

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135985/FO/2023

Date registered valid: 17 January 2023

Proposal: Retrospective application for the installation of balustrading and retractable awning to provide an external seating area.

Address: 68-70 Wilmslow Road, Manchester, M14 5AL

Ward(s): Moss Side Ward

Applicant: Mr Victor Giacomo Roger Schneier, VGRS Foods Ltd

Agent (if any): Mr Sakib Ahmed

Case officer: Steven McCoombe
Tel: 0161 234 4607
Email: steven.mccoombe@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 27 February 2023

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 22 February 2023

Standard consultations:

Printed: 31 January 2023 Expired: 21 February 2023

Neighbour notifications

Printed: 31 January 2023 Expired: 21 February 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

The application site relates to a ground floor a café/restaurant (Class A3 – now Class E), with associated seating area and canopy to the front.



View of the site looking northwards

The premises lies on the western side of Wilmslow Road. Immediately to the front of the forecourt area is a pedestrian footway, beyond which the highway which includes a cycle lane that runs adjacent to the premises.

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The property is located at the heart of Rusholme district centre which extends north to south along the main arterial route of Wilmslow Road. The immediate area is dominated by food and drink uses, along with other commercial uses, including retail outlets and shisha cafes. To the rear of the site along Walmer Street is a health centre.

Description of development

Retrospective application for the installation of balustrading and retractable awning to provide an external seating area.

Consultations & Notification Responses

Local Residents/Occupiers – No representations received.

Environmental Health – conditions are advised in relation to the use and hours of operation of the external area.

The hours stated for an external area seem excessive. Further justification is needed regarding this.

Highway Services - The external seating area will be contained within the private curtilage of the site, abutting the adopted highway.

Tables and Chairs licensing will not be required given that no furniture will be located on the footway. The developer should ensure that the retractable awning provides sufficient headroom clearances.

In principle, Highways have no objections to the proposal.

Policy

The following policy and guidance is considered relevant to the consideration of this application:

- Saved policies E3.3, DC10 and DC26 of the Unitary Development Plan;
- Policies DM1, EC2 and SP1 of the Manchester Core Strategy;
- Guide to Development in Manchester (SPD);
- National Planning Policy Framework.

Issues

Principle

The use and enclosure of the premises for outdoor seating is consistent with the host parade and other similar uses along this stretch of Wilmslow Road use. The proposal seeks to enclose the forecourt which would prevent spillage of patrons onto the adjoining sites and would provide a level surface with the unit. In principle the proposed works are considered to be acceptable, subject to the use of satisfactory timber colouring for the balustrade and will also add to the vibrancy of a key commercial frontage. As such, the proposal complies with the aforementioned policy and guidance.

The specific planning issues are outlined further below.

Residential Amenity

As the forecourt area forms part of the planning unit and can already legitimately used for outside seating, it is not considered that the proposed development would impact further on the amenity of the area.

In any event, given existing background noise levels and the busy nature of the immediate area and the main thoroughfare of Wilmslow Road, any impact as a consequence of noise and disturbance is considered negligible. The hours of use condition relating to the existing use of the premises has been included as a safeguard and mirrors that of neighbouring uses.

Design and Visual Amenity

The proposed design of the enclosing balustrade and canopy reflects that of other neighbouring premises within the host parade and therefore maintains a consistent approach, not at odds with the streetcape.

The balustrade extends the full width of the forecourt and maintains a similar height with the adjoining enclosures to the north and south.

The proposed balustrade is of timber construction with glazed panels above.

On balance, the overall design and impact to the visual amenity is acceptable and is comparable to the prevailing appearance of the host parade.

Access

As the proposed tables and chairs are to be located on an area of privately owned forecourt between the edge of the adopted highway and the property, access along the public footway will not be impeded. Existing level access is retained from the public footway into the seating area.

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: Approve

Article 35 Declaration

Officers have worked with the applicant / agent in a positive and proactive manner to guide the application through all stages of the planning process and resolve any issues that arose in dealing with the planning application.

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

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

Location Plan and drawings referenced PL001 and PL002 received by the City Council as Local Planning Authority on 17 January 2023.

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

2) The outside seating area hereby approved shall only be used for purposes ancillary to the main food and drink uses of the premises and shall not be used for the sole, primary purpose of the smoking of shisha.

Reason - The principal use of the area for the smoking of shisha would constitute a material change of use.

3) For the avoidance of doubt, the outdoor seating area shall not be open outside the following hours:-

Sunday to Thursday 08.00am to 11.30pm

Friday and Saturday 08.00am to midnight.

Reason - To safeguard the amenity of the nearby occupiers, pursuant to saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester, policies DM1 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Rusholme, Fallowfield & Moss Side Civic Society

72 Wilmslow Road, Manchester, M14 5AL
66 Wilmslow Road, Manchester, M14 5AL
Top Flat, 119 Wilmslow Road, Manchester, M14 5AN
Flat At, 117 Wilmslow Road, Manchester, M14 5AN
Flat At, 115 Wilmslow Road, Manchester, M14 5AN
First Floor, 123 Wilmslow Road, Manchester, M14 5AN
121 Wilmslow Road, Manchester, M14 5AN
119 Wilmslow Road, Manchester, M14 5AN
117 Wilmslow Road, Manchester, M14 5AN
76 Wilmslow Road, Manchester, M14 5AL
74 Wilmslow Road, Manchester, M14 5AL
64 Wilmslow Road, Manchester, M14 5AL
62 Wilmslow Road, Manchester, M14 5AL
123 - 127 Wilmslow Road, Manchester, M14 5AN
43 Aspinall Street, Manchester, M14 5UD
37 Aspinall Street, Manchester, M14 5UD
31 Aspinall Street, Manchester, M14 5UD
115 Wilmslow Road, Manchester, M14 5AN
45 Aspinall Street, Manchester, M14 5UD
41 Aspinall Street, Manchester, M14 5UD
39 Aspinall Street, Manchester, M14 5UD
35 Aspinall Street, Manchester, M14 5UD
33 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) -
Area Team Boundary - Name: SOUTH AREA