

Application Number	Date of Appln	Committee Date	Ward
119951/FO/2018	11 th July 2018	14 th Mar 2019	Didsbury West

Proposal Use of ground floor and basement as Class A3 (cafe) and change of use of first floor and roofspace to form self-contained flat, with installation of new shop front consisting bi-folding doors, extraction flue to the side and associated elevational alterations. (Cafe opening hours:- Sundays to Thursdays 8.00am to 6pm, Fridays and Saturdays 8.00am to 8pm)

Location 10 Whitechapel Street, Manchester, M20 6UB

Applicant Mr Paul Smith, 10 Whitechapel Street, Manchester, M20 6UB

Agent Mr Karl Robinson, Kreative Design Solutions Limited, The Studio, 4 Canmore Close, Bolton, BL3 4TN

Description

10 Whitechapel Street is a two storey end-terraced property located on the edge of Didsbury District Centre. The property was formerly used as a sandwich shop but is now fully operational as a café (Class A3). Whitechapel Street runs from Wilmslow Road to Churchwood Road and consists predominantly of residential properties, namely two storey terraced dwellings and a larger 3 storey apartment complex. To the east of the property there is a car park that serves the commercial properties on Wilmslow Road. Immediately adjoining it there is a dwellinghouse (no. 12 Whitechapel Road). Opposite the site there is a turning head. Whitechapel Street is bollarded off approximately a quarter of the way along from the Wilmslow Road end, immediately to the east of the application property. This allows access to the rear of the commercial properties on Wilmslow Road and prevents rat-running along Whitechapel Road.

The applicant is using the basement and ground floor of the property as a café, with the basement being used to prepare the food and the ground floor housing the counter and seating areas. The applicant is also proposing to create a 2 bed self-contained flat on the first floor and in the roof space. Previously the first floor and roof space had been used as kitchens and ancillary accommodation (office and storage) for the previous sandwich shop use.

The applicant has also installed a replacement shop front consisting of bi-folding doors.

The applicant is also proposing to install two new windows at first floor level to the proposed landing and living room; two windows in the side elevation facing the rear of the Wilmslow Road commercial properties; a new entrance door to the W.C. and two roof lights on the rear roof slope. In addition, the applicant is seeking consent retrospectively for the installation of an extraction flue on the side elevation.

Originally the applicant proposed to open the café from 8.00am to 8.00pm seven days a week but has since amended the opening hours to the following:

- Sundays to Thursdays 8.00am to 6pm
- Fridays and Saturdays 8.00am to 8pm

Consultations

Local Residents – Letter of objection have been received from four households, the comments are detailed below:

- The current and long-standing position regarding no.10 Whitechapel Street is as a Class A1 use that operates between 8.00am to 6.00pm Mondays to Saturdays only, with no refuse collection between 6.00pm to 8.00am. Nothing has changed in the period up to 2018 to alter the requirement for tight control of opening hours, relating to commercial activity at no.10. None of the nearby residential housing has moved further away, or changed over to commercial usage. The site remains extremely sensitive in terms of footfall/litter/noise concerns. The only notable difference is that there are now bollards across Whitechapel Street, with a related vehicle turning area created. These features now place no.10 on the 'residential' side of an obvious east/west divide between commercial and residential properties in this part of Didsbury. There may therefore be a case now in 2018, for removing commercial permissions altogether from no.10. And thereby aligning use of no.10 with the other residential properties, on the west side of the bollards.
- It is understood that the new 2018 operators will be Caramello, the ice-cream vendors who until recently had a shop on the corner of Whitechapel Street and Wilmslow Road. Caramello have the potential to be fine as neighbours on this street, and in their case, it should be possible to fit the commercial operation into what is otherwise a residential location.
- The operation of this business should not be a problem under the currently granted permissions and conditions. Class A1 use, covering what is fundamentally an ice cream shop, does not seem unreasonable. If opening hours do stray outside of the formally-permitted times, this is unlikely to annoy neighbours and trigger complaints.
- No. 10 has in the past operated quietly as a sandwich shop, with A1 class permission. This form of commercial operation - being relatively subdued in nature - was fairly compatible with the residential nature of the location.
- The problem in allowing a Class A3 on the site with longer opening hours is that Caramello may not be the tenants here forever and future tenants may exploit the full possibilities of a Class A3 use. A burger bar, for example, would potentially result in much more late-night footfall/noise/litter than generated by an ice cream shop. A burger bar would be completely unsuited to Whitechapel Street, yet the Council may struggle to prevent the future establishment of such an operation, once a Class A3 use is granted.
- The installation of bi-folding doors and the placing of tables and chairs on the pavement will further exacerbate the problems of noise associated with a commercial use on a residential street.
- The proposed flue is out of keeping with the area and is unsightly.

- It is not an appropriate use given the location of the property on a residential road and its proximity to dwellinghouses.
- The other commercial properties on Whitechapel Street are at the other end of the road and separated from the houses by the public car parks that serve the Wilmslow Road premises.
- The property was originally used as a Class A1 retail property, the proposed change of use will have a negative impact on the residents of Whitechapel Road.
- Whitechapel Street is a residential street and no. 10 Whitechapel street formerly operated as a sandwich shop with restricted hours and also with restricted shop window lighting. The new opening hours completely goes against the grain of these set hours. The new owners used to operate in Didsbury high street and used the pavement to serve customers with the weekends being extremely busy. There is no mention of this practice in their planning application and as such there is concerns that the street will become crowded with people loitering late at weekends.
- The new owners have recently replaced the shop fixed window with a sliding open window which will also open up the shop to more noise. There has been no consideration from the new owners to the needs of the neighbours and residents in this residential street.
- This is a residential street, Caramello is a cafe selling ice cream which by nature will attract a younger age group and crowd.
- Parking is limited on the street already and with the planned opening hours this will almost certainly become a huge problem.

Councillor John Leech – The following comments have been received from the councillor:

- There is general support for Caramello taking over at this location, but some concern about the potential for other restaurants and cafés, which may be more disruptive, to use the site. Is a Class A3 use required for the business, could it not operate on the existing Class A1 use?
- If Class A3 use is required it should only be recommended for approval on the basis of the hours stated given the potential for residential disamenity at night. This would at least give some defence against any future attempt at extending the hours

Highway Services – Highway Services have made the following comments:

- The site is considered to be suitably accessible by sustainable modes and is in close proximity to a range of public transport facilities.
- It is anticipated that the proposals are unlikely to generate a significant increase in the level of vehicular trips therefore they do not raise any network capacity concerns.
- No vehicle parking is being offered as part of this development that lies within a district centre and which has a high demand for on-street parking from visitors and from residents from early evening and overnight. It is therefore recommended that some cycle storage is provided for this development for the use of staff, customers and residents.

- The waste management proposals to store waste to the rear of the property and present for collection from the forecourt is acceptable to Highways. It is anticipated that the waste collection vehicle will continue to service this property from the section of Whitechapel Street which has access from Wilmslow Road.
- No servicing details have been provided and it is recommended that any deliveries are undertaken from the section of Whitechapel Street which has access from Wilmslow Road to avoid unnecessary disturbance to residents.
- Pedestrian access to the cafe and the self-contained flat is proposed from separate access points from Whitechapel Street which is acceptable to Highways.
- Reinstatement of the lightwell requires further details which will need to be checked by the structural team within Highways Services.

Environmental Health – Suggests the imposition of a number of conditions (operating hours, fume extraction, refuse storage and noise insulation) designed to protect residential amenity.

Policies

The National Planning Policy Framework (February 2019) – The National Planning Policy Framework (NPPF) sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

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

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 180 states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions. The policy continues stating that in doing so Councils should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid

noise giving rise to significant adverse impacts on health and the quality of life.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below:

Policy SP1, *Spatial Principles* – This sets out the key spatial principles which will guide the strategic development of Manchester to 2027, of relevance to this application are:

- New development will maximise the potential of the City's transport infrastructure, in particular promoting walking, cycling and use of the public transport. The extension to the Metrolink network through the Oldham and Ashton lines will create key corridors for new development.

Core Development Principles, Development in all parts of the City should:-

- Make a positive contribution to neighbourhoods of choice including:-
 - i) Creating well designed places that enhance or create character.
 - ii) Making a positive contribution to the health, safety and wellbeing of residents
 - iii) Considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.
 - iv) Protect and enhance the built and natural environment.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.
- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

Policy DM1, *Development Management* – This policy states that all development should have regard to the following specific issues (of relevance to this application) for which more detailed guidance may be given within a supplementary planning document:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.

- 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.

Saved UDP Policy DC10, *Food and Drink Uses* – This policy states under DC10.1 that in determining planning applications for developments involving the sale of food or drink for consumption on the premises, or for hot food to be consumed off the premises, the Council will have regard to:

- a. the general location of the proposed development, including any reference to the area in other policies in the Plan;
- b. the effect on the amenity of neighbouring residents;
- c. the availability of safe and convenient arrangements for car parking and servicing;
- d. ease of access for all, including disabled people; and
- e. the storage and collection of refuse and litter.

Under section DC10.2 the policy states that the Council will normally accept the principle of developments of this kind in the City Centre, industrial and commercial areas, in shopping centres and, at ground level, in local shopping parades of more than 8 shops or offices.

Under section DC10.3 the policy states that this form of development will not normally be permitted where:

- a. it is proposed outside the general locations mentioned above, or
- b. there is a house or flat on the ground floor next to the proposed business, or only separated from it by a narrow street or alleyway.

Saved UDP Policy DC14, *Shop Fronts and Related Signs* – This policy states under DC14.1 that in determining applications for shop fronts, security grilles and canopies, the Council will seek to ensure that proposals are in keeping with the character of the building and adjoining buildings, of adjoining shopfronts, where appropriate, and of the area within which the premises are located.

Under section DC14.2 the policy states that shopfronts should allow full access for people whose mobility is impaired. The only exceptions which the Council will normally permit are where the cost is unreasonably high or where there are particularly difficult physical constraints, or where the architectural character of a listed building would be damaged.

Under sections DC14.3 and DC14.4 the policy states that externally mounted security grilles or shutters will not normally be permitted if they are of solid construction and that the boxes housing the grille or shutter should wherever possible be located behind the fascia.

Issues

Principle of the Proposal – Given the previous commercial use on the site the principle of proposal is considered acceptable. Notwithstanding this, given the predominantly residential nature of the street and the different levels of activity associated with a café in comparison to a retail use, the impact upon the existing levels of amenity enjoyed by the residents of Whitechapel Street must be assessed.

Use Class Clarification – 10 Whitechapel Street has previously been in use as a sandwich shop (Class A1) and following that as an unauthorised hot food take-away (Class A5). As this material change of use had already been undertaken it was not possible to obtain a temporary two year change of use under the Permitted Development Order procedure. In addition, as the unauthorised change of use to a hot food take-away (Class A5) had taken place, the applicant was not able to apply, via the Prior Approval Notification process, for the change of use from the sandwich shop (Class A1) to the Class A3 (café).

The unauthorised hot food take-away use ceased without any formal intervention by the Council and as a result there is no automatic right to revert to the immediate lawful use as that permission is considered spent. A new planning permission is therefore required for any use such as the Class A3 café now proposed.

Residential Amenity – Local residents have raised a number of concerns about the impact upon their amenities, namely noise and activity associated with the café use and the impact of servicing and deliveries, especially given that it is located at the end of a row of terraced houses. These issues, along with privacy and noise from plant/machinery, are dealt with in turn:

Noise from the Proposed Use – The sandwich shop that previously operated out of no. 10 Whitechapel Street was limited to the following hours under planning permission 076119/FO/2005/S2:

- Monday to Friday 8:00am to 6:00pm,
- Saturday 8:00am to 5:00pm.

The proposed hours for the opening of the café are as follows:

- Sundays to Thursdays 8.00am to 6pm
- Fridays and Saturdays 8.00am to 8pm

The proposed hours from Mondays to Thursdays are the same as previously allowed on the site, while the proposed opening hours for Fridays and Saturdays are two and three hours longer respectively. While these hours of opening are not too dissimilar to those attached to the former sandwich shop use it is acknowledged that the proposal introduces activity to the premises on a Sunday. Notwithstanding this, it is considered that the opening hours are modest and with the imposition of a number of conditions (condition nos. 4 to 8) any impact can be managed.

Bi-folding Doors and External Seating – Concerns have been raised about potential noise when the bi-folding doors are opened and the external seating area (two tables and eight seats) is in use. It is not anticipated that their use will prove an issue, given the restrictive hours of opening and the acoustic insulation condition (condition no. 8) suggested by Environmental Health. It should also be noted that Environmental Health have not raised any objections to the insertion of the bi-folding doors as they believe that condition no.8, which requires the submission of a noise survey and implementation of any remediation if required, will be sufficient to overcome any concerns.

Noise from motor vehicles – It is anticipated that the majority of customers will arrive by foot due to the location of the property in relation to the Didsbury District Centre. As a result, it is not considered that the level of motor vehicle related noise (engines revving, doors slamming etc.) experienced on this part of Whitechapel Road will be exacerbated. It is not anticipated that the proposed use will generate any more traffic than the previous commercial uses that operated from there.

Deliveries and Servicing – Deliveries and waste collection will take place via the eastern end of Whitechapel Street and will be limited to between 7.30am to 8.00pm Mondays to Saturdays (condition no. 5). Given the hours proposed, and the fact the activity will be limited to the more commercial end of Whitechapel Street, it is not considered that the activity associated with deliveries and waste collection will have a detrimental impact upon existing levels of residential amenity.

Noise from Plant and Machinery – Two air-conditioning units are located on the side elevation of the two storey outrigger. To ensure that they do not impact upon local residents Environmental Health have recommended that they be acoustically insulated (condition no. 7). It is considered that this will limit their impact and ensure the units do not have a detrimental impact upon the levels of amenity enjoyed by neighbouring residents.

Impact Upon Privacy – Given the location of the proposed windows it is not considered that their installation will have a detrimental impact upon the levels of privacy enjoyed by adjoining residents.

Fumes and Odours – The imposition of the standard fume extraction condition will ensure that any impact from fumes and odours associated with the café use will be controlled. An extraction flue has been installed at the side of the property and runs the full height of the building to ensure that any disamenity resulting from fumes and odours is kept to a minimum.

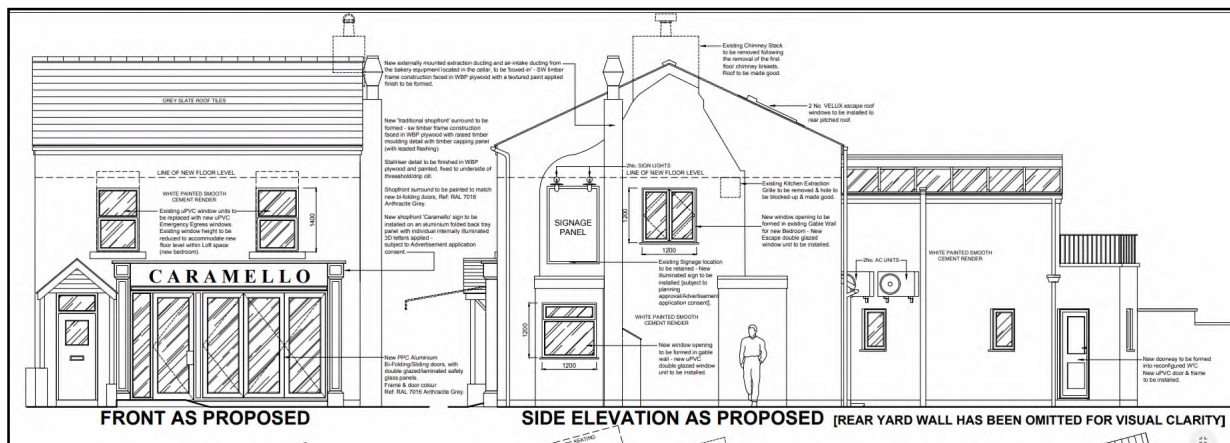
Visual Amenity – It is not considered that the proposed elevational alterations, i.e. the new shop front, windows and rooflights, will have a detrimental impact upon the levels of visual amenity enjoyed along Whitechapel Street and within the vicinity of the site.

The boxing-in of the flue at the side of premises is acceptable in principle as it will screen the large metal tubing. However, the materials used, namely painted marine plywood is not considered acceptable and for this reason the applicant submitted a scheme for its render in order that it blends in with the existing side elevation. This approach is considered acceptable and its implementation is the subject of condition no. 10. The boxed-in flue can be seen below:



Pedestrian and Highway Safety – It is not considered that the proposal will generate significant vehicular trips to Whitechapel Street as due to its proximity to Didsbury District Centre the majority of customers will arrive by foot. In addition, servicing of the property will take place from the eastern section of Whitechapel Street, i.e. the section accessed from Wilmslow Road and bollarded off from the rest of the street. Given the above, it is not considered that the proposal will have a detrimental impact upon the existing levels of pedestrian and highway safety enjoyed along the western section of Whitechapel Street.

Design – The proposed shopfront, which has been partially implemented, will consist of bi-folding doors framed by pilasters and topped by a retractable awning and fascia sign. The associated elevational alterations consist of two new windows at first floor level to the proposed landing and living room; two windows in the side elevation facing the rear of the Wilmslow Road commercial properties; a new entrance door to the W.C., two roof lights on the rear roof slope and the boxed-in extraction flue on the side. The alterations to the building are shown below:



The new shopfront and associated elevational alterations are considered acceptable and will not have a detrimental impact upon the levels of residential and visual amenity enjoyed within the vicinity of the site. A condition (condition no. 10) will require the applicant to render the enclosed flue on the side elevation so that its external treatment is more in keeping with the remainder of the side elevation.

