, which would then lead to an increase in noise from patrons leaving the premises or congregating outside to smoke, and car doors being closed by patrons/staff leaving the premises. Concerns were also expressed about the location of the external seating area and the impact that this would have upon the movement of pedestrians.

It has been clarified that the proposal for the external seating area is restricted to the use of the rear yard associated with the rear of the premises. It is not proposed to accommodate external seating areas to the Church Road frontage, which has a restrictive width of 2m or to the side of the premises at the junction with Consul Street where the pavement width is 1.7m. Such seating areas would conflict with the safe operation of the highway for pedestrians and vehicles.

The location of the external area is marked red and depicted as below:



With regard to the proposed external seating area to the rear of the premises regard must be had to saved policy DC10 of the Unitary Development Plan for the City of Manchester which requires that in determining applications for the sale of drink for consumption on the premises, the Council will have regard to the location of the proposal, the effect on the amenity of neighbouring property, the availability of car

parking, ease of access for disabled people and the storage and collection of refuse and litter.

The proposed hours of use for the external seating area are included within the variation to the proposed hours of use condition (Condition 4) from 10am – 9pm.

The applicant states that the Management Plan would be amended to ensure that:

- No live or amplified music to be played in the outside seating area at any time.
- No more than 12-15 people to be seated outside at any given time. The limited number of chairs placed in the outdoor area will be adhered to by all staff, and no additional furniture will be used.
- The outside seating area shall not be open outside the following hours: Monday to Sunday 10am to 9pm.
- A dedicated member of staff will be responsible for monitoring customer behaviour within the outdoor seating area and ensuring that no additional chairs are brought outside from inside the premises.
- Notices will be displayed in the outdoor seating area, requesting our customers to behave in an orderly manner out of consideration to neighbours and their attention will be drawn to these notices by members of staff.
- Empty tables and chairs to be removed at 8pm and last orders taken before this, with people being dispersed at 9pm.
- Patrons within the outdoor area will receive table service and will be asked not to physically attend the bar to place an order.

No car parking is located on site and was not accommodated as part of the previous consent granted. On street parking is available, although it is hoped that most patrons would come on foot or via public transport, which is available within walking distance in Northenden District Centre.

Waste would continue to be removed from the premises via the front door on Church Road and stored to the side of the premises in the approved area for waste storage,



which does not conflict with the location of the proposed external seating area.

The impacts of the operation with regards to the Management Plan, travel to the site and waste management being accepted, the outstanding question is whether or not the principal of the use of the external seating area for the hours proposed would cause such an undue impact upon residential amenity to warrant the refusal of planning permission. An assessment of the hours of operation and its impact on residential amenity follows below.

Variation of Condition 4 (opening hours) to amend the opening hours to allow opening between 10am to Midnight 7 days a week and to allow the operation of an external seating area between the hours of 10am and 9pm.

The premises sits within a parade of three commercial premises, but lies opposite 9 commercial premises and the cluster of commercial premises comprises a local centre. The other two uses on this side of the road are a takeaway that has consent to operate Sundays to Thursdays 11:00am till 2:00am and Friday and Saturdays 11:00am till 3:00am and a pet grooming salon with no control over the hours of use.

That being said, the application premises sit on the corner turning onto Consul Street, a wholly residential road and there is a residential unit above and the adjoining property at No. 69 Church Road, the unit within the parade next door, changed use to a dwelling house. The relationship of the premises to neighbouring property differs from other commercial premises in the parade.

These particular circumstances led to a condition being placed on the temporary approval was on the basis of the following hours:

The premises shall not be open outside the following hours:-

Sunday to Wednesday 10am to 10pm and Thursday to Saturday 10am to 11pm.

The applicant has applied for opening of the premises between 10am and Midnight for 7 days a week. However, the supporting statement they submitted to support their application stated that it was not their intention to fully utilise these hours, that these hours would just allow for the accommodation of particular events at the venue (e.g. comedy nights/parties).

The local planning authority have had regard to the historic pattern of development in this particular location. Historically in this area there have been public houses on the corner of residential streets that have stopped serving alcohol at 11pm. Having regard to this historic context, but also having regard to the specific site circumstances it is considered that an amended time of closing at 11pm (for Sunday to Thursday) and 12pm for Fridays and Saturdays would be appropriate and would allow patrons to leave via the front of the premises within the context of other commercial properties. This restriction in opening, which takes into account the expected level of background activity during the week and over the weekend, would be appropriate in this context and would also protect the amenity of those neighbouring residential occupiers.

It is noted that the previous A1 shop use of the unit was historic and had no controls over the hours of use and could have been used into the late hours. Under new Use Class E the premises could have been converted to a café without any control over the hours. Environmental Health have no objections to the extended hours of opening for the premises themselves.

The External Seating Area

It is proposed that the external seating area would only be available for use from 10am to 9pm. This area would only be available to a restricted number of patrons who would only be able to occupy the space in a managed fashion.

The applicant has applied for licensing of this external area which has been granted subject to conditions that no tables or furniture are placed on Consul Street, that bins are provided and litter is picked up and that the use ceases at 10pm. Licensing is a separate consent to planning, it is considered having regard to development plan policies (saved policy DC26 of the Unitary Development Plan and policy DM1 of the Core Strategy) that the hours for closure of the external seating area should be 9pm to protect the residential amenity of neighbours in close proximity.

With regards to how the patrons would travel to and from the external seating area from within the premises, a condition of the previous consent required that the fire door to the rear elevation remained closed at all times. This fire door has not been implemented as the applicant has a conversation with Greater Manchester Fire and Rescue service who confirmed that it was not required due to the size of the property and the distance to the front door, Building Control have confirmed that this is the case.

