

Application Number	Date of Appln	Committee Date	Ward
121410/JO/2018	6th Nov 2018	14th Feb 2019	Chorlton Park Ward

Proposal Variation of Condition no.8 attached to planning permission ref: 34033 to extend the opening hours to: 6.00am to midnight seven days a week

Location McDonalds, 312-316 Barlow Moor Road, Manchester, M21 8AY

Applicant McDonalds Restaurants Ltd, C/o Agent

Agent Brad Wiseman, Savills (UK) Limited, Belvedere, 12 Booth Street, Manchester, M2 4AW

Description

The planning application site is located in Chorlton District Centre on Barlow Moor Road. The application relates to an established restaurant with the frontage to Barlow Moor Road, to the south there are established commercial uses, to the west are residential homes fronting Barlow Moor Road. To the immediate north of the existing building lies a commercial use fronting Barlow Moor Road, to the north east separated by a car park lies residential property at 324 Barlow Moor Road, beyond that lies Norbreck Avenue, immediately to the east separated by a car park lies residential property at Park Place.

Consent was granted under application 034033 for the McDonalds in 1989, the permission was subject to condition 8 which restricted the hours of opening to Sundays to Thursday: 8.00 a.m. to 11.30 p.m. Fridays and Saturdays: 8.00 a.m. to Midnight. This is the first application since 1989 to vary the hours of opening condition.

It is now proposed that the opening hours are extended as follows:

Monday to Sunday - 6.00 am to 12 midnight. This would have the effect of allowing the addition of two hours in the morning and half an hour of opening hours in the evening Sunday to Thursday.

The application was originally submitted requesting 5.00am to midnight Sundays to Thursdays and 5.00am to 01.00am Friday and Saturday, but following consultation responses McDonald's altered their planning application and a further consultation process was undertaken.

Consultations

There were ten objections received to the originally submitted hours. Following reconsultation five letters of objection have been received on the following grounds:

- The existing opening hours should cater to the peak hours of use and is unnecessary given the food offer in Chorlton

- Residents will experience more disruption due to the increase in activity in and around the area, particularly with regard to traffic, creating noise pollution.
- McDonald's impacts on residents on Norbreck Avenue as customers assume that there is access through and undertake dangerous manoeuvres, this has resulted in potholes.
- People park on Norbreck Avenue and use the passageway as a convenient cut through, use of this will increase exacerbating pre-existing problems
- The increase in hours will increase off littering
- The early opening hours would allow for servicing and delivery vehicles to visit earlier and cause disturbance to residents
- Increase in air pollution associated with multiple uses on Barlow Moor Road impacting upon the quality of life of residents
- Incident of anti-social behaviour at McDonald's sites

Environmental Health – Have no objection to the variation of the proposed opening hours

Chorlton Voice – Object to the application, they state that whilst it is appreciated that Barlow Moor Road is a busy highway, it is within a predominately residential neighbourhood. We consider the increase of opening hours late at night and early morning will add to the cumulative detrimental impact on neighbouring residents by virtue of the noise and fumes generated by additional traffic movements and noise from customers leaving the premises.

Greater Manchester Police – Have no objection to the approval of the application

Policies

National Planning Policy Framework - 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.

National Policy Framework has been related to the proposed development, with particular emphasis given to the following:

- i. Chapter 6: Building a strong, competitive economy - States that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It further states that planning policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances. It is considered that the extension of the opening hours would facilitate flexible operation of the restaurant and its continued contribution to the local economy thereby positively responding to Chapter 6;
- ii. Chapter 7: Ensuring the vitality of town centres (including District Centres) - States that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It also identifies the importance of defining a network and hierarchy of town centres and the promotion of long-term vitality and viability by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters. These considerations have been related to the contribution of the extended hours to the future viability and vitality of the district centre and the efficient on-going operation of a successful district centre store, which have been appropriately related to Chapter 7.
- iii. Chapter 8: Promoting healthy and safe communities - States that planning decisions should aim to achieve healthy, inclusive and safe places. Chapter 8, amongst other things, states that planning decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community. It is considered that extended the opening hours could be undertaken without unduly affecting residential amenity or causing significant noise and disturbance. On this basis, Chapter 8 would be positively responded to.

Planning Policy Guidance - On 6 March 2014 the Department for Communities and Local Government (DCLG) introduced planning practice guidance; the following aspects of which have been referred to in the assessment of the proposal:

- i. Health and well-being - States those local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in planning decision making. In this case, it is considered that the proposed opening hours can be undertaken with an unduly harmful impact on residential amenity.
- ii. Noise - Needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. In this case, consideration has been given to the transfer of noise to neighbouring housing, which is not considered to be a significant issue given the physical constraints of the site and the distance to neighbouring housing.

Manchester's Local Development Framework: Core Strategy - The Core Strategy Development Plan Document 2012 -2027 ('the Core Strategy') was adopted by the Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development. A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.'

The following policies are relevant to the proposed development:

Policy SP 1 - Spatial Principles - Specifies the Core Development Principles for parts of the City. In this case the relevant principles relate to the extent to which the development:

- a. Makes a positive contribution to neighbourhoods of choice including the creation of well designed places that enhance or create character; making a positive contribution to the health, safety and well-being of residents, considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income and to protect and enhance the built and natural environment;
- b. Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- c. Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy C 1 - Centre Hierarchy - States that District Centres, such as Chorlton, have an essential role in providing key services to the City's neighbourhoods including shopping, commercial, leisure, public and community functions, ensuring that residents can access such services easily. They are also a focus for the City's residential neighbourhoods, providing an important opportunity to define local character. It is considered that the proposal would contribute positively to these objectives by improving the provision of flexible opening hours to the existing premises.

Policy C 2 - District Centres - States that development will support thriving District Centres, with distinct local character, providing a good range of accessible key services, including retail, health facilities, public services, leisure activities and financial and legal services. It is considered that the proposal would contribute positively to policy C2 through its contribution to the sustained operation of the existing store as both a key restaurant facility and source of local employment to the economic and social benefit of the area.

Policy EN 16 - Air quality - States that the Council will seek to improve air quality within Manchester, particularly along its principal traffic routes. It is not considered that the additional 2 and half hours of operation of the premises would significantly

contribute to air pollution. On this basis the proposal would not be contrary to policy EN16.

Policy DM1 - Development Management - States that all development should have regard to the following specific issues, which are considered to be relevant to the consideration of this planning application:

- i. Effects on amenity, including privacy, light, noise, vibration, air quality and road safety and traffic generation;
- ii. Community safety and crime prevention;
- iii. Design for health;

It is considered that the proposals would have an acceptable impact upon residential amenity as explained further later in this report.

Saved Unitary Development Plan (UDP) Policies -The following saved UDP policies are also considered to be relevant:

Policy DC26 - Development and Noise - Is relevant to the proposed development due to its potential to generate noise and disturbance through the operation of the proposed use for a further 2 hours in the morning and half an hour in the evening from Sunday to Thursday. In this case, the potential for noise transmission has been assessed by Environmental Health who have confirmed following revision of the application that they accept the hours as now proposed. It is considered that saved policy DC26 would be accorded with.

Positive and proactive engagement with the applicant - An amendment to the DMO, which came into effect on 1st December 2012, requires every decision notice relating to planning permission and reserved matters application to include an explanation as to how the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems which arise during the determination of the planning application.

In this case, officers have engaged in discussions with the applicant to ensure that the extended opening hours were reduced in line with the advice of the Environmental Health officers. The applicant accepted a revision to the opening hours applied for which is considered to be justified given the physical setting of the site and its context in relation to Chorlton District Centre and neighbouring residential uses. On the basis of these discussions and following the undertaking of appropriate consultations, it was considered that sufficient information had been provided to allow the positive determination of the planning application.

Principle of extending the opening hours condition - The applicant has responded positively to the request to revise the opening hours initially applied for in line with those that the Environmental Health officer recommended. There are other similar commercial premises in the immediate surrounding areas fronting Barlow Moor Road, Tesco Express opens 6am to 11pm, KFC restaurant opens 10.30am to 01.00am (12.30am on a Sunday), Marks and Spencers Food opens 7.00am (8.00am on a Sunday) to 10.00pm.

