emery
PLANNING



Planning Statement

For Mr Hiwa Zada | 26-344

Change of use to restaurant/café and shisha smoking area - Sahara Lounge, 3-5 Park Crescent, Manchester, M14 5DU

Project:	26-344
Site Address:	Sahara Lounge, 3-5 Park Crescent, Manchester, M14 5DU
Client:	Mr Hiwa Zada
Date:	7 July 2026
Author:	Lynn Jones
Approved by:	Rawdon Gascoigne

This report has been prepared for the client by Emery Planning with all reasonable skill, care and diligence. No content within this report has been generated by Artificial Intelligence (AI). Prior written approval from Emery Planning is required before any part of this document may be reproduced. Emery Planning Partnership Limited trading as Emery Planning.

Contents

1. Introduction _____ 1
2. Site location _____ 2
3. The application _____ 3
4. Background and planning history _____ 4
5. Planning policy context _____ 5
6. Assessment _____ 7
7. Summary and Conclusion _____ 12

Appendices

EP1. Appeal decision reference APP/B4215/C/24/3338867
EP2. Appeal decision reference APP/A5270/W/24/3348031
EP3. Appeal decision reference APP/B4215/C/18/3212030
EP4. Appeal decision reference APP/B4215/W/18/3217729 and related documents



1. Introduction

1.1 This planning statement is submitted in support of an application for a change of use to a mixed use of a restaurant/café and shisha smoking lounge at 3-5 Park Cresent Manchester. The application is a revised submission of an application that was refused and dismissed at appeal in April 2025. Since the appeal was dismissed, additional work has been undertaken to address the reasons for refusal, which related to the lack of evidence and impact assessments necessary to quantify the likely effects on residential amenity in the surrounding area. A noise assessment is now submitted with the application to show that the proposed use would not be harmful to residential amenity.

1.2 The current application also includes minor alterations to the building, including opening up the roof of the single storey frontage to the building, to provide a naturally ventilated but enclosed shisha smoking area. The remainder of the ground floor and lower floor would be a café/restaurant. However, smoking paraphernalia would be stored within the building and facilities (e.g. toilets) would be available to all customers. The business would operate as a single entity, catering to a variety of customers and is therefore considered to constitute a mixed use.

1.3 Although we consider that the limited area that will be provided for shisha smoking means that there is a case that the smoking would not be a primary use in its own right, and that permission for a change of use is potentially not required, the application for alterations to the building has included the proposed use of the external area on the plans for clarity (as there is currently an enforcement notice relating to the use) and, if necessary, to enable the LPA to exercise control over the development through the use of conditions. If the LPA considers that permission is not required for a change of use, the applicant would be happy to discuss amendments to the application.

2. Site location

2.1 The application site is located on Park Crescent in Rusholme, close to the corner with Wilmslow Road.

2.2 It is shown within 'Central Manchester' on the council's proposals map and falls within the District Centre of Rusholme. The Victoria Park Conservation Area is located immediately Northeast of the application site.

2.3 There is parking to the front of the building, where the main entrance is located. Wilmslow Road contains a mix of shops, bars, cafes, restaurants and other businesses, including Shisha establishments with outdoor smoking areas. The appeal property was originally created through the extension of 181-183 Wilmslow Road. It's lawful use is as a café/restaurant, with residential accommodation above the ground floor level. This arrangement is typical of Wilmslow Road, where flats and apartments are situated above commercial premises. Further residential properties are located on Park Crescent, to the North and across Victoria Park to the East. Overall, it is a busy area with a mix of uses and a vibrant night-time economy.

3. The application

3.1 As noted above, the application proposes a change of use to mixed use as a café/restaurant and shisha smoking establishment.

3.2 The current application also includes minor alterations to the building as follows:

- The creation of an extended opening in the side elevation at ground floor level (partially glazed, partially open).
- Removal of doors/windows and roof covering from the single storey frontage to create an external smoking area.
- Creation of a glass partition wall to separate the smoking area from the internal café/restaurant seating area.
- Minor internal alterations.

3.3 Drawings have been submitted which show the specific alterations that would be undertaken.

3.4 These alterations will not significantly alter the character or appearance of the building, as they primarily relate to the removal and insertion of window/door units within existing openings.

3.5 Shisha smoking would take place in a restricted area to the front of the building where there would be natural ventilation. Shisha smoking involves smoking a heated flavoured tobacco through a device consisting of a bowl, water, filled base and a hose or pipe.

3.6 The majority of the floorspace of the ground floor and basement would be used as a café/restaurant, as per the existing lawful use of the building, with customer facilities available to all patrons and with combined storage and staff areas (for both elements of the business).

4. Background and planning history

4.1 The lawful use of the application property is a café/restaurant. The most recent applications relating to the property are as follows:

- 138823/AO/2023 - Installation of internally illuminated fascia signage. Approved 02/2/2024.
- 137016/FO/2023 - Change of use from a cafe (Class E) to a cafe/shisha establishment (sui generis). Refused 22/9/2023 and dismissed at appeal 16/04/2025 (appeal reference APP/B4215/W/24/3337185).
- 132502/FO/2021 - Elevational alterations including the installation of a new window in the side elevation and the repositioning of the entrances to the internal bin store. Approved 18/3/2022.
- 123390/JO/2019 - Variation of condition no. 4 (hours of opening) attached to planning permission 096972/FO/2011/S1 to allow for amendments to the opening hours, namely 8.00am to 11.00pm seven days a week. Approved 12/11/2019.
- 096972/FO/2011/S1 - Change of use of retail shop (A1) to restaurant (A3) and first, second and third floor offices (B1) to 6 flats including installation of flue to rear and construction of a bin storage area. Approved 18/1/2012.
- 088572/FO/2008/S1 - Part retrospective alterations to existing building to form a mansard roof and elevational alterations. Approved 30/3/2009.

4.2 An enforcement notice was also issued in respect of the property (ref. ENF/15696/23) on 7 February 2024. An appeal against the notice was unsuccessful and the enforcement notice was upheld on 25 February 2025. The appeal (reference APP/B4215/C/24/3338867) was dealt with alongside appeal reference APP/B4215/W/24/3337185 (referred to above), as they effectively related to the same development/change of use. The appeals were both dismissed due to a lack of information to demonstrate that the activity of shisha smoking would not be harmful to local residential amenity rather than as a result of any specific identified harm. The Inspector's decision in respect of both appeals is attached at Appendix EP1. As noted in the introduction to this statement, the current application provides additional information to address the reasons the above appeals were dismissed.

5. Planning policy context

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the relevant development plan:

> "If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Development plan context

5.2 The statutory development plan for the area comprises:

- Places for Everyone Joint Development Plan for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039 (2024).
- Core Strategy (2012), including 2024 Addendum
- Extant (remaining) Unitary Development Plan policies

The most relevant policies for this application are contained within the Cores Strategy and extant parts of the UDP as set out below.

Core Strategy

- Policy SP1 – Spatial Principles
- Policy DM1 – Development Management
- Policy EC8 – Central Manchester
- Policy C2 – District Centres
- Policy C8 – Local Centres
- Policy C10 – Leisure and the evening economy

Saved UDP

- DC26 - Development and noise

National Planning Policy

5.3 The National Planning Policy Framework (The Framework) sets out the Government's planning policies for England and how these should be applied. It is a material consideration in the determination of planning applications.

5.4 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-date8, granting permission unless:
>
> i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

5.5 When considering the specific type of development proposed, the policies of the Framework are generally consistent with those of the development plan and do not result in any additional considerations being relevant.

6. Assessment

6.1 A previous application for a change of use at the property was unsuccessful at appeal. However, the Inspector's decision indicates that the only policy conflict identified was with Policies SP1 and DM1 of the Manchester Core Strategy and saved Policy DC26 of the Unitary Development Plan.

6.2 Policy SP1 (Spatial Principles) states that development in all parts of the City should make a positive contribution to neighbourhoods of choice including:

- making a positive contribution to the health, safety and wellbeing of residents
- considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
- protect and enhance the built and natural environment.

6.3 Other bullet points within the policy have either been replaced by policies within 'Places for Everyone' or are not relevant to this development.

6.4 The proposed change of use would provide a place for local residents and visitors to meet socially, to relax and engage in the activity of shisha smoking, alongside the provision of a dedicated area specifically for food and drinks. It is envisaged that some people would come to smoke shisha and have a hot or cold drink, while others would attend for a meal, and then relax in the shisha smoking area. Shisha smoking is a popular activity locally and the provision of a dedicated ventilated area will be of benefit to the local community. During the previous appeal at the site, the Council noted that there were only two other shisha establishments in the local area and the proposed change of use would therefore add a degree of choice to the local offering and would not detract from the range of other uses in the local area, which include restaurants, bars, takeaways, jewellers, cafes, medical centres, shisha cafes, shops, pharmacies, opticians, legal services and other services and businesses. The principle of the use must therefore be considered acceptable and positively engages with the second bullet referred to above of policy SP1.

6.5 The proposed changes to the building would not significantly alter its structure or appearance of the building and would add vibrancy to the street scene by introducing an active frontage, set back within the footprint of the existing building, to maintain a clear route along the footway. The effect of the development would be no different to the provision of outdoor seating/smoking area at any other café, where customers consume food and smoke their own cigarettes or vapes. This does not require permission for a change of use, is commonplace throughout the city and adds character and vibrancy to many local centres within Manchester. This would accord with the third bullet referred to above.

6.6 Planning permission was granted at appeal in August 2019 for a material change of use from a restaurant (A3) with flat above (C3) to a shisha smoking place (Sui Generis) at 119 Wilmslow Road, in close proximity to the appeal site. The Inspector in that case noted:

> 9. The appeal property is situated within Manchester's famous 'curry mile' which contains a high proportion of restaurants amongst other uses, including a substantial number of retail uses. The overall impression is of a vibrant economy. In the vicinity of the appeal site are several shisha smoking uses. A number of these are said by the Council to be unauthorised but planning permission was granted on appeal in April 2019 for a mixed use of restaurant and shisha café opposite the appeal site at 72 Wilmslow Road (Ref: APP/ B4215/W/18/3217729).
>
> 10. The development plan seeks a balanced mix of uses in the area. The authorised use of the ground floor of the appeal premises is as a restaurant and so there has been no loss of a retail use. The appeal decisions referred to by the Council appear to indicate that shisha smoking has normally been treated as a sui generis use, not falling into any use class. Nevertheless, there is food and drink on offer at the appeal premises, apparently incidental to the shisha smoking, and the use as a shisha café appears consistent with the distinctive café feel of the locality, complementing the mix of food, drink and shisha uses in the immediate area.
>
> 11. The Council has referred to the negative perception of shisha use and to its engendering a fear of crime, which would diminish the attractiveness of the locality. However, I have been provided with little evidence of such an adverse impact. Whether shisha establishment are unlicensed or otherwise in breach of the law is for the relevant enforcement agencies to pursue.
>
> 12. In conclusion, the proposal would not harm the overall character, vitality and viability of Rusholme District Centre and would not be in conflict with the relevant policies of the Development Plan which support a balanced evening and night time economy in the area.

6.7 A copy of the appeal decision is attached at Appendix EP3. Permission was also granted at appeal for another similar change of use from A3 restaurant to a mixed use of restaurant (A3) and shisha café (sui generis) at 72 Wilmslow Road in June 2019 (APP/B4215/W/18/3217729) as referred to in the appeal above. This is similar to the present application in the sense that it also proposed a smoking area within an external forecourt, which shows that smoking has been deemed acceptable in external areas of premises in the local area. A copy of the appeal decision and related documents are attached at Appendix EP4.

