

**Ward:** Prestwich - Sedgley

Item 02

**Applicant:** Mr Asim Humza

**Location:** 65 Windsor Road, Prestwich, Manchester, M25 0DB

**Proposal:** Change of use of ground floor from shop to restaurant (Use Class E) with opening times 07.30 - 21.00; canopy at front and installation of an external flue pipe at the side/rear (Temporary consent for 12 months)

**Application Ref:** 70340/Full

**Target Date:** 14/02/2024

**Recommendation:** Approve with Conditions

### **Description**

The application is retrospective as the building work has been completed and the unit is open to customers. The building has a ground floor area of 67sqm and is situated at the end of a row of two storey commercial properties that forms a Neighbourhood Shopping Centre. The property was previously a jeweller's shop with a flat above. The unit had been vacant since closing in August 2022. The attached property on the east side is No.67 and is an accountant's office and the detached property (No.63B) on the west side is in residential use. Properties across Windsor Road and to the rear are also residential.

The proposal seeks to retain the building in its present form and use the ground floor as a restaurant/cafe which is in the same planning Use Class category, Class E, as a retail shop and as such does not require consent.

The proposal also includes the raised area bounded by a glazed balustrade below the external canopy on the frontage. The applicant has agreed that in the first instance to seek a temporary consent for 12 months. This would enable the business operations to be monitored in the light of any residential amenity issues such as noise and disturbance.

The first floor would remain in residential use with access via an external staircase at the rear.

The proposed extractor flue would be situated on the side elevation facing No.63B, towards the rear. Bin storage for the commercial unit and the flat on the first floor would be at the rear of the premises with access to the unmade road at the rear and also down the side of the property onto Windsor Road.

Hours of opening would be Monday to Saturday 07.30am to 9.00pm daily.

It is noted that this application follows a recent refusal of planning permission in October 2023 for a similar proposal. Following submission, the applicant has agreed to amend the proposed closing time to 9pm from the 11pm originally proposed. The applicant has also agreed not to facilitate customer seating outside, under the canopy.

### **Relevant Planning History**

69917 - Change of use of ground floor from shop to restaurant (Class E) with installation of a external flue pipe at the rear of the building - Refused 26/10/2023 (activities associated with the proposed use (outside seating) and insufficient information in relation to refuse collection/management and proposed extractor flue).

23/0337 - Enforcement - Unauthorised change of use of property to restaurant/ take away and installation of flue at rear of building - 21/09/2023.

### **Publicity**

Immediate neighbours notified by letters dated 20/12/24 and 17/01/2024 (revised).

Three objections received from a local resident and Councillors Quinn and Gold.

Objections from resident are summarised below.

- This is a residential area, which is served by local shops. The area, does not require any eateries, as there are many existing businesses nearby.
- The proposed opening hours are unacceptable. It shows a lack of respect for local residents.
- Parking concerns along Windsor Road which is already 'parked up'. The restaurant would make the situation worse We have already been notified of traffic calming measures which are being taken by Bury Council, to address ongoing traffic concerns, and this proposed restaurant will only exacerbate these issues.
- The restaurant will generate noise pollution, from people using the restaurant, traffic, music and late-night revelling.
- Cooking smells having a detrimental impact.
- There is an increasing rodent problem, which will be impacted upon, due to the high level of food wastage and its subsequent disposal.
- Decrease in property value, for local residents.
- Increasing problem with rubbish/litter.
- Will there be an alcohol licence issued for these premises? If so, will local residents be exposed to late night revelling and other people's noise pollution?
- Taxis will negatively impact upon the peace and quiet required late at night.

Objections from Councillors Quinn and Gold centre around the potential for anti-social behaviour related to the sale and consumption of alcohol and gathering of customers outside the premises especially later at night.

### **Statutory/Non-Statutory Consultations**

Traffic Section - No comment to date.

Environmental Health - No objection.

**Pre-start Conditions** -Not applicable.

### **Unitary Development Plan and Policies**

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/8	Shop Fronts
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
EC4/1	Small Businesses
EC6/1	New Business, Industrial and Commercial
S1/5	Neighbourhood Centres and Local Shops
S2/6	Food and Drink

### **Issues and Analysis**

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations, including relevant policies in the emerging Places for Everyone Joint

Development Plan.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

**Policy** - UDP policy EC4/1 Small Businesses states that proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

S1/5 - Neighbourhood Centres and Local Shops. The Council will seek to retain retailing (Class A1), as the predominant use in small neighbourhood centres and in new or existing local shops, to cater primarily for the day to day needs of residents and businesses.

S2/6 - Food and Drink. The Council in considering all proposals which involve restaurants, hot food takeaways, cafes, snack bars, wine bars and public houses, together with any other uses contained within Class A3, will have regard to the following factors:

- a) the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- b) whether or not the proposal would result in an over concentration of Class A3 uses, which could adversely change the nature or character of a centre as a whole;
- c) parking and servicing provision associated with the proposed development and its effects in terms of road safety, traffic generation and movement;
- d) provision for the storage and disposal of refuse and customer litter;
- e) the environmental impact of any ventilation flues and/or ducting.

EN7/2 Noise Pollution. In seeking to limit noise pollution the Council will not permit:

- a) development which could lead to an unacceptable noise nuisance to nearby occupiers and/or amenity users;
- b) development close to a permanent source of noise.

