

Planning

Growth & Development

Delegated officer report for planning application

Application no.	138278/FO/2023
Date registered valid:	23 October 2023
Proposal:	Erection of a single storey extension at the front of the premises and retention of decking in order to provide an external seating area for restaurant.
Address:	82 Wilmslow Road, Manchester, M14 5AL
Ward(s):	Moss Side Ward
Applicant:	Mr Mahmoud Akram, Sunset Cafe Ltd
Agent (if any):	Mr Sakib Ahmed, CGI Works Ltd
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Refuse
Date of recommendation:	28 November 2024



Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 9 November 2023

Standard consultations:

Printed: 12 December 2023

Expired: 2 January 2024

Neighbour notifications

Printed: 12 December 2023

Expired: 26 December 2023

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

54 to 84 Wilmslow Road is a three-storey terraced row with commercial properties occupying the ground floors and opening onto Wilmslow Road. The first and second floors were historically maisonette flats accessed via an elevated first floor walkway at the rear of the buildings and numbered 23 to 53 Aspinall Street. Several of these properties remain occupied as flats, while some have been converted into office or incorporated into additional floorspace for the ground floor commercial units.

This application relates to no. 82 Wilmslow Road, which is currently in use as a café with a partially covered external seating to the front.

Listed building: No

Conservation area: No

Tree Preservation Order: No

Description of development

Erection of a single storey extension at the front of the premises and retention of decking in order to provide an external seating area for restaurant.

Consultations & Notification Responses

Local Residents/Businesses – Two letters have been received, one in support of the proposal, the other objecting for the following reasons:

- There is hardly any space for pedestrians to walk as there is cycle lane just next to it.
- The extension has blocked several of the adjoining shops which is impacting on business.

Highway Services – Have made the following comments:

- The proposed single storey extension is located on an area of privately owned forecourt between the edge of the adopted highway and the property. The proposals are to retain the area of outdoor seating but include an additional section of privately owned forecourt. As the proposed tables and chairs are located on an area of privately owned forecourt between the edge of the adopted highway and the property, a tables and chairs licence will not be required.
- The proposed development is located on a length of footway, subject to a high volume of pedestrian movement. The proposed seating area will not impact the adopted highway.
- The proposed seating area does not project onto the adopted highway and therefore retains the full adopted highway footway clearance of 2m. This is considered sufficient to accommodate pedestrian demands in this location.
- All furniture is to be stored internally within the premises outside of operational hours. This is considered appropriate in preventing unnecessary obstruction of the adjacent highway.
- The retractable awning and balustrading will not be located on the adopted highway, which is acceptable to highways. It is requested that the headroom clearance of the awning should be greater than 2.5m.

Environmental Health – Suggests the imposition of a number of conditions designed to protect residential amenity and public health.

Rusholme, Fallowfield & Moss Side Civic Society – No comments received.

Greater Manchester Police – No comments received.

Rusholme Residents & Tenants Association – No comments received.

Policies

The National Planning Policy Framework (December 2023) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood

plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City 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. Relevant policies in the Core Strategy are detailed below:

Policy SP1, *Spatial Principles* – Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy DM1, *Development Management* – This policy states that all development should have regard to a number of issues, in this instance the most relevant are considered as follows:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- 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.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Flood risk and drainage.

Saved UDP Policies – Policy E3.3 states that the Council will upgrade the appearance of the City's major radial and orbital roads and rail routes. This will include improvements to the appearance of adjacent premises; encouraging new development of the highest quality; and ensuring that landscape schemes are designed to minimise litter problems.

Policy DC14, *Shop Fronts and Related Signs* – This policy applies to all retail premises and to other commercial premises which have similar physical characteristics e.g. betting shops, banks, building society offices, opticians premises etc.

DC14.1 states that in determining applications relating to these premises for shop fronts, security grilles, advertisement signs, canopies and awnings, the Council will seek to ensure that proposals are in keeping with the character of the building and adjoining buildings, of adjoining shopfronts, where appropriate, and of the area within which the premises are located.

DC14.2 states that shopfronts should allow full access for people whose mobility is impaired. The only exceptions which the Council will normally permit are where the cost is unreasonably high or

where there are particularly difficult physical constraints, or where the architectural character of a listed building would be damaged.

DC14.3 states that externally mounted security grilles or shutters will not normally be permitted if they are of solid construction, while DC14.4 In cases where externally mounted security grilles or shutters are considered acceptable, the boxes housing the grille or shutter should wherever possible be located behind the fascia.