6.8 Policy DM1 states that all development should have regard to a number of specific issues. The most relevant are:

- 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.
- Refuse storage and collection.
- Vehicular access and car parking.

6.9 The limited alterations to the building would involve the use of materials that are in keeping with the existing building and would not significantly alter its appearance or the character of the local area.

6.10 The noise assessment that has been submitted with the application shows that there would be no unacceptable effects on residential amenity as a result of the proposed use. It has also been found in relation to other Shisha establishments, that smells associated with shisha smoking are not perceptible/detrimental to local residents in locations such as this, where there are a variety of smells associated with restaurants, traffic and other local uses. A copy of a relevant recent appeal decision is attached at Appendix EP2.

6.11 No changes are proposed to the building that would impact accessibility or community safety and crime prevention, and the design of the development does not have any implications in relation to health.

6.12 In nearby appeal reference APP/B4215/C/18/3212030, the Inspector noted:

> 16. The National Planning Policy Guidance promotes healthy and safe communities. On the question of the health of customers and staff, there can be little doubt that smoking is not conducive to good health. Depending on the type of food sold, the appellants submit that the same consideration might apply to the authorised restaurant use. However, shisha smoking is not an unlawful activity. Whether it can be undertaken indoors, in an enclosed space, as at the appeal premises, is not for me to decide as it is not the role of the planning system to duplicate or impose more stringent controls on activities regulated under other legislation, such as the 2006 Health Act.
>
> 17. In conclusion, the development does not conflict with the aims of the development plan. Whilst I have some concern on the issue of health, that appears to me to be a matter more appropriately dealt with under the relevant legislation and control.

6.13 A copy of the appeal decision is attached at Appendix EP3. Smoking would be undertaken in an external and naturally ventilated area and would not be substantially different to customers smoking their own devices within outdoor smoking shelters associated with cafes, bars and restaurants.

6.14 The Inspector for the previous appeal did not find that any harm would occur in relation to considerations around refuse collection, vehicular access and car parking.

6.15 Policy C 8 (Local Centres) States that:

> local shopping and service provision in local centres should be retained where it remains viable and provides an important service to the local community. The provision of new small scale retail facilities will be encouraged where they would provide for local every day needs and would not be harmful to the vitality and diversity of nearby centres. Careful consideration will be given to the impacts of new commercial development on residential amenity, which is particularly an issue for food and drink uses. Development proposals in local centres which would not reflect the local role of these centres will be assessed according to policy C9.

6.16 The Inspector in the previous appeal found no conflict with this policy and the proposed use is also in accordance with Core Strategy Policies EC8 (Central Manchester) and C2 (District Centres). Policy EC8 states that the district centres of Hulme, Rusholme and Longsight are all located on major radial routes through Central Manchester and will be suitable for mixed use development providing local employment.

6.17 C2 states that development in District Centres should:

> 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.

6.18 It goes on to state that development should:

> Contribute positively to the diversity and mix of uses within centres without undermining their primary retail function. Development should also promote arrange of retailers and shop formats; Promote choice and competition particularly where development will support the independent sector

6.19 As outlined earlier in this statement, the proposed change of use would add variety to the range of local establishments and would not undermine the availability of local shopping or service provision.

6.20 Policy C 10 (Leisure and the Evening Economy) indicates that 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.

6.21 During the previous appeal, the council confirmed that there is not a concentration of shisha cafes in this area. With regard to the impacts on residential amenity, assessments have now been undertaken and are submitted with the application, which show that the proposal is acceptable in amenity terms. Noise generated by the smoking area would not have a detrimental effect on amenity and the new glass screen would reduce breakout noise from the internal area within the café/restaurant. For these reasons, the development also accords with saved UDP Policy DC26 (Development and Noise).

6.22 The effects of odours would not be substantially different to a smoking shelter or outdoor seating area used in connection with a bar.

7. Summary and Conclusion

7.1 The current application has been shown to comply with the requirements of the development plan. The proposals have been revised since the previously dismissed appeal and the reasons for dismissal of the appeal have been addressed through the preparation of acoustic assessments. The proposed change of use would add to the existing range of establishments within the local area (which include shisha smoking establishments) and enable a business to operate flexibly, deriving income from both shisha smoking and the provision of food and drink, as well as providing local employment. It would meet an existing local demand for that type of establishment, provide a comfortable social environment and meeting place for local residents and visitors alike, and would add to the vibrancy and vitality of the local area.

7.2 The proposed physical changes to the building are minor and would have no effect on the character and appearance of the area or the adjacent conservation area.

7.3 In light of the above, it is requested that planning permission is granted in accordance with the presumption in favour of sustainable development.

EP1

Planning Inspectorate

Appeal Decisions

Site visit made on 26 February 2025

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal A Ref: APP/B4215/C/24/3338867
3-5 Park Crescent, Manchester M14 5DU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Hiwa Zada (Sahara Lounge) against an enforcement notice issued by Manchester City Council.
- The notice was issued on 7 February 2024.
- The breach of planning control as alleged in the notice is the material change of use of the ground floor to a shisha smoking place (Sui Generis).
- The requirements of the notice are:
    1. Cease the use as a shisha smoking place (Sui Generis)
    2. Remove all shisha pipes, tobacco and associated paraphernalia from the land.
- The period for compliance with the requirements is: Three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/B4215/W/24/3337185
181-183 Wilmslow Road, Manchester M14 5AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Hiwa Zada against the decision of Manchester City Council.
- The application Ref is 137016/FO/2023.
- The development proposed is the change of use from a café (Class E) to a café/shisha establishment (Sui Generis).

Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The revised National Planning Policy Framework ("the Framework") was published on 12 December 2024. I have considered the changes and as they are not material to the appeal development, further comments by the parties were not sought. I have, however, determined the appeals having regard to the revised Framework.

4. Appeal A was originally made on ground (a) only. However, within the appeal submissions the appellant contends that the breach of planning control stated in the notice may not constitute a breach of planning control. As such, I consider that there is a hidden ground (c) appeal. As the Council has had sight of the points raised by the

appellant and has responded to them, I am satisfied that no injustice would be caused by me taking the approach that the appeal is also proceeding on ground (c).

5. In relation to Appeal B, I have taken the description of development from the Council's decision notice as it more succinctly and accurately describes the development. The appellant has confirmed that the description used is acceptable.

6. Despite the slight difference between the breach of planning control alleged in Appeal A and the description of development in Appeal B, both appeals essentially relate to the same development which has already commenced on site. Similarly, despite the differing addresses given, it is clear from the submitted plans and documentation that Appeals A and B both relate to the same premises.

Appeal A on ground (c)

7. For success under ground (c), it must be shown that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof falls on the appellant and the relevant test is on the balance of probabilities.

8. There is no dispute that the lawful use of the appeal premises is that of a restaurant/café falling within Class E, Part A, of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) ("the UCO"). The appellant contends that the use of the premises as a shisha smoking place is not materially different from the previous lawful use, or alternatively, that shisha smoking should be considered "indoor recreation" and therefore falling within Class E(d) of the UCO, which refers to the use for all or any of the following purposes:

   "*for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, or use as a swimming pool or skating rink, principally to visiting members of the public*".

9. I will first consider whether the use of the premises as a shisha smoking place is materially different to that of a restaurant/café. There is no detailed evidence as to how the restaurant/café operated at the appeal site. Nevertheless, I would expect such an establishment to provide facilities for people to eat and drink comfortably, with a choice of food and beverages for purchase and facilities on site for their preparation.

10. At the time of my visit the internal area at ground floor level was laid out in a similar fashion to a bar, with plenty of tables and chairs available and tv's showing sport. Further seating was also available at basement level. In one corner of the ground floor was a small serving area, which included a counter, coffee making facilities, and ice creams. Beyond this there was a separate area which was modest in size and predominantly used for the storage of shisha pipes, with approximately 20-25 present at the time of my visit. There was no indication of any significant amount of food being stored or prepared in this area, or elsewhere on the premises.

11. Whilst it was clear that food and drink were available to purchase, there is no substantive evidence to show that the choice of food and drink available was anything other than limited. The evidence before me therefore indicates that the main reason for customers to visit the premises would be to smoke shisha.

12. The appellant has provided very little information about the shisha smoking activities themselves. Nevertheless, it is my understanding that it is essentially

smoking a heated flavoured tobacco through a device consisting of a bowl, water-filled base and a hose or pipe.

13. In my view, smoking shisha, as a physical activity, is not functionally related to eating and drinking. The smoking of a shisha pipe can take some time, and I find it likely that it will generate smells which differ from a restaurant/café and are particular to the shisha smoking use. I also acknowledge that restaurant/café customers may occasionally smoke cigarettes, however those customers would typically bring their own cigarettes to the premises and would spend far less time partaking in that activity. In my view, the smoking of shisha by customers attending the premises specifically for that purpose is a significantly different one in terms of scale and nature.

14. When taking into account the nature of the activity as set out above, along with the physical size of the appeal premises and its capacity for hosting shisha customers, I conclude that it is materially different to that of a restaurant/café.

15. In terms of the appellant's claim that shisha smoking can be considered "indoor recreation", I disagree. Whilst I do not dispute that customers would likely attend the shisha premises for "recreational" purposes, the same could be said for those attending a public house for a drink or carrying out many other activities in their own time. In my judgement Class E(d) is clearly aimed at indoor sporting, leisure, and fitness activities, such as a gymnasium or an indoor 5-a-side football pitch. To my mind the use as a shisha smoking place is materially different to any uses that would fall under Class E(d), or indeed any other limb of Class E, Part A of Schedule 2 of the UCO, and is instead a "sui generis"[1] use as alleged in the enforcement notice.

16. For the reasons set out above, I consider that the appellant has failed to show that the use of the premises as a shisha smoking place is not materially different to that of a restaurant/café. It is therefore apparent that the commencement of the shisha smoking use has resulted in a material change of use of the premises. It thereby constitutes the carrying out of development without planning permission, and hence is a breach of planning control. Accordingly, the appeal on ground (c) fails.

Appeal A on ground (a) – the deemed planning application, and Appeal B

17. In considering whether planning permission should be granted, the main issue in respect of both appeals is the effect of the development on the living conditions of neighbouring residents, with particular regard to noise, disturbance, and odour.

Living Conditions

18. In the immediate vicinity of the appeal site is Wilmslow Road, which is largely commercial in nature with an array of shops, bars, cafes and restaurants that make up what is known as the "Curry Mile", an area well known for its vibrant night-time economy. The appeal property itself is accessed via Park Crescent, which runs from Wilmslow Road to a roundabout which, along with its connecting streets, is for the most part made up of residential properties.

19. The appeal property, along with other buildings on Wilmslow Road, has residential accommodation above the ground floor level. Its location on Park Crescent also

[1] A "unique" use that does not fall within any particular Use Class

results in it being closer to neighbouring residential properties, including Hamilton Lodge, than many of the other commercial premises found on Wilmslow Road.

20. The Council considers that the levels of noise and disturbance arising from the shisha smoking use causes unacceptable harm to the living conditions of occupiers of neighbouring residential properties. Given the proximity of several residential units, there is clearly the potential for the use of the premises to have an impact upon residents living conditions. Whilst I acknowledge that their location in a busy urban setting, near to Rusholme District Centre, means that there will be a certain level of noise and disturbance expected, this does not preclude residential occupiers from being entitled to a reasonable standard of amenity.

21. The Council accepts that the smoking of shisha inside the premises will not result in undue harm to nearby residents. Given that planning conditions could restrict the opening hours and require the submission and implementation of a scheme for the extraction of any fumes and odours, I find no reason to disagree with this view.

22. However, the Council refer to the Health Act 2006 which prohibits smoking in an enclosed public space. In an attempt to overcome this matter, the Council say that the large sliding doors on the front elevation are opened, resulting in noise and odours emanating from the premises. It is further considered that patrons may congregate on the pavement outside the premises, which would further exacerbate any harmful impacts.

23. Given that the lawful use of the appeal site is a restaurant/café I consider it unlikely that the shisha smoking use would result in any significant increase in footfall, or associated comings and goings. I also acknowledge that the restaurant/café use could have generated noise and disturbance from people talking in the premises. Indeed, it may have been necessary for the previous restaurant/café to provide outdoor areas for people to smoke or sit, although I have been provided with no evidence to demonstrate any historic external seating area.

24. The appellant refers to a previous appeal decision at 119 Wilmslow Road[2] and contends that the legality of shisha smoking and whether it can take place indoors, in an enclosed space, is controlled by other legislation and is not for determination in these appeals. Whilst I agree that it is not for me to determine whether shisha smoking at the appeal premises would be breaking the law, it is important for me to understand how the use functions at the premises so I can give consideration to the planning merits of the appeals and assess any impacts.

25. Very little information has been provided to detail the shisha smoking activities that take place, or to rebut the Council's concerns regarding the sliding doors being left open and/or patrons congregating externally. In the absence of any evidence to the contrary, it is reasonable to assume that the shisha smoking use would often necessitate the sliding doors being open. I accept that, particularly during the summer months, a restaurant/café may also have chosen to have the sliding doors open. Nevertheless, in my view those occasions would have been far less frequent than the shisha smoking use, where patrons are more likely to choose to have the doors open later into the evening or outside of the summer months.

26. Consequently, when considering the nature of the shisha smoking use and the proximity of nearby residential properties, I consider that it has the potential for

[2] APP/B4215/C/18/3212030

noise and odour to emanate from the premises at levels which exceed those from the previous restaurant/café use. In the absence of any particular evidence or impact assessments regarding noise levels and odours that emanate from the premises, I cannot be certain that the use does not unacceptably harm the living conditions of occupiers of nearby residential properties, by way of noise and disturbance, or odour emanating from the premises.

27. I note the third-party representation from the neighbouring pharmacy which sets out that, in his view, the shisha smoking use has not resulted in an increase in noise levels. This though is contradicted by two other third-parties who highlight noise disturbance as an issue. The representation from the pharmacy also states that a noise impact assessment (NIA) was undertaken, however no NIA has been provided as part of these appeals.

28. Finally, the Council raised concerns regarding the use of the car parking spaces to the front of the property by patrons of the premises, with particular reference to noise and disturbance arising from the slamming of car doors, the starting of engines, and the playing of car radios. However, I find no reason why these car parking spaces would not be available and used by patrons of the premises if it was operating lawfully as a restaurant/café. Indeed, even if the premises was vacant, given the proximity to Wilmslow Road, I find it highly probable that the parking spaces would be utilised by patrons of other nearby businesses. I therefore see no reason why the use of the car parking spaces by patrons of the appeal premises would result in any greater level of noise and disturbance.

29. I therefore find that the continued use of the premises as a shisha smoking place would cause unacceptable harm to the living conditions of occupiers of neighbouring residential properties. The development is therefore contrary to Policies SP1 and DM1 of the Manchester Core Strategy Development Plan Document (CS) (adopted July 2012) and saved Policy DC26 of the Unitary Development Plan for the City of Manchester (UDP) (adopted July 1995). Together these policies seek, amongst other things, to ensure that developments make a positive contribution to the health, safety and wellbeing of residents, and do not lead to unacceptable adverse effects on amenity including from noise and odours.

30. The appellant has questioned whether the development plan policies are out of date for the purposes of determining the appeals, and in particular highlights saved Policy DC26 of the UDP. No substantive argument, other than its age given its adoption in 1995, has been provided to explain why the policy is out of date.

31. Paragraph 232 of the Framework states that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. It further sets out that due weight should be given to them, according to their degree of consistency with the Framework. Policy DC26 of the UDP seeks to ensure that developments do not have an unacceptably harmful noise impact on people living and working in the City. I find this to be highly consistent with paragraph 135 f) of the Framework which states that planning policies and decisions should create places that have a "*high standard of amenity for existing and future users".* I am therefore not persuaded by the appellant's argument, and I find that saved Policy DC26 is not out of date. I have therefore given the policy full weight in determining these appeals.

32. Whilst DC26 is an important policy in the determination of this appeal, there are other policies such as Policy DM1 of the CS which are just as important for the purposes of paragraph 11 d) of the Framework. Therefore, even if I had concluded that saved Policy DC26 was out of date, the "basket" of policies as a whole for the determination of the appeals are not out of date. Accordingly, paragraph 11 d) is not engaged.

Conclusion on Appeal A on ground (a), and Appeal B

33. For the reasons set out above the development causes harm to the living conditions of occupiers of neighbouring residential properties, and conflicts with the development plan when read as a whole. Material considerations, including the approach of the Framework, do not indicate that a decision should be taken other than in accordance with that plan. Having considered all matters raised, I therefore conclude that Appeal A on ground (a) should be dismissed, and planning permission be refused on the deemed planning application. For the same reasons, Appeal B is also dismissed.

Other Matters

34. In the appellants appeal submissions reference is made to several shisha smoking places in the vicinity of the appeal site. The Council though contend that many of these premises have now ceased trading, with only 72 and 119 Wilmslow Road being authorised. In any event, the existence of other shisha smoking places does not overcome the harm identified or justify the appeal development, which I have determined on its own merits.

Conclusion

35. Having considered all of the matters raised, I conclude that Appeal A does not succeed. I have upheld the enforcement notice and refuse to grant planning permission on the deemed application.

36. For the reasons given above, I conclude that Appeal B should be dismissed.

David Jones

INSPECTOR

EP2

Planning Inspectorate

Appeal Decision

Site visit made on 27 November 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/A5270/W/24/3348031
Darbar, 69 Hanger Lane, London, W5 1DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Saeed Azimi against the decision of the Council of the London Borough of Ealing.
- The application Ref is 240110FUL.
- The development proposed is described as "change of use of restaurant (class E) to a restaurant and shisha bar (sui generis); erection of a veranda and installation of a privacy screen at first floor, and associated works."

Decision

1. The appeal is allowed and planning permission is granted for change of use of restaurant (class E) to a restaurant and shisha bar (sui generis); erection of a veranda and installation of a privacy screen at first floor, and associated works at Darbar, 69 Hangar Lane, London, W5 1DP in accordance with the terms of the application, Ref 240110FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appellant has submitted an amended plan which details a 1100mm glass balustrade to the outdoor shisha area which was not on the plans before the Council. The amendment is minor as does not fundamentally alter the proposed development. I am therefore satisfied that no parties would be prejudiced by my taking this plan into consideration.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of nearby residents, with particular regard to noise and disturbance.

Reasons

4. The appeal site is located on Hanger Lane (A4005) a main route towards the north circular. The area has a mixed use, with commercial uses on the western side of the road and residential to the east. The appeal site, located on the western side of the road, comprises a two-storey semi-detached property. To the north lies a McDonalds, which operates 24 hours, to the west is a storage centre, and to the south is a laundrette and public house. To the east lies the A4005 (which has three lanes and a bus lane), with residential properties on Priory Gardens on the opposite side of the road to the appeal building.

5. The current operation comprises a restaurant on the ground and first floor, with a covered outside seating/smoking area to the front of the building, also

on the first floor. It is my understanding that the covered area is currently unauthorised. Apart form alterations to the first-floor outdoor terrace area, no other alterations to the restaurant element are proposed.

6. In respect of noise and disturbance, the Council's and interested parties' concerns relate to the use of the outdoor area for shisha and the noise and smoke that they consider would arise from this. The proposed shisha area would be set back from the edge of the first-floor terrace by a 1.1 metre balustrade and a 0.7 metre obscure glazed balustrade would be erected on the wall that encloses the outdoor area.

7. As part of their submission the appellant has provided an acoustic impact assessment and an odour assessment. The acoustic assessment concludes that, in a worst-case scenario, noise levels from the outdoor area would increase approximately 0.1dB above existing ambient noise levels. This assumes that the terrace is at operating capacity. Whilst this would be an increase in noise levels, it would only be a minor increase that would not lead to excessive noise levels or harm the living conditions of the occupiers of dwellings at Priory Gardens.

8. From the submissions it appears that complaints regarding noise from the first-floor terrace have been received by the Council. Through the imposition of conditions restricting the hours of operation this would ensure that the outdoor area is closed by a specific time, therefore safeguarding the living conditions of nearby residents.

9. In relation to odour, an odour assessment was submitted. As part of this a test event was undertaken and odour assessed at two locations at residential properties at Priory Gardens and near to the public house. No odour associated with the shisha terrace was perceptible. The odour assessment concluded that, due to the high number of existing odours surrounding the restaurant, including the McDonalds, public house and laundrette, the shisha smell would not be apparent. I have no evidence before me to dispute the conclusion of this assessment.

10. The appeal site is an existing restaurant with first floor and first floor terrace. The addition of an outdoor area and shisha use may increase the use of the first-floor terrace. However, the construction of glass balustrades, restriction of use of the balcony area outside the covered area and hours of operation condition would ensure that the proposed development would not have a harmful impact on the living conditions of the residents of Priory Gardens.

11. Taking the above into account, and the absence of an objection from the Council's Pollution/Health and Safety team, the evidence before me demonstrates that the proposal would not have a harmful impact on the living conditions of nearby residents, with regards to noise and disturbance.

12. The proposed development would not have a harmful impact on the living conditions of nearby residents. It would therefore comply with Policies 7.4 and 7A of the Ealing Development Management Development Plan Document (2013) and Policy 14 of the London Plan (2021). Together these seek to ensure that development do not erode the amenity of surrounding uses.

Conditions

13. The Council have provided a list of conditions and the appellant has had the opportunity to comment on these. Conditions relating to time limit and plan are necessary for certainty.

14. Conditions relating to external lighting, hours of operation/use, and restricting access to the balcony are necessary in order to safeguard the living conditions of nearby residents. I have had regard to the appellant comments regarding the setting up and clearing of the outdoor area, however adding additional time on to the hours of use could result on a creep of the use of the terrace further into the nighttime. I therefore consider the hours suggested by the Council to be acceptable.

15. The Council have requested conditions requiring the submission of an odour risk assessment, plant and machinery sounds levels and a noise, smell, and odour assessment. From reviewing the Council's reasoning, they consider these are necessary in order to protect the living conditions of nearby residents. The only physical alterations proposed as part of the development relates to the external terrace area and no alteration to the plant and machinery in use for the existing restaurant is proposed. The appellant has confirmed that no additional plant or machinery would be required for the shisha element of the proposal. As such I do not consider that an assessment of the existing plant and machinery is necessary.

16. In support of the appeal the appellant has provided a noise and odour assessment. These concluded that there would be no harm to nearby residents from the proposed development. As such, it is not necessary for additional surveys to be submitted.

17. I have amended conditions in order to comply with the Planning Practice Guidance.

Conclusion

18. For the reasons given above the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of conditions

1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans: Location Plan, AR-011 Revision 15, AR-111 Revision 17.

3) No external artificial lighting shall be installed until details of any external lighting have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

4) The external terrace at first floor shall not be used other than between the hours of 10:00 am and 23:00 pm. Outside of these hours, no activity, including the sale, purchase, or consumption of shisha, on the external terrace shall occur and any doors to this external area shall be locked. No amplified music shall be played at any time on the external terrace.

5) No access at any time shall be granted to the area identified on plan ref: AR-111 Revision 17 as "Balcony" and "Outdoor Green Area" and the vegetation proposed in this space shall remain in place in perpetuity.

6) The external terrace at first floor shall not be used until the 1.1m high balustrade identified on plan ref: AR-111 Revision 17 has been installed. The balustrade shall remain in place in perpetuity.

EP3

The Planning Inspectorate

Appeal Decision

Site visit made on 10 July 2019

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 August 2019

Appeal Ref: APP/B4215/C/18/3212030
Al Qaza Shisha and Coffee, 119 Wilmslow Road, Manchester, M14 5AN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Western Dell Limited against an enforcement notice issued by Manchester City Council.
- The enforcement notice was issued on 17 August 2018.
- The breach of planning control as alleged in the notice is the material change of use from a restaurant (A3) with flat above (C3) to a shisha smoking place (Sui Generis) and the erection of an external staircase and entrance to first floor level.
- The requirements of the notice are i. cease the use of the land as a shisha smoking place and remove all pipes, tobacco and associated paraphernalia; ii. Remove the external staircase shown on the attached photograph ENF/01 and return the property to its condition before the breach took place, indicated on the attached plan numbered 500638.010; iii. Remove all building materials, rubble and waste arising from carrying out the above steps.
- The period for compliance with the requirements is seven days.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d), (f) & (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed and the enforcement notice is quashed.

Preliminary matter

1. It has been brought to my attention that the red line on the plan attached to the notice does not enclose the area within which the staircase is located. However, there is a photograph of the staircase attached to the notice and there appears to be little doubt in the minds of the appellants as to what is intended to be enforced against. I can therefore correct the plan without injustice to the parties.

The appeal on ground (b)

2. By appealing on this ground, the appellants are arguing that whatever is alleged in the notice has not taken place. However, it is plain that shisha smoking takes place at the premises. The appellants' statement acknowledges this, the business name indicates such a use, the Council's evidence indicates such a use and I saw a large number of shisha pipes in the premises. The use as a shisha smoking place has occurred as a matter of fact and the appeal on ground (b) fails.

The appeal on ground (c)

3. The appellants argue that there has not been a breach of planning control as the use for shisha smoking is so similar in character to the authorised use as a restaurant (A3) that no material change of use has taken place. However, I do not need to consider that point under ground (c) as the appellants have not addressed the fact that the planning unit of the shisha smoking use enforced against extends to both the ground and first floors of the premises. The Council indicates that the authorised use of the first floor is as a flat (C3), a matter not disputed with any convincing evidence by the appellants. Planning permission is required for the material change of use from a flat to shisha smoking use. It is also required for the erection of the external staircase – there are no permitted development rights for such building operations. Accordingly, the appeal on ground (c) fails.

The appeal on ground (d)

4. Even if the external staircase is treated as a separate operational development, rather than as part of the material change of use, the appellants would have to demonstrate it had been substantially completed more than 4 years prior to the date of the notice, ie by 17 August 2014. The Google Streetview image provided by the Council shows no sign of the staircase in August 2014 and no contrary evidence is provided by the appellants to indicate a date of construction prior to the relevant date.

5. Turning to the shisha use, six statutory declarations have been provided, each saying that the individual signatory had visited the premises since January 2008 and had witnessed "that customer (sic) have been consuming food, non-alcoholic drinks and shisha". The declarations are in a virtually identical format. They do not indicate when, or how often, the signatories visited the premises and whether the observations related to the ground or first floor. They therefore lack the necessary precision to lend significant support to the appellants' case.

6. The Council has pointed to the lack of any advertising of shisha use and the lack of any evidence such as receipts and invoices for shisha paraphernalia from the relevant period. It seems unlikely that a business would not have access to such records. The onus is on the appellants to demonstrate, on the balance of probability, that the use has been operating continuously for more than 10 years and this they have clearly failed to do. The appeal on ground (d) fails.

The appeal on ground (a) and the deemed application

7. The main issues are the impact of the development i. on the vitality of Rusholme District Centre; ii. on the living conditions of neighbouring residents; iii. on the supply of dwellings in the area; and iv. on the health and wellbeing of staff and visitors.

Impact on Rusholme District Centre

8. Core Strategy Policies seek to achieve high quality neighbourhoods and also to support the character, vitality and viability of district centres. Policy C10 is supportive of leisure and the evening economy which does not diminish the role of the shopping area.

9. The appeal property is situated within Manchester's famous 'curry mile' which contains a high proportion of restaurants amongst other uses, including a substantial number of retail uses. The overall impression is of a vibrant economy. In the vicinity of the appeal site are several shisha smoking uses. A number of these are said by the Council to be unauthorised but planning permission was granted on appeal in April 2019 for a mixed use of restaurant and shisha café opposite the appeal site at 72 Wilmslow Road (Ref: APP/ B4215/W/18/3217729).

10. The development plan seeks a balanced mix of uses in the area. The authorised use of the ground floor of the appeal premises is as a restaurant and so there has been no loss of a retail use. The appeal decisions referred to by the Council appear to indicate that shisha smoking has normally been treated as a *sui generis* use, not falling into any use class. Nevertheless, there is food and drink on offer at the appeal premises, apparently incidental to the shisha smoking, and the use as a shisha café appears consistent with the distinctive café feel of the locality, complementing the mix of food, drink and shisha uses in the immediate area.

11. The Council has referred to the negative perception of shisha use and to its engendering a fear of crime, which would diminish the attractiveness of the locality. However, I have been provided with little evidence of such an adverse impact. Whether shisha establishment are unlicensed or otherwise in breach of the law is for the relevant enforcement agencies to pursue.

12. In conclusion, the proposal would not harm the overall character, vitality and viability of Rusholme District Centre and would not be in conflict with the relevant policies of the Development Plan which support a balanced evening and night time economy in the area.

Living conditions

13. Turning to the impact on the living conditions of nearby residents, there appear to be flats on the upper floors of the building to the north, no.117, albeit that they are currently vacant. This building is separated from the appeal premises by an alleyway. Some of the upper floors of the buildings on the opposite side of the road also appear to be in residential use. I can understand that, where shisha smoking is carried out in a partly open area, both the noise from customers and the distinctive odours from the shisha pipes are capable of causing disturbance to neighbouring residents. However, in this case, the use is entirely contained within the building and the impact is unlikely to be significantly greater than from the authorised restaurant use.

14. The bringing into use of the upper floor has greatly increased the capacity of the premises but the additional comings and goings of customers are in my view unlikely to be significant in the context of the acknowledged late night 'vibrancy' of the locality. Although some nearby premises have opening hours limited by planning conditions, it appears that many in the area do not. The external staircase appears to be for emergency egress only and, as such, any disturbance from its use would only be likely in exceptional circumstances.

Loss of Housing

15. Policy SP1 encourages the provision of diverse housing around district centres. The appellants have not disputed that the authorised use of the first floor is as

a flat. However, I have no information as to when it was last put to such use or as to the type/size of the flat. In such a busy location, with much late night activity, it would be unlikely to be suitable for family accommodation. I saw during my site visit that there was a bedsit with en-suite facilities at the rear of the first floor. In such a position, and with no independent access, it would only be suitable for use by a member of staff. Nonetheless, it provides useable living accommodation and, as such, there appears to be no serious conflict with Policy SP1.

Health

16. The National Planning Policy Guidance promotes healthy and safe communities. On the question of the health of customers and staff, there can be little doubt that smoking is not conducive to good health. Depending on the type of food sold, the appellants submit that the same consideration might apply to the authorised restaurant use. However, shisha smoking is not an unlawful activity. Whether it can be undertaken indoors, in an enclosed space, as at the appeal premises, is not for me to decide as it is not the role of the planning system to duplicate or impose more stringent controls on activities regulated under other legislation, such as the 2006 Health Act.

17. In conclusion, the development does not conflict with the aims of the development plan. Whilst I have some concern on the issue of health, that appears to me to be a matter more appropriately dealt with under the relevant legislation and control.

18. I have taken all other matters into account, including the claimed lack of waste storage. However, although the capacity of the premises has been greatly enlarged, the primary use for shisha smoking would not appear to generate significant additional waste, compared to the authorised restaurant use. I have seen no suggestion that planning conditions should be imposed. None of the matters raised is of sufficient weight to alter my conclusions on the main issues.

The appeal on grounds (f) & (g)

19. In the light of the above conclusion, there is no need to go on to consider these matters.

Formal Decision

20. It is directed that the enforcement notice be corrected by the deletion of the words ”edged red” and the substitution of the words ”edged and cross hatched black” in part 2 of the notice, and by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to these corrections, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out namely the use of land at 119 Wilmslow Road, Manchester, M14 5AN as a shisha smoking place and the erection of an external staircase and entrance to first floor level.

B.S.Rogers

Inspector

The Planning Inspectorate

Plan

This is the plan referred to in my decision dated: 5 August 2019

by B.S.Rogers BA(Hons) DipTP MRTPI

Land at: 119 Wilmslow Road, Manchester, M14 5AN

Reference: APP/B4215/C/18/3212030

Scale: nts



EP4

The Planning Inspectorate

Appeal Decision

Site visit made on 23 April 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2019

Appeal Ref: APP/B4215/W/18/3217729
72 Wilmslow Road, Manchester M14 5AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr Franco Gomez, Holarix Ltd against the decision of Manchester City Council.
- The application Ref: 121211/FO/2018, dated 10 September 2018, was refused by notice dated 5 November 2018.
- The development proposed is retrospective planning application for the retention of raised decking and balustrade to forecourt area, installation of removable screens and retractable awning to forecourt area and change of use from A3 restaurant to a mixed use of restaurant (A3) and shisha café (sui generis).

Decision

1. The appeal is allowed and planning permission is granted for retrospective planning application for the retention of raised decking and balustrade to forecourt area, installation of removable screens and retractable awning to forecourt area and change of use from A3 restaurant to a mixed use of restaurant (A3) and shisha café (sui generis) at 72 Wilmslow Road, Manchester M14 5AL in accordance with the terms of the application, Ref: 121211/FO/2018, dated 10 September 2018, and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: Block Plan; 18-09/01 Rev.A Existing Plans and Elevations.

    3) Details of cycle storage shall be submitted in writing to the Local Planning Authority within one month of the grant of consent. The approved details shall be implemented in full within six months of their approval, and retained whilst the use is in operation.

    4) Details of means to accommodate level access into the premises shall be submitted in writing to the Local Planning Authority within one month of the grant of consent. The details shall then be implemented within six months of their approval, and retained whilst the use is in operation.

Main Issue

2. The main issue is the effect of the proposed development on the character, vitality and viability of Rusholme District Centre.

Reasons

3. The appeal site comprises a restaurant, located within a 'parade' of businesses. A fixed canopy overhangs the parade's front forecourt area, which is substantially occupied by seating and tables. The proposal would add a shisha cafe use to the appeal site, a retractable awning in addition to the canopy, and removable screens around the seating area.

4. The area of Wilmslow Road around the appeal site has a diverse mix of businesses including restaurants, takeaways, jewellers, cafes, shisha cafes, food shops, wedding dress retail, pharmacy and opticians. The general impression is of a vibrant business scene with a substantial retail element.

5. Around just over half the businesses in the proposal's host parade are shisha premises, with the remainder including a mixture of eating places, takeaways, an optician and pharmacist. The parade appears vibrant with a distinctive cafe 'feel', which helps to animate the streetscene in front of the otherwise somewhat architecturally plain, postwar 'parade' building. I saw that cafes in the parade are used by a diverse range of customers in a diverse range of ways, with some using shisha, some partaking of food and drink, and some a combination of these. Within this context, I find that the proposal would not be discordant with the character and 'vibe' of the parade.

6. I appreciate the Council's wish to achieve a balanced mix of uses in the area, in order to support the character, vitality and viability of Rusholme District Centre. It is noted that the Council is concerned that the proposal would lead to an over-concentration of non-retail premises in the parade within Rusholme District Centre, to the detriment of the Centre. However, given the context described above, I find that the proposal would complement the parade's character and use, within the street's wider commercial scene. Accordingly, the proposal's contribution to a particular shisha 'flavour' to the parade would not be likely to harm the vibrancy of the parade, or the overall visitor appeal of the 'Curry Mile'.

7. In conclusion, the proposal would not harm the overall character, vitality and viability of Rusholme District Centre. As such, it would not conflict with Policies C2 and C10 of the Manchester Core Strategy (2012). Together the policies seek to ensure that development supports a balanced evening and night-time economy in the area, and contributes to the vitality and character of district centres.

Conditions

8. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case.

9. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. A condition regarding access is necessary

in the interests of accessibility. A condition relating to cycle storage is necessary in the interests of sustainable transport.

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed.

William Cooper

INSPECTOR

MANCHESTER CITY COUNCIL
Planning
Telephone: +44 (0)161 234 4516
planning@manchester.gov.uk
PO Box 532 Town Hall
Manchester M60 2LA

Application for Planning Permission.
Town and Country Planning Act 1990

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Site Address

Number	72
Suffix	
Property name	
Address line 1	Wilmslow Road
Address line 2	
Address line 3	
Town/city	Manchester
Postcode	M14 5AL

Description of site location must be completed if postcode is not known:

Easting (x)	385150
Northing (y)	395335

Description

2. Applicant Details

Title	Mr
First name	Franco
Surname	Gomez
Company name	Holarix Ltd
Address line 1	72, Wilmslow Road
Address line 2	
Address line 3	
Town/city	Manchester
Country	

2. Applicant Details

Postcode	M14 5AL
Primary number	
Secondary number	
Fax number	
Email address	

Are you an agent acting on behalf of the applicant? (•) Yes ( ) No

3. Agent Details

Title	Mr
First name	Darren
Surname	Pomfret
Company name	Darren Pomfret
Address line 1	8 Gas Street
Address line 2	Hollingworth
Address line 3	
Town/city	Hyde
Country	United Kingdom
Postcode	SK14 8JD
Primary number	07957360692
Secondary number	
Fax number	
Email	darrenpomfret@hotmail.co.uk

4. Site Area

What is the measurement of the site area? (numeric characters only).	104
Unit	sq.metres

5. Description of the Proposal

Please describe details of the proposed development or works including any change of use.

If you are applying for Technical Details Consent on a site that has been granted Permission In Principle, please include the relevant details in the description below.

Retrospective planning application for the retention of raised decking and balustrade to forecourt area, installation of removable screens and retractable awning to forecourt area and change of use from A3 restaurant to a mixed use of restaurant (A3) and shisha café (sui generis)

Has the work or change of use already started? (•) Yes ( ) No

5. Description of the Proposal

If yes, please state the date when the work or change of use started (date must be pre-application submission) DD/MM/YYYY	01/02/2018

Has the work or change of use been completed? ○ Yes ◉ No

6. Existing Use

Please describe the current use of the site

A3 cafe

Is the site currently vacant? ○ Yes ◉ No

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated ○ Yes ◉ No

Land where contamination is suspected for all or part of the site ○ Yes ◉ No

A proposed use that would be particularly vulnerable to the presence of contamination ○ Yes ◉ No

7. Materials

Does the proposed development require any materials to be used in the build? ◉ Yes ○ No

Please provide a description of existing and proposed materials and finishes to be used in the build (including type, colour and name for each material):

Doors	
Description of existing materials and finishes (optional):	Frameless glazed entrance screen
Description of proposed materials and finishes:	Aluminium framed sliding folding doors, colour graphite grey

Boundary treatments (e.g. fences, walls)	
Description of existing materials and finishes (optional):	Timber decking, stained grey Timber clad balustrade to perimeter of decking, stained grey
Description of proposed materials and finishes:	Timber decking, stained grey Timber clad balustrade to perimeter of decking, stained grey Toughened glass arch topped glazed screens to be secured above timber balustrade as per drawing, same to be removable for security when premises are closed.

Other type of material (e.g. guttering) Cassette type electric awning	
Description of existing materials and finishes (optional):	N/A
Description of proposed materials and finishes:	Projecting awning, case colour black to match existing fascia, awning fabric colour silver

Are you supplying additional information on submitted plans, drawings or a design and access statement? ◉ Yes ○ No

If Yes, please state references for the plans, drawings and/or design and access statement

Existing and proposed plans and design and access statement

8. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicular access proposed to or from the public highway? ○ Yes ◉ No

Is a new or altered pedestrian access proposed to or from the public highway? ○ Yes ◉ No

Are there any new public roads to be provided within the site? ○ Yes ◉ No

Are there any new public rights of way to be provided within or adjacent to the site? ○ Yes ◉ No

Do the proposals require any diversions/extinguishments and/or creation of rights of way? ○ Yes ◉ No

9. Vehicle Parking

Is vehicle parking relevant to this proposal? ○ Yes ◉ No

10. Trees and Hedges

Are there trees or hedges on the proposed development site? ○ Yes ◉ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character? ○ Yes ◉ No

If Yes to either or both of the above, you may need to provide a full tree survey, at the discretion of your local planning authority. If a tree survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

11. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.) ○ Yes ◉ No

If Yes, you will need to submit a Flood Risk Assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)? ○ Yes ◉ No

Will the proposal increase the flood risk elsewhere? ○ Yes ◉ No

How will surface water be disposed of?

- ☐ Sustainable drainage system
- ☐ Existing water course
- ☐ Soakaway
- ☑ Main sewer
- ☐ Pond/lake

12. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals. Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

a) Protected and priority species (see guidance note):

- ○ Yes, on the development site
- ○ Yes, on land adjacent to or near the proposed development
- ◉ No

b) Designated sites, important habitats or other biodiversity features (see guidance note):

12. Biodiversity and Geological Conservation

- ○ Yes, on the development site
- ○ Yes, on land adjacent to or near the proposed development
- ◉ No

c) Features of geological conservation importance (see guidance note):

- ○ Yes, on the development site
- ○ Yes, on land adjacent to or near the proposed development
- ◉ No

13. Foul Sewage

Please state how foul sewage is to be disposed of:

- ☑ Mains Sewer
- ☐ Septic Tank
- ☐ Package Treatment plant
- ☐ Cess Pit
- ☐ Other
- ☐ Unknown

Are you proposing to connect to the existing drainage system? ○ Yes ◉ No ○ Unknown

14. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? ◉ Yes ○ No

If Yes, please provide details:

As existing, secure refuse containers located to the rear of the site.

Have arrangements been made for the separate storage and collection of recyclable waste? ◉ Yes ○ No

If Yes, please provide details:

As existing, secure refuse containers located to the rear of the site.

15. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or trade waste? ○ Yes ◉ No

16. Residential/Dwelling Units

Due to changes in the information requirements for this question that are not currently available on the system, if you need to supply details of Residential/Dwelling Units for your application please follow these steps:

1. Answer 'No' to the question below;
2. Download and complete this supplementary information template (PDF);
3. Upload it as a supporting document on this application, using the 'Supplementary information template' document type.

This will provide the local authority with the required information to validate and determine your application.

Does your proposal include the gain, loss or change of use of residential units? ○ Yes ◉ No

17. All Types of Development: Non-Residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace? ◉ Yes ○ No

If you have answered Yes to the question above please add details in the following table:

17. All Types of Development: Non-Residential Floorspace

Use Class	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Total gross new internal floorspace proposed (including changes of use) (square metres)	Net additional gross internal floorspace following development (square metres)
A3 - Restaurants and cafes	85	37	0	-37
Other	0	0	37	37
Total	85	37	37	0

For hotels, residential institutions and hostels please additionally indicate the loss or gain of rooms:

18. Employment

Will the proposed development require the employment of any staff? (•) Yes ( ) No

Please complete the following information regarding employees:

Type	Full-time	Part-time	Equivalent number of full-time
Existing employees	1	2	

19. Hours of Opening

Are Hours of Opening relevant to this proposal? ( ) Yes (•) No

20. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

N/A

Is the proposal for a waste management development? ( ) Yes (•) No

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make it clear what information it requires on its website

21. Hazardous Substances

Is any hazardous waste involved in the proposal? ( ) Yes (•) No

22. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? (•) Yes ( ) No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

- (•) The agent
- ( ) The applicant
- ( ) Other person

23. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? (•) Yes ( ) No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title	
First name	
Surname	
Reference	72 Wilmslow Road

Date (Must be pre-application submission)

21/05/2018

Details of the pre-application advice received

Pre-application advice sought on the 21st May 2018 and 19th August 2018 no response todate

24. Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:
(a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

It is an important principle of decision-making that the process is open and transparent. ( ) Yes (•) No

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

25. Ownership Certificates and Agricultural Land Declaration

CERTIFICATE OF OWNERSHIP - CERTIFICATE A - Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/the applicant was the owner* of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding**

*** 'owner' is a person with a freehold interest or leasehold interest with at least 7 years left to run. ** 'agricultural holding' has the meaning given by reference to the definition of 'agricultural tenant' in section 65(8) of the Act.**

NOTE: You should sign Certificate B, C or D, as appropriate, if you are the sole owner of the land or building to which the application relates but the land is, or is part of, an agricultural holding.

Person role

( ) The applicant
(•) The agent

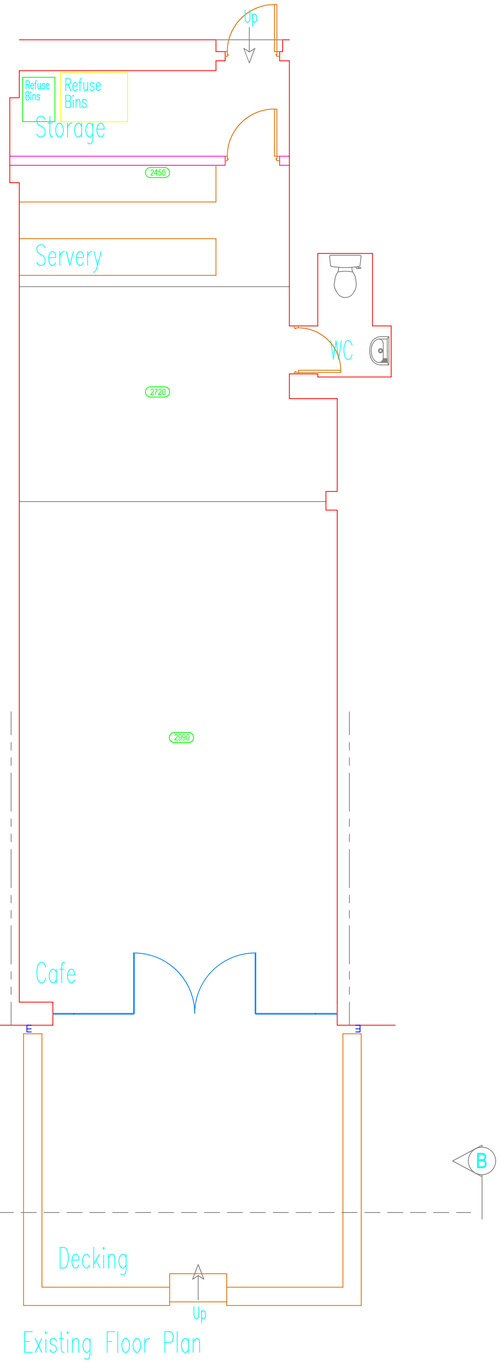
Title	Mr
First name	Darren
Surname	Pomfret
Declaration date (DD/MM/YYYY)	10/09/2018

☑ Declaration made

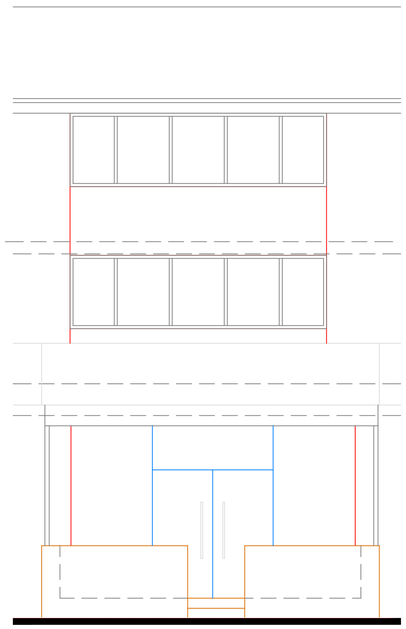
26. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them. ☑

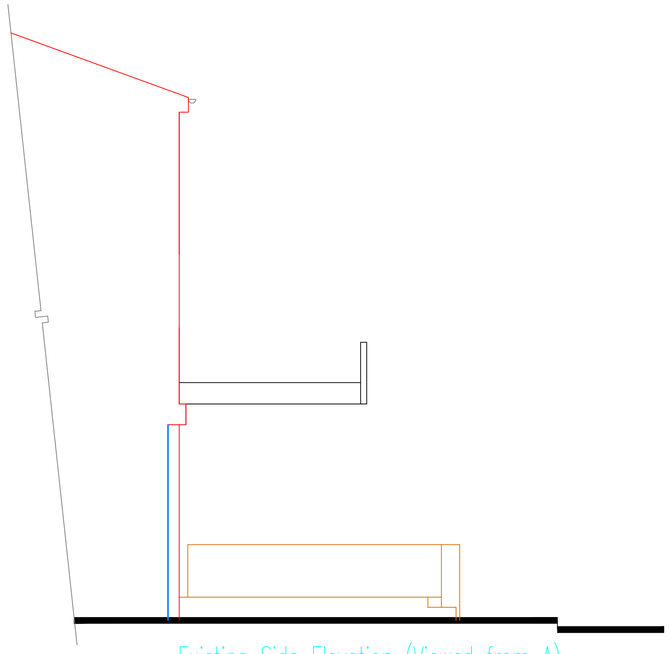
Date (cannot be pre-application)	10/09/2018



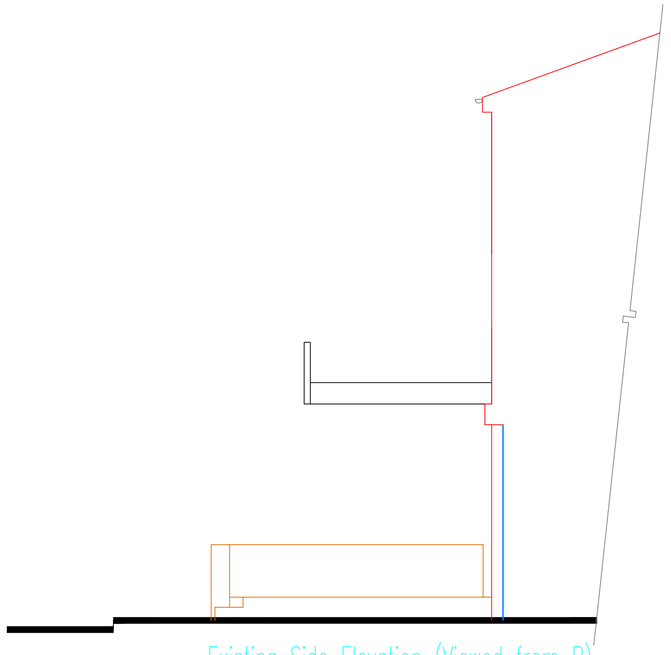
Existing Floor Plan



Existing Front Elevation (Wilmslow Road)



Existing Side Elevation (Viewed from A)



Existing Side Elevation (Viewed from B)

GENERAL
No dimensions are to be scaled from this drawing, the contractor is to check and verify all building and site dimensions, levels, drainage locations / invert levels at connection points before work commences.

This drawing must be read with and checked against any structural, specialist and architectural drawings provided / required, the contractor is to comply in all respects with the current Building Regulations whether or not specifically stated on these drawings.

The contractor shall investigate the locations of all domestic services and allow for any necessary modifications to same to complete the project.

Before work commences ensure all Planning conditions and Building Regulation conditions have been resolved to the satisfaction of the Local Authority.

All works to comply with BS8000 series, all materials to be used and installed in accordance with the relevant manufacturers instructions and recommendations.

These drawings have been prepared only for the purposes of obtaining Local Authority approval.

The contractor is to notify Building Control at the appropriate stages in construction necessary for them to determine the works statutory compliance.

Should the indicated thermal elements be altered at the construction stage the contractor must seek prior approval from the Building Control Officer.

The contractor shall inspect all adjoining properties which may be affected by the works prior to commencement of the works and record and report with the respective owners any defects.

All drainage lines are assumed and shall be confirmed by the client / contractor prior to commencing the works / finalising costings. The client / contractor shall establish the classification of the drains in accordance with the Water Industry Regulations 2011 and if deemed public sewers obtain all necessary permissions / diversions etc. from the relevant utility company / building control officer

PARTY WALL etc ACT
The building owner shall serve notice on all adjoining owners who will be affected by the proposed works as detailed under the Party Wall Act 1996 and receive written consents or appoint surveyors to determine a party wall award, before such works commence on site.

CDM - REGULATIONS
The client MUST avail themselves of their Legal Duties to comply with the CDM Regulations 2015 by visiting the following HSE website http://www.hse.gov.uk/pubns/indg411.htm and the requirements to appoint a Principle Designer and a Principle Contractor for works to commercial properties, and notify the HSE using an F10 form if the project extends to more than 30 days in duration with more than 20 operatives on site at any one time / or will involve more than 500 person days of work. For Domestic clients (those persons engaging services to be undertaken on their own home) the duties under the CDM Regulations are to be undertaken by the Contractor (or in the case where there is more than one contractor, the Client MUST appoint one contractor to undertake the role of Principle Contractor who will have the responsibility to co-ordinate all H&S matters across all contractors involved in the project.

The client has NOT appointed myself as the Designer / Pricple Designer to undertake the duties required under this role as required under the CDM Regulations 2015. The client is aware of their Legal Duty to appoint a competent person to undertake this role in good time BEFORE the construction works commence on site to ensure that the project has been effectively planned, managed, monitored and co-ordinated with respect to Health and Safety matters.

The client must ensure that all appropriate pre-construction information is obtained and provided in good time to the Contractors / Principle Contractors BEFORE construction activities commence on site and the Principle Contractor MUST prepare a suitable Construction Phase Plan on ALL projects BEFORE works commence on site.

CDM - DESIGNERS RESIDUAL RISK ASSESSMENT
No asbestos survey has been undertaken and a level 3 intrusive survey must be undertaken prior to commencing works, should any asbestos containing materials be identified then appropriate action must be taken by licensed contractors to remove any risk to the contractors / occupants / members of the public.In addition to the level 3 survey the contractor shall report any materials which he suspects may contain asbestos and ensure that samples of same are tested for the presence of asbestos.

All demolition works to be undertaken by CITB operatives using appropriate temporary supports. The contractor shall ensure that means of escape are maintained throughout the construction project. All construction activities are to be adequately segregated from members of the public and any occupiers of the building / adjacent properties in accordance with HSG 151 Protecting The Public.

No services investigations have been carried out, the contractor must undertake "dial before you dig", tel 0844 800 9957, investigations before commencing excavations on site.

All works at height to be undertaken from appropriate working platforms.

The contractor shall programme the works and undertake all necessary temporary measures to maintain the means of escape for the premises throughout the project.

All electrical works to be undertaken in accordance with BS7671 and the latest IEE Regulations, all installations to be inspected and certified by NICEIC / ECA registered engineers. A CO detector shall be installed in each room containing a gas appliance and a smoke detector shall be placed on each floor in all properties offered for rent from 1st October 2015.

All works to gas appliances / pipework / fittings to be undertaken by appropriately licensed engineers who are part of the Gas Safe Register.

BOUNDARIES
The client shall confirm the exact position of legal boundaries, any boundaries shown on these drawings are notional / as advised by the client and must be accurately established before any construction works commence. The client shall obtain all necessary consents from adjoining owners should access be required to their property.

FIRE PROTECTION LEGEND
SD/HD Smoke/Heat detector + sounder
FE Fire Exit door + panic ironmongery
FD30S Fire door, 30min rating + smoke seals
CO2 W 2kg CO2 or 9L water extinguisher
Maintained emergency light
Fire blanket
EE Maintained emergency exit sign

Rev.	Mod. Notes	Date	By
A	Issued for comment	May 18	DAP

Client
Holarix Ltd

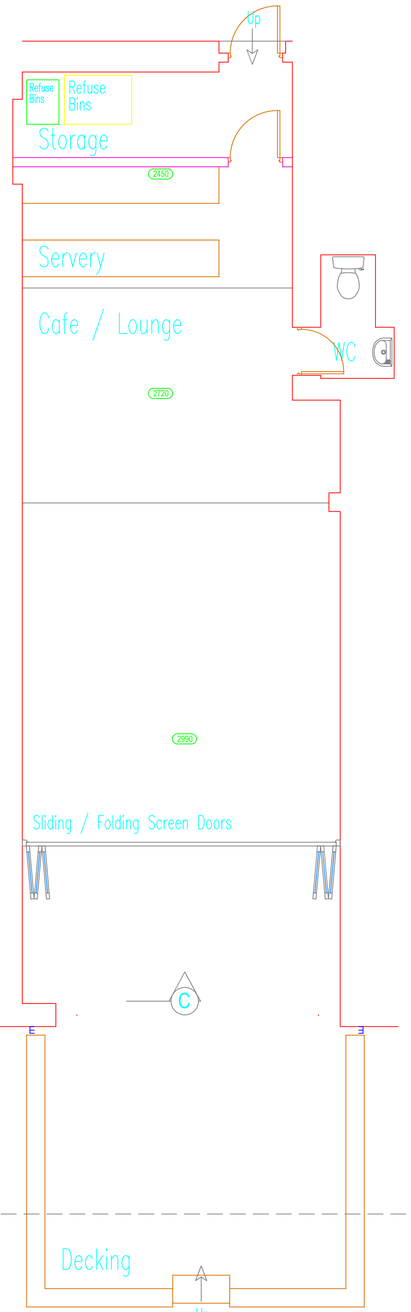
Location
72 Wilmslow Road
Manchester M14 5AL

Job Title
Proposed alterations

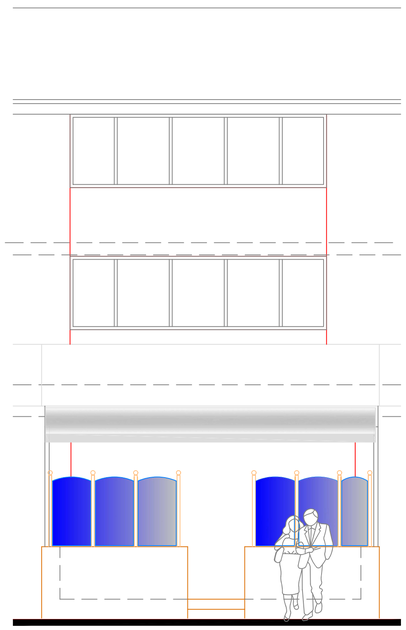
Drawing Title
Existing Plans and Elevations

