MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	138060/FO/2023
Date registered valid:	2 October 2023
Proposal:	Replacement of enlarged opening along the Walmer Street elevation to fixed glazed window, installation of 1.3 metre high glass balustrade to front and raising of forecourt floor level to match internal levels of the building, retention of retractable awnings affixed to the front and side elevations of the existing canopy and installation of 3no high level fixed windows (1no. to Walmer Street and 2no. to Aspinall Street).
Address:	360 Lounge, 54 - 56 Wilmslow Road, Manchester, M14 5AL
Ward(s):	Moss Side Ward
Applicant:	Mr Gailan Aziz Khidri 360 Lounge
Agent (if any):	Mr Saghir Hussain Create It Studio Architects
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	30 January 2024

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 16 October 2023

Standard consultations:
Printed: 2 January 2024 Expired: 23 January 2024

Neighbour notifications
Printed: 2 January 2024 Expired: 23 January 2024

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 and area



Application relates to the ground and first floors of a mixed development comprising of a café/restaurant on the ground floor with residential maisonettes above along the Wilmslow Road frontage. The application property extends to occupy the full depth of the site and has a first floor to the rear.

The site is located on the corner of Wilmslow Road and Walmer Street within the Rusholme District Centre where the predominant uses relate to the night-time economy.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking planning permission for the replacement of enlarged opening along the Walmer Street elevation to fixed glazed window, installation of 1.3 metre high glass balustrade to front and raising of forecourt floor level to match internal levels of the building, retention of retractable awnings affixed to the front and side elevations of the existing canopy and installation of 3no high level fixed windows (1no. to Walmer Street and 2no. to Aspinall Street).

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby properties on two occasions one for the original proposal and the second for the amended drawings and description (see appendix 1 for the list of properties).

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

Environmental Health – No objection, requested conditions relating to noise, outdoor seating hours, refuse storage and construction hours.

Highway Services – No objection. An informative has been added regarding in relation to any proposed construction or fitout arrangements, where there is an impact on the highway such as scaffolding, skips etc.

Issues

Planning History

There have been 7 planning applications on this site and there is currently an 8th application pending consideration. Details of all applications can be found below;

138303/JO/2023 - Variation of condition no. 3 (hours of opening) attached to planning permission 034433 to allow the premises to open from 8.00 am to 1.00 am seven days a week.– **Still under consideration** at the time that this report was written.

138059/FO/2023 - Retention of the enlarged opening along the Walmer Street elevation, including the installation of a shutter over the opening and the application of artificial turf to the side elevation and the erection of a small coal burner to the rear with flue. – **Declined to determine**

104571/FO/2013/S1 - Elevational alterations, including creation of new external openings with roller shutters to Walmer Street elevation, and extension of opening hours to: Sundays 11am to 3am, Monday to Thursdays 10am till 3am and Friday and Saturday 10am till 4am. Application **Refused** - 22.04.2014

104572/AO/2013/S1 - Erection of one externally-illuminated , individual letter sign and one internally-illuminated individual letter signs to Walmer Street elevation. Application **Approved** - 04.03.2014

057228/AO/SOUTH1/99 - Various illuminated shop signage plus illumination of existing signage on side elevation of restaurant **Approved** - 27.09.1999

042793 - Elevational alterations to existing shop front. Application **Approved** - 22.01.1993

034433 - Change of use from retail store to restaurant and new shop front **Approved** - 10.08.1989

031375 - Illuminated fascia sign to front elevation of shop Application **Approved** - 13.05.1988

Unitary Development Plan for the City of Manchester (UDP)

The relevant UDP Policy is saved policy DC10.

Policy DC10.1 set out the considerations required for development involving the sale of food or drink for consumption on the premises, or for hot food to be consumed that in determining applications (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 advises that 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 advises that 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.

DC10.5 The Council will consider on their individual merits proposals for larger, free-standing restaurants, public houses, clubs etc. which require a main road location and do not clearly meet the locational criteria set out in policy.

Core Strategy

The relevant Core Strategy Policies are SP1, DM1, C5 and C10

Policy SP1 sets down the spatial principles that will guide development in the City. The emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment. It goes on to say that development in all parts of the City should:-

Make a positive contribution to neighbourhoods of choice including (amongst others):-

- making a positive contribution to the health, safety and wellbeing of residents

Policy DM1 says;

All development should have regard to the following specific issues, (amongst others), for which more detailed guidance may be given within a supplementary planning document:

- 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.

Policy C5 relates to the Central Manchester District Centres which includes Rusholme. In respect of Rusholme the policy state that;

Additional retail development will be supported in Rusholme, but this should complement the distinct commercial character of the District Centre. Capacity for additional retail in Rusholme can be adequately provided in other centres, including Hulme and Fallowfield.

The improvement to the quality of the environment in Rusholme and Longsight is a priority to help retain and attract shoppers and visitors.

Policy C10 requires that any 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.

National Planning Policy Framework 2021

Paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Paragraph 7 tells us that the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 11 Plans and decisions should apply a presumption in favour of sustainable Development and that for decision making this means approving development proposals that accord with an up to date development plan without delay.

Principle of the Proposal – As the use and enclosure of the premises for outdoor seating has been provided to the front of the other units in this parade, there is no objection in principle to the proposal. Notwithstanding this, the impact upon residential and visual amenity must be assessed.

In addition, the proposal also includes elevations changes in the form of inserting windows to the side and rear elevations.

During the course of the application concerns were raised with the applicant and amended drawings have been received to address those concerns. The three areas discussed were the enclosure of the forecourt and the proposed windows. The report below will assess the amended drawings.

Forecourt – Visual Amenity / Access

The proposed design of the enclosing balustrade reflects that of other neighbouring premises within the host parade. The balustrade extends the full width of the forecourt (apart from an access point) and maintains a consistent height 1.3 metres. The proposal also includes raising the forecourt level to match the internal levels by 0.3 metres. The proposed balustrading is of glass construction, final details including the floor finish and how level access will be achieved into the building shall be dealt with by a condition recommend. On balance, the overall design and impact to the visual amenity is acceptable and is comparable to the prevailing appearance of this terrace of commercial uses.

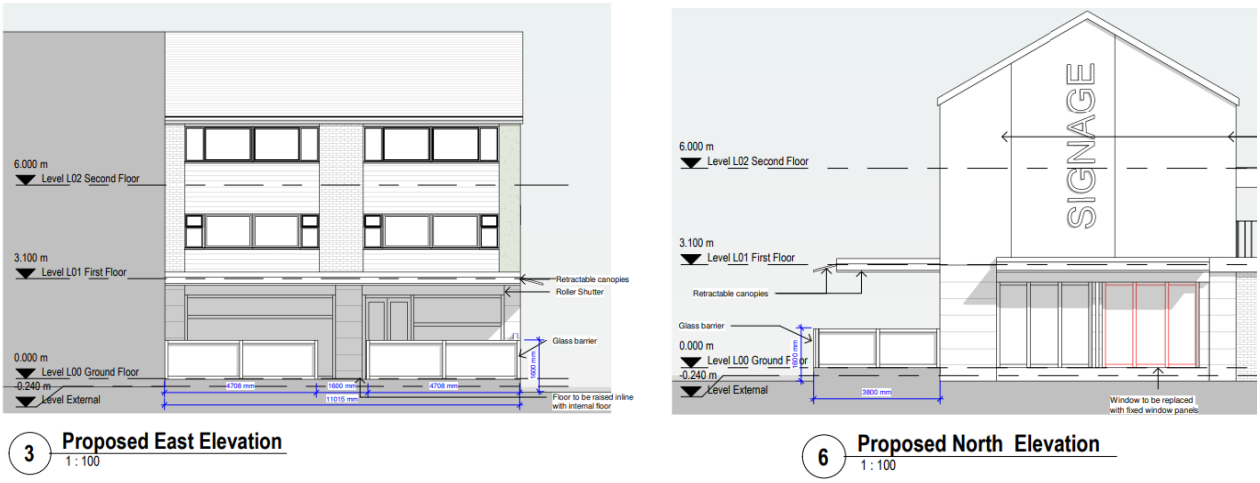


Image 1 Proposed East and North Elevations

Access to the public highway will not be impeded by the works as it is solely contained within the private forecourt.

Forecourt - Residential Amenity

There are existing residential properties above the property, however the forecourt at the front of the property can already be used for outdoor seating and given existing background noise generated from Wilmslow Road being a main thoroughfare (especially bus route) to and from the City Centre and Rusholme District Centre the use of the forecourt for seating and dining would have a negligible impact upon residential amenity. Environmental Health have requested a condition requesting that the applicant submit hours of use for the outdoor seating but considering that the present hours are as follows:

The restaurant shall not be open outside the following hours:

Sunday to Thursday, 8.00 a.m. to 11.30 p.m.

Fridays and Saturdays, 8.00 a.m. to midnight

These are considered appropriate for the use and its location and thus a separate condition to agree hours for the outdoor seating is not required in this instance.

Elevation Alterations

Enforcement notice reference: ENF/13782/18 that the ground floor side elevation be returned to its condition before the breach thus the side window would have to be removed. As shown on image 1 and 2 the side window is proposed to be replaced and fixed in place so that it is non-opening, given that the windows face towards another restaurant on the corner of Walmer

Street and Wilmslow Road and its fixed nature so that it cannot be opened will not result in a detrimental impact on the neighbouring residential properties.

The higher level windows are shown to be fixed and obscurely glazed to protect the residential amenity of residential properties at the rear of the site especially those located on Walmer Street.

The existing artificial grass is shown to be removed from the proposed elevations which will improve the visual amenity of the property, street scene and area. This was also requirement of the enforcement notice.



Image 2 Proposed North and West Elevations

Other Matters – Environmental Health have requested conditions relating to noise, outdoor seating hours, refuse storage and construction hours. Outdoor seating hours have been addressed earlier in the report and in terms of the other suggested conditions these do not relate to the development proposal; the existing use of the property is that of a restaurant and it is not for this application to seek to impose further restrictions on that use, that are not affected by the proposed development.

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 polices 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: Approve

Article 35 Declaration

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

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

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:

A1514(03)AP002 P6

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) Notwithstanding the details as shown on drawing A1514(03)AP002 P6, the proposed high level windows in the side (north) and rear (west) elevation shall be fixed in place, non-opening

and obscurely glazed to a specification of no less than level 4 of the Pilkington Glass Scale or such other alternative equivalent and remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent residential property from noise and disturbance, overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Core Strategy.

4) Notwithstanding the details as shown on drawing A1514(03)AP002 P6, the proposed ground floor window in the side (north) elevation shall be fixed in place and non-opening and remain so in perpetuity.

Reason - To protect the amenity and living conditions of adjacent and above residential properties from noise and disturbance and in accordance with policies SP1 and DM1 of the Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Highway Services
Highway Services
Environmental Health

58 Wilmslow Road, Manchester, M14 5AL
Unit 1, Ifco Centre, 50 Wilmslow Road, Manchester, M14 5TQ
23 Aspinall Street, Manchester, M14 5UD
27 Aspinall Street, Manchester, M14 5UD
107 Wilmslow Road, Manchester, M14 5SU
105 Wilmslow Road, Manchester, M14 5SU
103 Wilmslow Road, Manchester, M14 5SU
105 - 107 Wilmslow Road, Manchester, M14 5SU
109 Wilmslow Road, Manchester, M14 5AN
25 Aspinall Street, Manchester, M14 5UD
5 Walmer Street, Rusholme, Manchester, M14 5UB

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) -
Area Team Boundary - Name: SOUTH AREA