It is considered that the presence of residential units to the north and east had a bearing upon what appropriate hours of opening are considered to be.

The nearest residential uses to the north and east of the application site are separated from the site by the car park. The building itself is contextually related to the district centre and commercial uses in Chorlton District Centre.

Noise - The impact of the proposed development in relation to noise transfer and its potential impact on neighbouring housing has been fully assessed in a Noise Impact Assessment submitted with the planning application considered by Environmental Health. This report was submitted on the basis of the hours originally applied for, the hours are now more restrictive and the impacts would therefore be less than those assessed.

The Noise Impact Assessment requires mitigation in the form of restriction of access to the car parking area to the east during the extended hours. This car park is located adjacent to residential property at Park Place.



It is acknowledged that the background noise levels would decrease in the late evening, night-time and early morning periods. However it is considered that the existing noise environment is characterised by high levels of vehicular and pedestrian movement through Chorlton District Centre and within the adjacent car parking area.

Having regard to the findings of the Noise Impact Assessment, the noise levels produced by the increase in the opening hours would not be perceptible in most cases and would be low impact with regards to the presence of vehicles at the premises between traffic noises on Barlow Moor Road.

Therefore it is considered that if access is restricted to the car park to the east and to the north east to the current operating hours, the only traffic noise would be at the

drive thru and the car parking bays to the north of the existing building, which are associated with the commercial frontage and the customer order point immediately to the east of the building and the impact of the use of these has been assessed as not being perceptible from neighbouring receptors.

It is therefore considered that an extension to the opening hours would have a limited impact on the residential amenity of neighbouring housing given these particular circumstances. A condition is recommended controlling the use of the car park to the east and north east.

Air quality - It is not considered that the additional traffic movements within the 2 and half hours of the operation of the premises would be so significant as to contribute to an increase in air pollution that would warrant the refusal of consent, on this basis the proposal would not be contrary to policy EN16 which relates to Air Quality.

Crime and safety – The survey conducted as part of the Noise Impact Assessment did not identify anti-social behaviour on this site. Greater Manchester Police have no objections to the application. It is not considered that the addition of two hours in the morning and half an hour in evening Sundays to Thursdays would increase the probability of anti-social behaviours occurring on site.

Impact on Norbreck Avenue – Comments have been received to the effect that customers would utilise Norbreck Avenue and cut through to the application premises at anti-social hours. To travel to the application site from Norbreck Avenue would require customers to access the alleyway to the south of Norbreck Avenue, travel c. 50m alongside the side of Carringtons to Barlow Moor Road and south along Barlow Moor Road by c.40m. The 12 space car park to the north of the unit would be available during the extended hours less than 10m from the entrance of the premises. It is considered that the car parking available would be adequate to cater for customers during the hours of extension, having regard to the data submitted with the Noise Impact Assessment which shows that most customers utilise the drive-thru facility, which is beyond the area for car parking.

Conclusion - Having regards to the information submitted, the specific characteristics and constraints of the site and the conditions recommended it is not considered that the revised extension to the operating hours of the restaurant which would add two hours in the morning and 30 minutes in the evening until midnight from Sunday to Thursday would result in any undue impact to the existing levels of residential amenity. On this basis and for the reasons set out in this report, it is considered that the variation of opening hours would be satisfactorily related to Council policy and relevant national guidance.

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 Head 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 approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation APPROVE

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 planning application. The proposal is considered to be acceptable and has been determined in a timely manner.

Conditions to be attached to the decision

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

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

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

Savilles Noise Impact Assessment reference 14-0167-73 R01

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.

3) No business at the property outside of the following hours:

06:00 to 00:00 seven days a week

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. The car parks immediately to the south of 324 Barlow Moor Road and immediately to the west of Park Place as shown on the submitted location plan shall not be used during the following hours:

06.00 – 08.00 7 days a week and 23.30 – 00.00 Sunday - Thursday

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.

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: 121410/JO/2018 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
Chorlton Voice
Greater Manchester Police

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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 Application site boundary  Neighbour notification
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