Waste and Recycling – The proposed waste and recycling facilities are as follows:

Residential:

- 3 x 140 litre wheeled bins (general refuse, pulpable recycling and mixed recycling) stored in the rear yard.
- 1 x 23 litre caddy for food waste and stored within the kitchen of the flat.

Commercial:

- 4 x 140 litre wheeled bin (general refuse, pulpable recycling, mixed recycling and food waste) stored in the rear yard.

The submitted Waste Management Strategy is considered acceptable and its implementation is the subject of condition no. 9.

Crime and Anti-Social Activity – Access to the proposed flat will be via a separate entrance from the Whitechapel Street frontage which is considered acceptable. The proposed café use does not raise significant crime and anti-social activity concerns.

Conclusion

The property does have a history of commercial use since the original planning permission in 1986 (025690 - alterations to form a retail shop on ground floor and self-contained flat at first floor) and its continued use adds to the district centre offer.

It is considered that with restrictive conditions, e.g. hours of operation and fume/odour extraction and impact upon existing residents can be managed and kept to a minimum.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation APPROVE

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner to resolve any problems arising in relation to dealing with the planning application.

Conditions to be attached to the decision

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

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

- a) Drawing no. KDSWCS01 revision C, stamped as received on 9th May 2018
- b) Drawing no. KDSWCS02 revision B, stamped as received on 11th June 2018
- c) Drawing no. KDSWCS03, stamped as received on 21st May 2018
- d) Site and Location Plans, stamped as received on 9th May 2018

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

3) The premises shall not be open outside the following hours unless otherwise agreed in writing by the City Council as local planning authority:-

Sundays to Thursdays - 8.00am to 6.00pm,
Fridays and Saturdays - 8.00am to 8.00pm.

Reason - To safeguard the amenities of the occupiers of nearby and adjoining residential accommodation, pursuant to Policy DM1 in the Core Strategy Development Plan Document.

4) Deliveries, servicing and collections, including waste collections shall not take place outside the following hours:

Mondays to Saturdays - 7.30am to 8.00pm,

Reason - To safeguard the amenities of the occupiers of nearby residential accommodation, pursuant to Policy DM1 in the Core Strategy Development Plan Document

5) Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with a scheme to be submitted to and approved in writing by the City Council as local planning authority before the use commences; any works approved shall be implemented before the use commences.

Reason - In the interests of the amenities of occupiers of nearby properties, pursuant to Policy DM1 in the Core Strategy Development Plan Document

6) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. The scheme shall be submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the site.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to Policy DM1 in the Core Strategy Development Plan Document

7) The premises shall be acoustically insulated and treated to limit the break out of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority within 28 days of the date of this planning permission. The scheme shall be implemented in full within a timetable to be agreed in writing or as otherwise agreed in writing by the City Council as local planning authority.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to Policy DM1 in the Core Strategy Development Plan Document

8) The basement accommodation, as detailed on drawing no. KDSWCS02d, stamped as received on 24th January 2019, shall be used solely as a kitchen and for food preparation.

Reason - In the interests of residential amenity and to prevent the over intensification of the use, pursuant to Policy DM1 in the Core Strategy Development Plan Document

9) The Waste Management Strategy, stamped as received on 21st May 2018, shall be implemented as part of the development and shall remain in situ whilst the use is in operation.

Reason - In the interests of amenity and public health, pursuant to Policy DM1 in the Core Strategy Development Plan Document

10) Within three months of the date of the planning permission hereby granted, the external flue, as shown on drawing no. KDSWCS02 revision D, stamped as received on 24th January 2019, shall be rendered in accordance with the details shown on drawing no. KDSWCS04, stamped as received on 12th February 2019.

Reason - In the interests of visual amenity, pursuant to Policy DM1 in the Core Strategy Development Plan Document.

Local Government (Access to Information) Act 1985

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 119951/FO/2018 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

The following residents, businesses and other third parties in the area were consulted/notified on the application:

Didsbury Civic Society

A map showing the neighbours notified of the application is attached at the end of the report.

Relevant Contact Officer : David Lawless
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 Application site boundary  Neighbour notification
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