

## List No. 1

<b>Withington Ward</b>	<b>Application Number</b> 081983/FO/2007/S1	<b>Date of Appln</b> 23rd Jan 2007	<b>Committee Date</b> 15th Mar 2007
<b>Proposal</b>	Creation of a timber deck to side and rear, alterations to elevations including formation of a new door, installation of a retractable awning to side elevation and free standing awning at rear of property		
<b>Location</b>	351-353 Wilmslow Road, Fallowfield, Manchester, M14 6XS,		
<b>Applicant</b>	Hydes Brewery 46 Moss Lane West, Manchester, M15 5PH,		
<b>Agent</b>	2C Design Consultants Design Hub, Puma Way, Coventry, Warwickshire, CV1 2TT		

### Description

This application relates to a large public house in the District Centre accommodated in a two storey detached building with dormers to the front, side and rear elevations located at the junction of Wilmslow Road and Egerton Road. The site has existing front, side and rear outdoor seating areas with umbrellas provided for shelter and associated carparking. This part of the area is popular and vibrant with several late night opening food and drink uses which stretch North towards the City Centre and South towards Withington Village. The area is well provided in terms of shopping and offers a varied range of uses. However, to the side and rear down Egerton road there are residential properties which stretch along Egerton Road on both sides. To the North of the site is new a mixed use development comprising of shops, offices with residential above. The front of the site on Wilmslow Road faces a parade of shops varying in uses from retail (A1) to takeaways (A5).

The applicant has indicated that they propose to continue their commitment for improving facilities by upgrading the side and rear external areas. The applicant proposes these changes to allow accessibility to all external and internal areas whilst also providing, what they describe as, a discrete outdoor smoking area for its customers.

The Construction will be an 'L' shaped timber deck terrace area with access from existing French doors to the South West and South East elevations where there is currently a balcony. The decked area will adjoin the existing building at a height of 1.6m reducing to 1.3m and cover an area of 55m<sup>2</sup>. The retractable awning on the South West elevation will be at a height of 3.9m. The awning will be 6m by 3m covering and area of 18m<sup>2</sup> when fully extended. The rear free standing awning will be a height of 4.3m with a length and width of 5m by 5m covering an area of 25m<sup>2</sup>. They propose to create a new door opening on the East elevation by converting the existing window opening. Adjacent is an existing door which, they propose to create a new window opening.

The current hours of opening on the premises are Monday to Thursday 10.00am to 12.00am. Friday and Saturday 10.00am to 1.00am. Sunday 10.00am to 11.30pm.

### Consultations

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Local Residents - 2 letters of objection have been received the main concerns are:

- 1) Objection to the construction of a raised terrace for a drinking area.
- 2) Outlook on Egerton Road will be very noticeable.
- 3) The raised decking will provide increased noise suffered by the residents whose houses and flats are adjacent to or overlook the premises.
- 4) Egerton Road is used continuously by pedestrians and whereas drinkers at pavement level are partially hidden by the boundary wall, those on the terrace will be above the pedestrians and will increase the noise levels becoming a nuisance to the passers by and the properties on this part of Egerton Road.
- 5) Currently there is a raised terrace fronting onto the corner of Wilmslow Road and it is not particularly pleasant to walk past when there are a lot of customers drinking and smoking.

Ward Members - Councillor Alison Firth, Councillor Audrey Jones and Councillor Simon Wheale have expressed some concerns regarding this application. Their objections are as follows:

- 1) Additional noise and disturbance to local residents with regards to additional outdoor drinking areas.
- 2) More people drinking outside as a result of decking and awning.
- 3) The provision of additional decking and awning is designed to enable more people to drink outside the building and, in fact, by raising up the tier there will be noise passing above and below the outdoor levels.
- 4) There is already adequate provision on both sides of the building for outdoor drinking and that to add another tier to the building with the amendment of French windows, leading to more drinking and thus the additional problems that this will cause to local residents living nearby.
- 5) This is overdevelopment of the site.

Licensing Unit - Licensing have provided a list of authorised Licence activities for the following:

- Sale by retail of alcohol
- Live Music
- Recorded Music
- Provision of entertainment facilities for making music
- Provision of facilities for dancing
- Provision of late night refreshment
- Hours premises are open to the public

Any relevant restrictions have been covered by conditions.

Environmental Health - Have no objections to the proposal in principle, however they do have the following comments:

The development is most likely to lead to an increase in the number of people using the external drinking area, in particular when the smoking ban comes into force. Environmental Health have concerns about noise causing disamenity to residents of nearby residential accommodation. To minimise noise from the premises they would recommend that all windows and doors be kept closed during regulated entertainment, except for access and egress. This is to safeguard the amenities of the occupiers of nearby residential properties.

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The hours of use for the external drinking areas are restricted on the Premises Licence to Monday to Saturday 11.00am to 11.30pm. Sunday 11.00am to 11.00pm.

### Issues

Unitary Development Plan - The proposal has been considered with reference to UDP Policy H2.2, which states that the Council will not allow development, which will have an unacceptable impact on residential areas, policy D10 which looks to protect the amenity of residential accommodation from the adverse impact of food and drink uses and policy DC26 which seeks to protect residential accommodation from excessive noise arising from new developments. The matters, which the Council will consider in coming to such decisions, will include the scale and appearance of the Development and the potential for increased noise.

Principle of the proposal - This is a long standing A4 Drinking Establishment with no planning controls over the use of its outside areas for drinking. It is located in a District Shopping centre where residents would not normally aspire to the same levels of residential amenity as residents in a suburb. Whilst the broad principle of the proposed works is therefore considered acceptable, the carrying out of the proposed development will improve outside drinking facilities and encourage such activity. There is therefore potential for an increase in noise and a consequential loss of amenity to the fringe residential areas to the east of the site. Conversely, granting permission would enable appropriate planning controls, in addition to licensing conditions, to be imposed of the outside areas subject to this application.

Disabled Access - No issues have been raised.

Design - The design of the proposed deck and canopies is considered appropriate to the location.

External Seating Areas - At present there are already external seating areas to the front side and rear of the building with umbrellas to provide some shelter. The design of the new proposal seeks to provide an elevated timber deck with a retractable awning to the side elevation with access from the building onto the new terrace and down to the external seating areas and an awning covering an already existing outdoor seating area. There is no overall increase in the amount of outside seating.

Residential amenity - the site is located within a District Shopping Centre, however there are residential areas to the rear, and consequently there is potential for increased noise having a detrimental affect on the amenity of those areas. The Head of Environmental Health advises that any loss of amenity can be resolved through applying conditions.

Opening Hours - to be as imposed by Licensing

Conclusion - It is understood that there is currently a degree of activity already around the site during operating hours. The proposal would not, therefore introduce an entirely new circumstance to the area. It is also acknowledged that there will not be an increase in the seating areas at the front, side or rear of the premises. It is considered that the most affected properties would be the

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dwellinghouses directly opposite the site to the side and rear. Although there will be some impact upon the level of residential amenity, it is not sufficiently detrimental to the amenities of the area to warrant refusal, the recommendation is made accordingly.

**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 Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these Articles on the applicant(s)/objectors/residents 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. He believes that any restriction on these rights posed by 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**

On the basis that the proposal is in accord with the City Council's Unitary Development Plan in particular policies H2.2, DC10 and DC26 and there are no material considerations of sufficient weight to indicate otherwise.

### **Conditions and/or Reasons**

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) Construction of the works hereby approved by this permission shall not take place until samples and specifications of the materials to be used on all external elevations of the development have been submitted to and approved in writing by the City Council as local planning authority. The development shall be constructed only using the approved materials unless otherwise agreed in writing by the City Council as local planning authority.

Reason

To ensure that the appearance of the development is acceptable to the City Council as local planning authority in the interests of the visual amenity of the area within which the site is located.

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3) The development hereby approved shall be carried out in accordance with the drawings numbered 2CD-0186, 1 of 4, 2 of 4 and 4 of 4 stamped as received by the Local Planning Authority on 23rd January 2007, unless otherwise agreed in writing by the City Council as local planning authority.

### Reason

To ensure that the development is carried out in accordance with the approved plans as specified in the Policy H2.2 and in the interests of the visual amenity of the area within which the site is located, specified in the Unitary Development Plan for the City of Manchester.

4) Use of the outside beer garden & patio area to be restricted to the hours of :

Monday to Saturday 11.00am to 11.30pm

Sunday 11.00am to 11.00pm

To safeguard the amenities of the occupiers of nearby accommodation, pursuant to Policies H2.2, DC10 and DC26 in the Unitary Development Plan for the City of Manchester.

5) No amplified music shall be played outside the premises at any time and should be restricted to indoors only

### Reason

To safeguard the amenities of the occupiers of nearby residential accommodation.

6) All doors facing residential accommodation on the South and East elevations shall be fitted with and retained at all times with Self Closing doors.

### Reason

To safeguard the amenities of nearby residential accommodation pursuant to H2.2, DC10 and DC26 of the Unitary Development Plan for the City of Manchester.

7) All windows and doors should be kept closed during regulated entertainment, except for access and egress.

### Reason

To safeguard the amenities of the occupiers of nearby residential properties.

## 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: 081983/FO/2007/S1 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 all held by the Planning Division.

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

Licensing Unit  
Rusholme & Fallowfield Civic Society  
Clifton Avenue Residents Association  
2 Egerton Road, Manchester, M14 6XW  
Bungalow, St John House, Egerton Road, Manchester, M14 6XW  
3 The Coach House, Egerton Road, Manchester, M14 6XY  
The Coach House, Egerton Road, Manchester, M14 6XY  
318 Wilmslow Road, Manchester, M14 6XQ  
312A Wilmslow Road, Manchester, M14 6XQ  
Friendship Inn, 353 Wilmslow Road, Manchester, M14 6XS  
310 Wilmslow Road, Manchester, M14 6XQ  
Dragon Take Away, 312 Wilmslow Road, Manchester, M14 6XQ  
Hajis Take Away, 314 Wilmslow Road, Manchester, M14 6XQ  
Abduls Take Away, 318 Wilmslow Road, Manchester, M14 6XQ  
Dylan Robert Hairdressing, 320 Wilmslow Road, Manchester, M14 6XQ  
355 Wilmslow Road, Manchester, M14 6XU  
1a, Egerton Road, Manchester, M14 6XY  
3a, Egerton Road, Manchester, M14 6XY  
324-326, Wilmslow Road, Manchester, M14 6XQ  
Friendship Inn, 351-353, Wilmslow Road, Manchester, M14 6XS  
Saajan Halal Take Away, 316 Wilmslow Road, Manchester, M14 6XQ  
355a, Wilmslow Road, Manchester, M14 6XU  
312a, Wilmslow Road, Manchester, M14 6XQ  
18 Brook Road, Fallowfield, M14 6UF  
15 Clifton Avenue, Fallowfield, M14 6UD

**Representations were received from the following third parties:**

, 18 Brook Road, Fallowfield, M14 6UF  
, 15 Clifton Avenue, Fallowfield, M14 6UD

**Relevant Contact Officer:** : Tracie Simpson  
**Telephone No.** : (0161) 234 4537  
**Email** : t.simpson@manchester.gov.uk