DC14.5 states that the Advertisement Regulations require that applications for shop signs be considered only in the interests of amenity and public safety. In determining such applications, the Council will adopt the following policies:

A. In the interests of amenity,

- a. signs should not normally be positioned other than at fascia level;
- b. signs should respect the architectural form of buildings and shop frontages;
- c. where no obvious fascia level exists, signs above shopfronts should be in keeping with the scale of the frontage of the building and in particular should not fill the gap between ground floor shop windows and first floor windows;
- d. projecting box signs, or any other type of sign which projects significantly beyond the shopfront, should line up with the associated fascia board. Where this is not the case, such proposals will not be permitted;
- e. the Council will normally permit only one projecting box sign for each shop unit. On listed buildings and on buildings within Conservation Areas, signs consisting of individually mounted letters will be preferred to box fascia signs;
- f. fixed canopies mounted above fascia level or which obscure the fascia or shopfront will not normally be permitted, unless within a structural opening;
- g. long canopies which ignore the architectural form of frontages will not normally be permitted.

B. In the interests of public safety,

- h. any sign which is detrimental to the safety of pedestrians or motorists will be refused;
- i. all canopies, blinds and awnings should provide a minimum clearance of 2.3 metres above the footpath.

The Places for Everyone Plan – This plan was adopted on 21 March 2024, as such the Plan and its policies are now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance. The relevant policy is set out below:

Policy JP-Strat9 (Southern Areas) – This policy states that the economic competitiveness, distinctive local neighbourhood character and environmental attractiveness of the southern areas will be protected and enhanced. There will be a strong emphasis on making as much use as possible of suitable previously developed (brownfield) land and promoting the roles of the areas' town centres and its other key assets.

Issues

Principle of the Proposal – There is no objection in principle to the provision of additional seating areas at the front of these premises as planning permission has been granted for all of the properties in this terrace to erect decking, balustrading and associated retractable awnings. None of the properties have been granted planning permission to extend to the front. However, it is noted that Aura Lounge (72 Wilmslow Road) have extended to the front, albeit without the benefit

of planning permission. That unlawful extension is subject to planning application 139227/FO/2024 and is yet to be determined.

When this planning application was submitted, the front extension had already been erected and was located at the back of pavement, annotated by the red line. The applicant then removed the front element with it now terminating at the green line. After further negotiations with the applicant it was made clear that any extension would not be able to project any further than the yellow line, i.e. the extension must terminate in line with the existing concrete canopy that runs the length of the terrace.

As the proposed extension would project beyond the existing canopy feature, it is considered that the development would form an incongruous feature in the streetscene. For this reason, the proposal cannot be supported.



Design and Siting – The design of the proposed extension is simple and it would consist of wooden walls and pillars, topped by a roof material that replicates slate/roof tiles. Overall, the design of the proposal extension is not considered acceptable on this main radial route. Given this and the siting of the proposed extension forward of the existing canopy structure, it is considered that the proposal would form an incongruous feature in the streetscene.

Visual Amenity – Given the design and siting of the proposed front extension, it is considered that the proposal would form an incongruous feature in the streetscene and accordingly it is believed it would have a detrimental impact upon the existing levels of visual amenity enjoyed along this stretch of Wilmslow Road.

Residential Amenity – It is not considered that the proposal would have a detrimental impact upon the levels of residential amenity enjoyed by the occupants of the nearest residential accommodation.

Other Legislative Requirements

Equality Act 2010 – Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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 a right to a fair hearing and to this end the local planning authority 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 recommendation given 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: Refuse

Article 35 Declaration

The proposal was assessed against the policies within the Manchester Core Strategy Development Plan Document (2012) and the guidance contained within the National Planning Policy Framework. The applicant was advised that the proposal would have a detrimental impact upon the existing levels of visual amenity enjoyed within the vicinity of the site. As the nature of the proposal is considered to be unacceptable and the applicant has requested that the proposal be determined in its current format, a solution that was acceptable to both the Local Planning Authority and the applicant could not be reached.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The proposed development, by reason of its design and siting, would constitute an over-dominant feature that would be visually intrusive, out of character with the surrounding properties and which as a result would have a detrimental impact upon existing levels of visual amenity enjoyed within the vicinity of the site, contrary to Policy DM1 in the Manchester Core Strategy and saved UDP Policies E3.3 and DC14.1.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Highway Services
Rusholme, Fallowfield & Moss Side Civic Society
Greater Manchester Police
Rusholme Residents & Tenants Association
131 - 133 Wilmslow Road, Manchester, M14 5AW

129 Wilmslow Road, Manchester, M14 5AW
86 Wilmslow Road, Manchester, M14 5AL
88 Wilmslow Road, Manchester, M14 5AL
49 Aspinall Street, Manchester, M14 5UD
51 Aspinall Street, Manchester, M14 5UD
135A Wilmslow Road, Manchester, M14 5AW
135 Wilmslow Road, Manchester, M14 5AW
78 - 80 Wilmslow Road, Manchester, M14 5AL
84 Wilmslow Road, Manchester, M14 5AL
47 Aspinall Street, Manchester, M14 5UD
53 Aspinall Street, Manchester, M14 5UD

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA