

Consultation Response from: KC Environmental Health (Pollution & Noise Control)		
2024/91684 - Marios Diner, 9, Peel Street, Marsden, Huddersfield, HD7 6BR		
Variation of condition 4 (opening hours) on previous permission 2007/93346 for change of use from A1 to A3 (within a Conservation Area)		
Responding Date: Sunday, 14 June 2026	Responding Officer: HK	Responding Ref: WK202617242
<u>Comments</u> Environmental health has previously commented on this application on the 15th July 2024 stating that: <i>"The applicant has stated that the current operating hours are 0830hrs to 1800hrs Monday to Saturday and 1200hrs to 1700hrs on Sunday. The proposal is to vary these hours to 0830hrs to 2300hrs Monday to Sunday.</i> <i>We have concerns about the transmission of noise from the operational use and any fixed mechanical plant affecting the amenity of the neighbouring residential properties. The proposed use into a more sensitive time period is a concern and no evidence has been submitted to show there will be no loss of amenity. As such, we cannot support the variation.</i> <i>We are also aware of the outcome of the Licensing Hearing held on 03 July 2024 when the decision was made to restrict the licensable hours from 1000hrs to 1800hrs daily.</i> Note: <i>There is an outstanding condition granted under previous permission 2013/90561 for the submission of a kitchen extraction system which has not been discharged".</i> The site has residential properties on either side, and what appears to be a residential property above. The applicant has submitted further information in an unreferenced document stating that: <i>"We are an established Asian restaurant that has been operating for the past 3 years, from number 5 station road Marsden as an outdoor street food restaurant...</i> <i>We are requesting an amendment to condition 4 to change our opening hours to meet the needs of our already existing customer base. We are looking to operate into the evening with last orders being taken at 21.30PM and closing at 23:00".</i> The applicant has submitted a Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1, dated 29th May 2026, prepared by Environmental Noise Solutions Ltd (ENS). The report acknowledges the above previous response to the application for extending the opening hours that relate to condition 4, noting that condition 3 remains outstanding, and advises that: <i>"The objectives of the noise impact assessment were therefore to:</i> <i>• Determine the existing ambient and background noise levels in the vicinity of the site</i> <i>• Establish the potential noise emissions associated with the proposed development</i> <i>• Assess the noise impact of the development on the nearest noise sensitive receptors (surrounding residential uses) in accordance with pertinent guidance</i> <i>• Provide specific recommendations, where required, to avoid any potential for loss of amenity due to noise associated with the development</i>		

This report has been produced to support application 2024/91684 for the extension of operating hours, and to aid in the discharge of the Condition 3 of planning approval 2013/90561".

In relation to the "ventilation system", the Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1 states that:

"The kitchen extract fan is located internally, to the rear of the property, fitted directly to the façade".

No photographic evidence of the ventilation system has been provided, so it is not clear what, if anything is installed at the premises in terms of odour and noise mitigation as per the condition detailing *"methods of treatments or emissions and filters to remove odours and control noise emissions should be included"*.

Residential noise and odour sensitive receptors are located either side of the premises.

The submitted Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1 has undertaken a baseline environmental noise survey and measured noise from the operating kitchen extraction fan at the premises and used this data to assess noise impacts. A BS4142:2019 assessment confirms that *"plant noise was found to operate at a very low level and was largely masked by the residual noise which is driven by flowing water noise from the River Colne"*.

A further assessment of the sound insulation between the premises and the neighbouring residential premises confirmed that *"The airborne sound insulation of the existing separating wall is 65 dB DnT,w +Ctr, which is considered to be relatively high"*.

The Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1 concluded that:

"Noise from the site is not considered to restrict the proposed operating hours of the business".

Environmental Health confirm that the submitted Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1 is acceptable and confirm that noise levels from the current ventilation extraction system are acceptable.

No information has ever been provided in relation to the ventilation extraction system installed in the commercial kitchen, indeed it is not clear if a commercial ventilation extraction system has ever been installed, and whether any odour control exists at the premises.

The proposed variation of operating hours still has the potential to impact neighbouring residential premises because of odours. Environmental Health has not received complaints relating to odours; however, nearby odour sensitive neighbours are likely to be working during the current operational hours. There remains a possibility that odours may require controlling should odours become an issue.

Recommendation

The submitted Noise Impact Assessment Report Ref: NIA-12630-26-12886-v1 confirms that confirm that noise from the current ventilation extraction system is acceptable, and we therefore have no objection to the extension of operating hours.

Environmental Health would informally recommend that the applicant ensure that the current ventilation extraction system is regularly cleaned and maintained to ensure that noise and odours from its operation are kept to a minimum. Poorly maintained kitchen ventilation extraction systems can deteriorate over time if not regularly cleaned and maintained resulting in complaints.