Scale 1:50
Sheet A1
Date May 18
Drawn by DAP

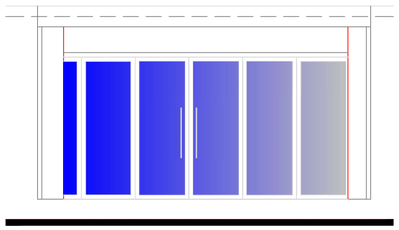
Dwg. No. 18-09/01
Rev. A



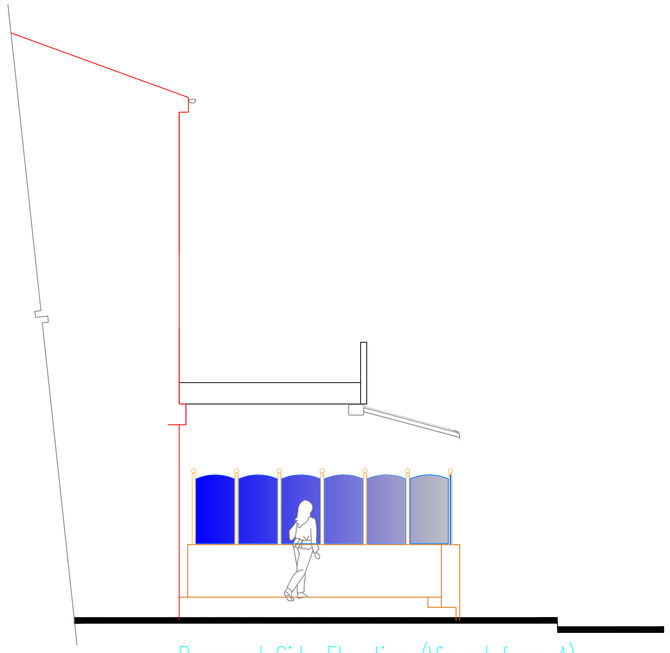
Proposed Floor Plan



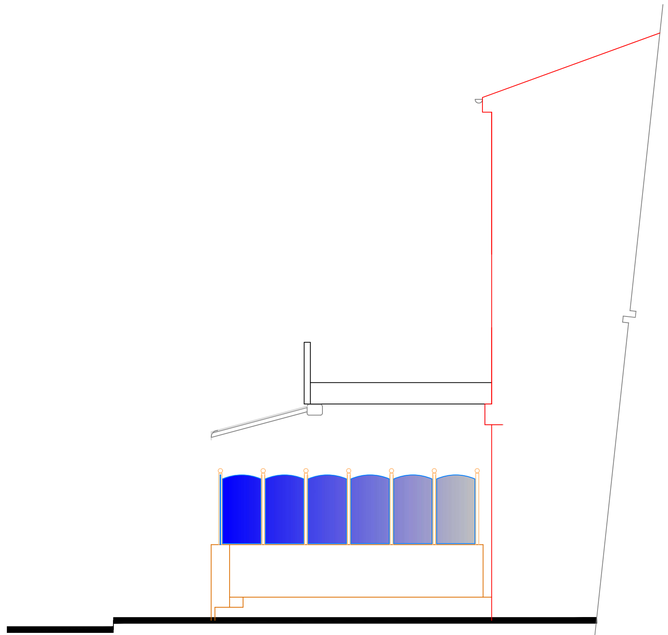
Proposed Front Elevation (Wilmslow Road)



Proposed Front Elevation (Viewed from C)



Proposed Side Elevation (Viewed from A)



Proposed Side Elevation (Viewed from B)

GENERAL
No dimensions are to be scaled from this drawing, the contractor is to check and verify all building and site dimensions, levels, drainage locations / invert levels at connection points before work commences.

This drawing must be read with and checked against any structural, specialist and architectural drawings provided / required, the contractor is to comply in all respects with the current Building Regulations whether or not specifically stated on these drawings.

The contractor shall investigate the locations of all domestic services and allow for any necessary modifications to same to complete the project.

Before work commences ensure all Planning conditions and Building Regulation conditions have been resolved to the satisfaction of the Local Authority.

All works to comply with BS8000 series, all materials to be used and installed in accordance with the relevant manufacturers instructions and recommendations.

These drawings have been prepared only for the purposes of obtaining Local Authority approval.

The contractor is to notify Building Control at the appropriate stages in construction necessary for them to determine the works statutory compliance.

Should the indicated thermal elements be altered at the construction stage the contractor must seek prior approval from the Building Control Officer.

The contractor shall inspect all adjoining properties which may be affected by the works prior to commencement of the works and record and report with the respective owners any defects.

All drainage lines are assumed and shall be confirmed by the client / contractor prior to commencing the works / finalising costings. The client / contractor shall establish the classification of the drains in accordance with the Water Industry Regulations 2011 and if deemed public sewers obtain all necessary permissions / diversions etc. from the relevant utility company / building control officer

PARTY WALL etc ACT
The building owner shall serve notice on all adjoining owners who will be affected by the proposed works as detailed under the Party Wall Act 1996 and receive written consents or appoint surveyors to determine a party wall award, before such works commence on site.

CDM - REGULATIONS
The client MUST avail themselves of their Legal Duties to comply with the CDM Regulations 2015 by visiting the following HSE website http://www.hse.gov.uk/pubns/indg411.htm and the requirements to appoint a Principle Designer and a Principle Contractor for works to commercial properties, and notify the HSE using an F10 form if the project extends to more than 30 days in duration with more than 20 operatives on site at any one time / or will involve more than 500 person days of work. For Domestic clients (those persons engaging services to be undertaken on their own home) the duties under the CDM Regulations are to be undertaken by the Contractor (or in the case where there is more than one contractor, the Client MUST appoint one contractor to undertake the role of Principle Contractor who will have the responsibility to co-ordinate all H&S matters across all contractors involved in the project.

The client has NOT appointed myself as the Designer / Pricple Designer to undertake the duties required under this role as required under the CDM Regulations 2015. The client is aware of their Legal Duty to appoint a competent person to undertake this role in good time BEFORE the construction works commence on site to ensure that the project has been effectively planned, managed, monitored and co-ordinated with respect to Health and Safety matters.

The client must ensure that all appropriate pre-construction information is obtained and provided in good time to the Contractors / Principle Contractors BEFORE construction activities commence on site and the Principle Contractor MUST prepare a suitable Construction Phase Plan on ALL projects BEFORE works commence on site.

CDM - DESIGNERS RESIDUAL RISK ASSESSMENT
No asbestos survey has been undertaken and a level 3 intrusive survey must be undertaken prior to commencing works, should any asbestos containing materials be identified then appropriate action must be taken by licensed contractors to remove any risk to the contractors / occupants / members of the public.In addition to the level 3 survey the contractor shall report any materials which he suspects may contain asbestos and ensure that samples of same are tested for the presence of asbestos.

All demolition works to be undertaken by CITB operatives using appropriate temporary supports. The contractor shall ensure that means of escape are maintained throughout the construction project. All construction activities are to be adequately segregated from members of the public and any occupiers of the building / adjacent properties in accordance with HSG 151 Protecting The Public.

No services investigations have been carried out, the contractor must undertake "dial before you dig", tel 0844 800 9957, investigations before commencing excavations on site.

All works at height to be undertaken from appropriate working platforms.

The contractor shall programme the works and undertake all necessary temporary measures to maintain the means of escape for the premises throughout the project.

All electrical works to be undertaken in accordance with BS7671 and the latest IEE Regulations, all installations to be inspected and certified by NICEIC / ECA registered engineers. A CO detector shall be installed in each room containing a gas appliance and a smoke detector shall be placed on each floor in all properties offered for rent from 1st October 2015.

All works to gas appliances / pipework / fittings to be undertaken by appropriately licensed engineers who are part of the Gas Safe Register.

BOUNDARIES
The client shall confirm the exact position of legal boundaries, any boundaries shown on these drawings are notional / as advised by the client and must be accurately established before any construction works commence. The client shall obtain all necessary consents from adjoining owners should access be required to their property.

FIRE PROTECTION LEGEND
SD Smoke/Heat detector + sounder
FE Fire Exit door + panic ironmongery
FD30S Fire door, 30min rating + smoke seals
2XW 2kg CO2 or 9L water extinguisher
Maintained emergency light
Fire blanket
EE Maintained emergency exit sign

Rev.	Mod. Notes	Date	By
A	Issued for comment	May 18	DAP

Client
Holarix Ltd

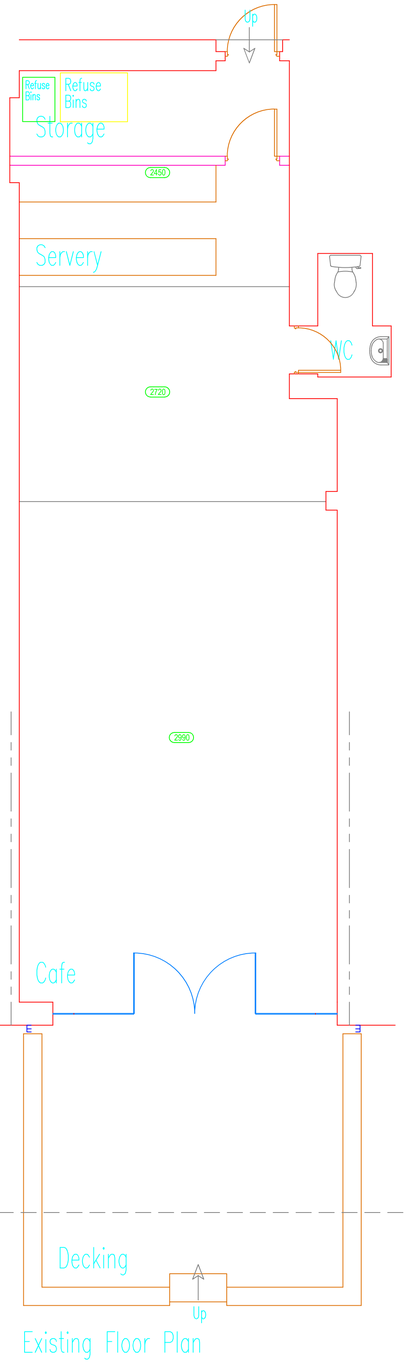
Location
72 Wilmslow Road
Manchester M14 5AL

Job Title
Proposed alterations

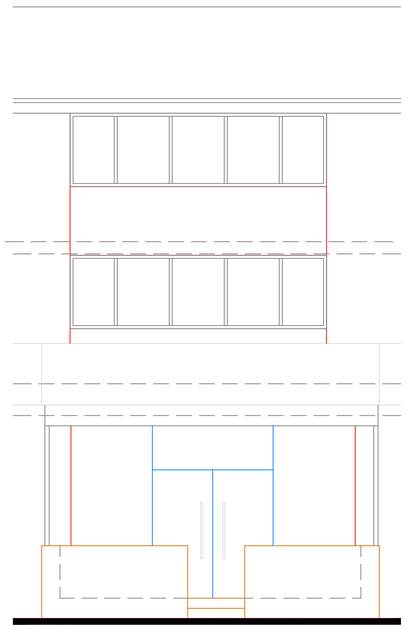
Drawing Title
Proposed Plans and Elevations