Concern was expressed that the lack of access from the rear of the premises could result in patrons travelling from the door to the front of the premises on Church Road, down the 1.7m width pavement to Consul Street to the external seating area to the rear, possibly with drinks and that this could be more harmful to the safe operation of the highway and upon residential amenity and encourage activity within the Consul Street frontage.

The applicant stated that the implementation of an access door to the rear would entail the removal of a seating area within the premises, which already has a constrained footprint. They make the case that Consul Street services a limited number of properties and that a 1.7m width footway is adequate to allow two people to pass safely having regard to Manual or Streets standards, even with a parent pushing a pram. They have provided data which establishes hourly pedestrian movements and state that there would be between 1 and 2 two-way pedestrian movements per hour and they point to the existence of a footway to the other side of Consul Street.

The applicant has updated the Management Plan to include a clause that states that the external seating area would be table service only and that users of this area would be asked not to physically attend the bar to place an order to limit the opportunity for conflict between patrons and residents.

A condition is also considered to be necessary to require low level boundary treatment to the front of the external seating area to delineate between the application site and the public footpath to contain seating and furniture within the site to limit the conflict between patrons and residents, this has been agreed by the applicant.

The abovementioned offer of table service which is set out in the amended Management Plan and the condition relating to the boundary treatment is considered to secure the best use of the space available in a way that provides for a screened waste management, maintains access to the first floor via the fire escape stairs in this location, accommodates the external seating area and protects the safe operation of the footway.

A resident has raised an objection on the basis that there would be overlooking from the external seating area to their property. It is not considered that overlooking across a road from an area that could be used in association with the former Class E use without control would constitute a sustainable reason for refusal.

It must be noted that some concerns have been raised by Environmental Health in relation to noise from this external area and that there would be some impacts on neighbouring occupiers. However it is not considered that the use of this external seating area, with restrictions on the hours of use, how the area is operated and control over the access to this area, in the constrained area proposed, to support the continued operation of the premises, would cause such undue harm to residential amenity as would warrant the refusal of planning consent.

Impact on the Conservation Area – No physical alterations other than a low level boundary treatment to enclose the external seating area proposed are associated with the proposed alterations to the conditions that would impact on the appearance of the Northenden Conservation Area. Tables and chairs to the external seating area would be removable and stored in the premises overnight. It is considered that the proposal would improve the appearance of the external area within the street scene and within the Northenden Conservation Area subject to appropriately detailed conditions.

Bin Storage and Servicing - Waste is currently stored externally to the rear as part of the originally approved scheme (off the highway and not conflicting with the use of the external seating area), the bins are transported to and collected from Church Road on collection days, servicing also takes place from Church Road which has been accepted as an acceptable arrangement.

Parking – It is not considered that the proposals alterations to the conditions / creation of the external seating area would generate a significant increase in the level of vehicular trips to the site over and above the existing use in this sustainable location just outside of the district centre. A condition is reimposed with regards to the provision of cycle parking.

Conclusion – The concerns of a number of residents and Environmental Health are noted and have been taken into account with regards to the reduction to the proposed hours opening hours and controls over the means of access to the external seating area. It is considered that the condition removals and variations are appropriate subject to conditions to control the management of the operation of the premises with regards to the policies of the Development Plan.

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 Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing 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. She believes that any restriction on these rights posed by the of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation Approve

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the application, and the application has been determined in accordance with the policies within the Development Plan.

Conditions to be attached to the decision

1. The development hereby approved shall be carried out in accordance with the following drawings and documents:

Supporting letter from applicant dated 12th May 2021
Extent of seating area plan received 14th May 2021
Church Road Management Operating Statement received 21st May 2021
(Notwithstanding the content of the Management / Operation Statement, the approved hours are set out in condition 2 and 3 included in this decision notice.)

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Core Strategy.

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

Sunday to Thursday 10.00 to 23.00
Friday and Saturdays and Bank Holidays 10.00 to 00.00

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

3. The external seating area shall not be open outside the following hours:-

Monday to Sunday 10.00 to 21.00

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

4. Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:
07:30 to 20:00, Monday to Saturday, no deliveries/waste collections on Sundays/Bank Holidays.

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved policy DC26 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy.

5. The approved waste management and screening approved as part of application 124313/FO/2019 shall remain in situ whilst the use or development is in operation.

Reason - In the interests of the amenities of the occupiers nearby properties in order to comply with policies SP1 and DM1 of the Core Strategy.

6. Within one month of the use of the external seating area details of boundary treatment to be erected to delineate between the application site and back of footpath shall be submitted for the approval of the local planning authority in writing. This boundary treatment shall be installed and retained for the period that the use remains in operation.

Reason – To ensure a satisfactory development in the interests of amenity and traffic safety pursuant to Policies SP1 and DM1 of the Core Strategy.

7. The details of the supporting statement and submitted Management/Operation Statement received 21st May 2021 shall be implemented when the development commences and shall remain in operation whilst the use or development is in operation. Notwithstanding the content of the Management/Operation Statement, the approved hours are set out in Condition 2 and 3 included in this decision notice.

Reason – To ensure a satisfactory development and in the interests of amenity and traffic safety pursuant to Policies SP1 and DM1 of the Core Strategy.

8. The premises can only play background level music. No live or amplified music is permitted.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties in accordance with Policy DM1 and DC26.1.

9. Within one month of consent details of secure bicycle shall be submitted to and approved in writing by the City Council as local planning authority. The approved scheme shall remain available for use whilst the use is occupied. Reason - To ensure there is adequate bicycle parking provision, pursuant to policies DM1, T1 and SP1 of the Manchester Core Strategy.

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: 129835/JO/2021 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
Highway Services
Northenden Civic Society
Northenden Village Partnership**

A map showing the neighbours notified of the application is attached at the end of the report.

Relevant Contact Officer : Jennifer Connor
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