Scale 1:50	Sheet A1
Date May 18	Drawn by DAP

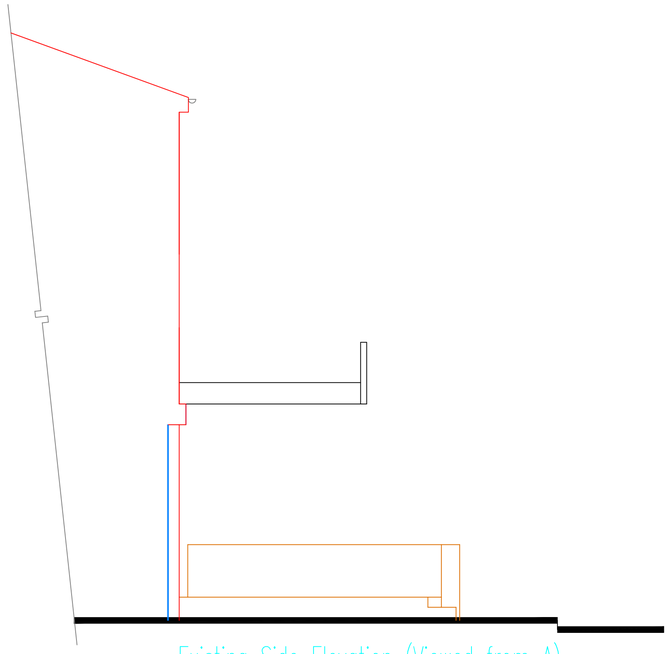
Dwg. No.	Rev.
18-09/02	A



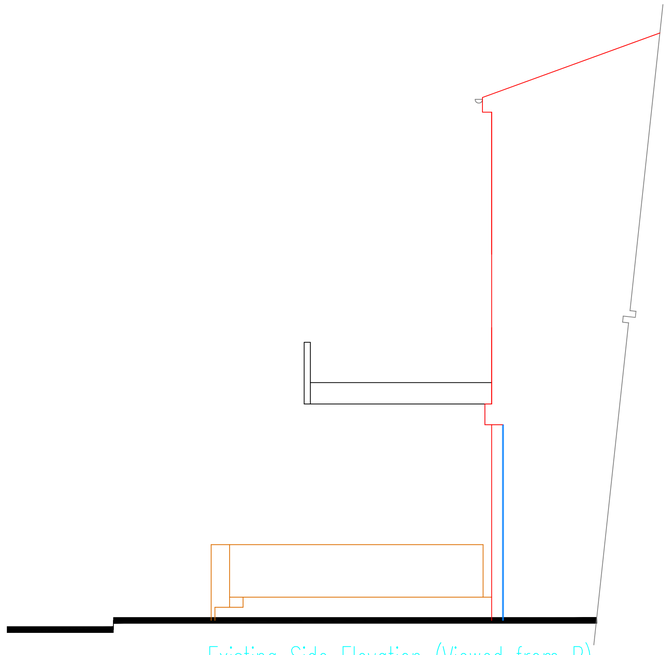
Existing Floor Plan



Existing Front Elevation (Wilmslow Road)



Existing Side Elevation (Viewed from A)



Existing Side Elevation (Viewed from B)

GENERAL
No dimensions are to be scaled from this drawing, the contractor is to check and verify all building and site dimensions, levels, drainage locations / invert levels at connection points before work commences.

This drawing must be read with and checked against any structural, specialist and architectural drawings provided / required, the contractor is to comply in all respects with the current Building Regulations whether or not specifically stated on these drawings.

The contractor shall investigate the locations of all domestic services and allow for any necessary modifications to same to complete the project.

Before work commences ensure all Planning conditions and Building Regulation conditions have been resolved to the satisfaction of the Local Authority.

All works to comply with BS8000 series, all materials to be used and installed in accordance with the relevant manufacturers instructions and recommendations.

These drawings have been prepared only for the purposes of obtaining Local Authority approval.

The contractor is to notify Building Control at the appropriate stages in construction necessary for them to determine the works statutory compliance.

Should the indicated thermal elements be altered at the construction stage the contractor must seek prior approval from the Building Control Officer.

The contractor shall inspect all adjoining properties which may be affected by the works prior to commencement of the works and record and report with the respective owners any defects.

All drainage lines are assumed and shall be confirmed by the client / contractor prior to commencing the works / finalising costings. The client / contractor shall establish the classification of the drains in accordance with the Water Industry Regulations 2011 and if deemed public sewers obtain all necessary permissions / diversions etc. from the relevant utility company / building control officer

PARTY WALL etc ACT
The building owner shall serve notice on all adjoining owners who will be affected by the proposed works as detailed under the Party Wall Act 1996 and receive written consents or appoint surveyors to determine a party wall award, before such works commence on site.

CDM - REGULATIONS
The client MUST avail themselves of their Legal Duties to comply with the CDM Regulations 2015 by visiting the following HSE website http://www.hse.gov.uk/pubns/indg411.htm and the requirements to appoint a Principle Designer and a Principle Contractor for works to commercial properties, and notify the HSE using an F10 form if the project extends to more than 30 days in duration with more than 20 operatives on site at any one time / or will involve more than 500 person days of work. For Domestic clients (those persons engaging services to be undertaken on their own home) the duties under the CDM Regulations are to be undertaken by the Contractor (or in the case where there is more than one contractor, the Client MUST appoint one contractor to undertake the role of Principle Contractor who will have the responsibility to co-ordinate all H&S matters across all contractors involved in the project.

The client has NOT appointed myself as the Designer / Pricple Designer to undertake the duties required under this role as required under the CDM Regulations 2015. The client is aware of their Legal Duty to appoint a competent person to undertake this role in good time BEFORE the construction works commence on site to ensure that the project has been effectively planned, managed, monitored and co-ordinated with respect to Health and Safety matters.

The client must ensure that all appropriate pre-construction information is obtained and provided in good time to the Contractors / Principle Contractors BEFORE construction activities commence on site and the Principle Contractor MUST prepare a suitable Construction Phase Plan on ALL projects BEFORE works commence on site.

CDM - DESIGNERS RESIDUAL RISK ASSESSMENT
No asbestos survey has been undertaken and a level 3 intrusive survey must be undertaken prior to commencing works, should any asbestos containing materials be identified then appropriate action must be taken by licensed contractors to remove any risk to the contractors / occupants / members of the public.In addition to the level 3 survey the contractor shall report any materials which he suspects may contain asbestos and ensure that samples of same are tested for the presence of asbestos.

All demolition works to be undertaken by CITB operatives using appropriate temporary supports. The contractor shall ensure that means of escape are maintained throughout the construction project. All construction activities are to be adequately segregated from members of the public and any occupiers of the building / adjacent properties in accordance with HSG 151 Protecting The Public.

No services investigations have been carried out, the contractor must undertake "dial before you dig", tel 0844 800 9957, investigations before commencing excavations on site.

All works at height to be undertaken from appropriate working platforms.

The contractor shall programme the works and undertake all necessary temporary measures to maintain the means of escape for the premises throughout the project.

All electrical works to be undertaken in accordance with BS7671 and the latest IEE Regulations, all installations to be inspected and certified by NICEIC / ECA registered engineers. A CO detector shall be installed in each room containing a gas appliance and a smoke detector shall be placed on each floor in all properties offered for rent from 1st October 2015.

All works to gas appliances / pipework / fittings to be undertaken by appropriately licensed engineers who are part of the Gas Safe Register.

BOUNDARIES
The client shall confirm the exact position of legal boundaries, any boundaries shown on these drawings are notional / as advised by the client and must be accurately established before any construction works commence. The client shall obtain all necessary consents from adjoining owners should access be required to their property.

FIRE PROTECTION LEGEND
SD/HD Smoke/Heat detector + sounder
FD30S Fire door, 30min rating + smoke seals
Maintained emergency light
EE Maintained emergency exit sign
FE Fire Exit door + panic ironmongery
CO2 W 2kg CO2 or 9L water extinguisher
Fire blanket

Rev.	Mod. Notes	Date	By
A	Issued for comment	May 18	DAP

Client
Holarix Ltd

Location
72 Wilmslow Road
Manchester M14 5AL

Job Title
Proposed alterations

Drawing Title
Existing Plans and Elevations

Scale 1:50
Sheet A1
Date May 18
Drawn by DAP

Dwg. No. 18-09/01
Rev. A

DESIGN AND ACCESS STATEMENT

On Behalf of Holarix Ltd

PROPOSAL

Retrospective planning application for the retention of raised decking and balustrade to forecourt area, installation of removable screens and retractable awning to forecourt area and change of use from A3 restaurant to a mixed use of restaurant (A3) and shisha café (sui generis)

LOCATION

72 Wilmslow Road
Manchester
M14 5AL

1. INTRODUCTION AND BACKGROUND

a. The property is located within a parade of commercial premises in the heart of Rusholme.

b. The property includes a forecourt area adjacent to the Wilmslow Road elevation which abuts the public footpath serving same.

c. The forecourt is currently surfaced with timber decking which has been installed at a level to correspond with the existing ground floor of the premises.

d. A timber clad balustrade has also been installed around the perimeter of the forecourt in order to provide separation from the public footpath and the adjacent premises.

e. The forecourt provides a place where customers can consume food and drink whilst smoking shisha.

f. The proposal is to seek retrospective consent for the retention of the decking and balustrade, install an electric retractable cassette type awning, see photographs of typical installations.



Glazed screens used in conjunction with pavement licenses in the City



Projecting cassette type awning

2. USE

a. The proposal is to use the external areas for customers who wish to consume food and drink and if they wish traditional shisha. The internal areas will be used for customers who wish to consume food and drink, and or electronic shisha.

b. The proposed opening hours for premises are as follows :-

Sunday to Thursday – 08:00 to 01:00
Friday to Sunday – 08:00 to 02:00



Electronic shisha

3. THE APPLICATION

a. The application has been made following the LPA serving an Enforcement Notice on the premises.

b. The LPA gave a written assurance by email dated 6th March 2018 that if the drapes to the front of the property, the masonry extension and timber link at the rear of the property and goods stored within the container removed that the Enforcement Notice would be withdrawn.

c. The required actions were undertaken, which the LPA has acknowledged, however the LPA have chosen not to withdraw the Enforcement Notice.

d. A scheme was prepared to obtain pre-application advice and submitted to the LPA on the 21st May 2018.

e. A follow up email was issued to the LPA on the 19th August 2018 requesting a response to the request for pre-application advice.

f. At the time of this application there has been no response to the requests for pre-application advice and therefor the application is now being submitted without the benefit of same.

4. ACCESS

a. The entrance is off Wilmslow Road, with the internal floor level of the building being approximately 250mm higher than the outside ground level.

b. The timber decking has been positioned at a level to correspond with the existing floor level and is therefor again approximately 300mm higher that the public footpath adjacent to Wilmslow Road, necessitating 2 small steps to negotiate the transition in levels.

c. Staff will be on hand to provide assistance to any customers who wold have difficulty negotiating the steps adjacent to Wilmslow Road.

d. A hearing induction loop will be provided within the premises to aid customers with impaired hearing.

e. The colours of door furniture / nosings of steps / floor, wall and ceiling junctions will be of contrasting colours to aid those with visual impairment.

emery
PLANNING

2-4 South Park Court, Hobson Street
Macclesfield, Cheshire, SK11 8BS

+44 (0)1625 433 881

Regus House, Herons Way
Chester Business Park, CH4 9QR

+44 (0)1244 732 447

emeryplanning.com