HT2/4 Car Parking and New Development. The Council will require all applications for development to make adequate provision for their car parking and servicing requirements in accordance with the Council's car parking standards.

### **Places for Everyone**

The Places for Everyone Joint Development Plan Document (PfE) is a joint plan covering nine of the ten Greater Manchester districts, including Bury, and is intended to provide the overarching framework to strategically manage growth across the boroughs. PfE was published in August 2021 and subsequently submitted to the Secretary of State in February 2022. Inspectors have been appointed to carry out an independent examination of the Plan with the hearing sessions commencing in November 2022 and were concluding in July 2023. The examination of the plan is on going.

Whilst PfE cannot be given full weight until it is adopted, its advanced stage of preparation means that it is now considered reasonable that the Plan (as proposed to be modified) should be given weight in the decision making process in line with paragraph 48 of the National Planning Policy Framework. Consequently, the principle of this application has been considered against the Plan (as proposed to be modified). However, the principle of this proposal does not give rise to any conflict with PfE policies.

**Use** - Whilst the loss of a retail shop unit is regrettable, the property has been vacant since closing in 2022. It is permitted development to interchange between uses within the same

use class. A shop and restaurant and café are all within Class E and as such, the use would otherwise be permitted development. As such, the replacement with a restaurant/cafe use (serving food and drink for consumption largely on the premises) is appropriate in land use terms.

**Visual amenity** - The existing property is an established commercial unit, previously in use as a jewellery store. It is clear that a continued vacancy period for the unit would not have a positive impact on the visual amenity and character of the shopping centre. The reuse of the unit is, in principle and legislatively, supported.

The proposal includes alterations to the forecourt including raising the level, installing a balustrade and creating a covered timber framed canopy projecting out from the shop frontage. It is noted that these works have which is already constructed.

Although relatively prominent within this part of the streetscape, the canopy would not have a seriously harmful visual impact. In principle, the establishment of a cafe/bar in this location would not be considered seriously harmful to the visual amenity of the streetscape. The proposal in principle would therefore not have a serious impact on visual amenity. Complies with UDP Policy EN1/2 Townscape and Built Design and S2/6 Food and Drink in terms of visual amenity.

**Residential amenity** - UDP Policy S2/6 Food and Drink states that the impact on the amenity of nearby residents from noise, fumes/smells, litter and opening hours is a crucial factor any assessment of a proposal of this kind.

Although the property has been in retail use for a number of years, the use, along with other businesses within the commercial row, have been more 'daytime only' uses that have not run into late evening operations and despite the commercial nature of the row, the area is relatively quiet. The first floor above is a flat and with the closest houses being located immediately next door at No.63B Windsor Road. There are houses immediately across the road and to the rear.

With a revised opening time to 9pm daily and restrictions on the use of the area under the canopy, the impact of the proposed use in terms of noise and disturbance would be significantly mitigated, particularly as the unit is relatively modest in size and is the only food and drink/cafe use within the commercial row. There would be limited disturbance when customers arrive and leave the premises but the impact would be not so serious as to warrant refusal of planning permission.

The proposed flue on the side of the premises would generate noise and fumes but the impact on surrounding residents would be mitigated, operating with the appropriate equipment and a suitable condition of any approval.

It is considered, given the more acceptable opening times and restrictions on the use of the external area, the proposed use would be acceptable for a preliminary 12 month period. This would allow operations to be assessed over this period before any more permanent change of use is assessed.

Given the operational restrictions set out above, it is not considered that the proposed use would have a particularly serious and detrimental impact on the residential amenity and as such would comply with UDP Policies S2/6 Food and Drink, EC4/1 Small Businesses and EN7/2 Noise Pollution.

**Traffic** - The premises, along with the majority of other businesses within the neighbourhood centre, has no specific/dedicated on-site parking. It is noted that the

immediate area is usually busy with cars parked in front the of commercial row in chevron formation.

The previous commercial uses have operated without parking. Whilst the proposed cafe/bar use could potentially generate additional vehicular traffic in the evenings when Windsor Road would be more 'parked up' than during the daytime, the impact may be negligible given that the parking area in front of the commercial 'daytime' businesses would be more available. Given the premises are relatively modest in scale, the impact on parking may not be so significant.

Whilst the Council's Traffic Team recognises parking issues along this part of Windsor Road, it is not considered that the proposal could be reasonably refused on traffic/ parking grounds, not least due to the considerations of permitted development. As such there is no objection from the traffic team and the proposal is considered acceptable and complies with UDP Policies S2/6 Food and Drink and HT2/4 Car Parking and New Development.

**Waste management/litter** - Refuse bins serving the residential unit at first floor would remain in the rear garden. The initial proposal to site a large commercial bin within an enclosure on the frontage has been amended and it is now proposed to locate smaller commercial bins in the rear yard, along with the bins for the flat above. A condition restricting commercial bin collection to opening hours would be attached to any approval.

**Public representations** - The material planning issues raised by objectors have been addressed in the above report. Concern about property prices is not material planning consideration. Concern about rodents is an issue that would be addressed by Environmental Health rather than planning.

### **Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015**

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

**Recommendation:** Approve with Conditions

### **Conditions/ Reasons**

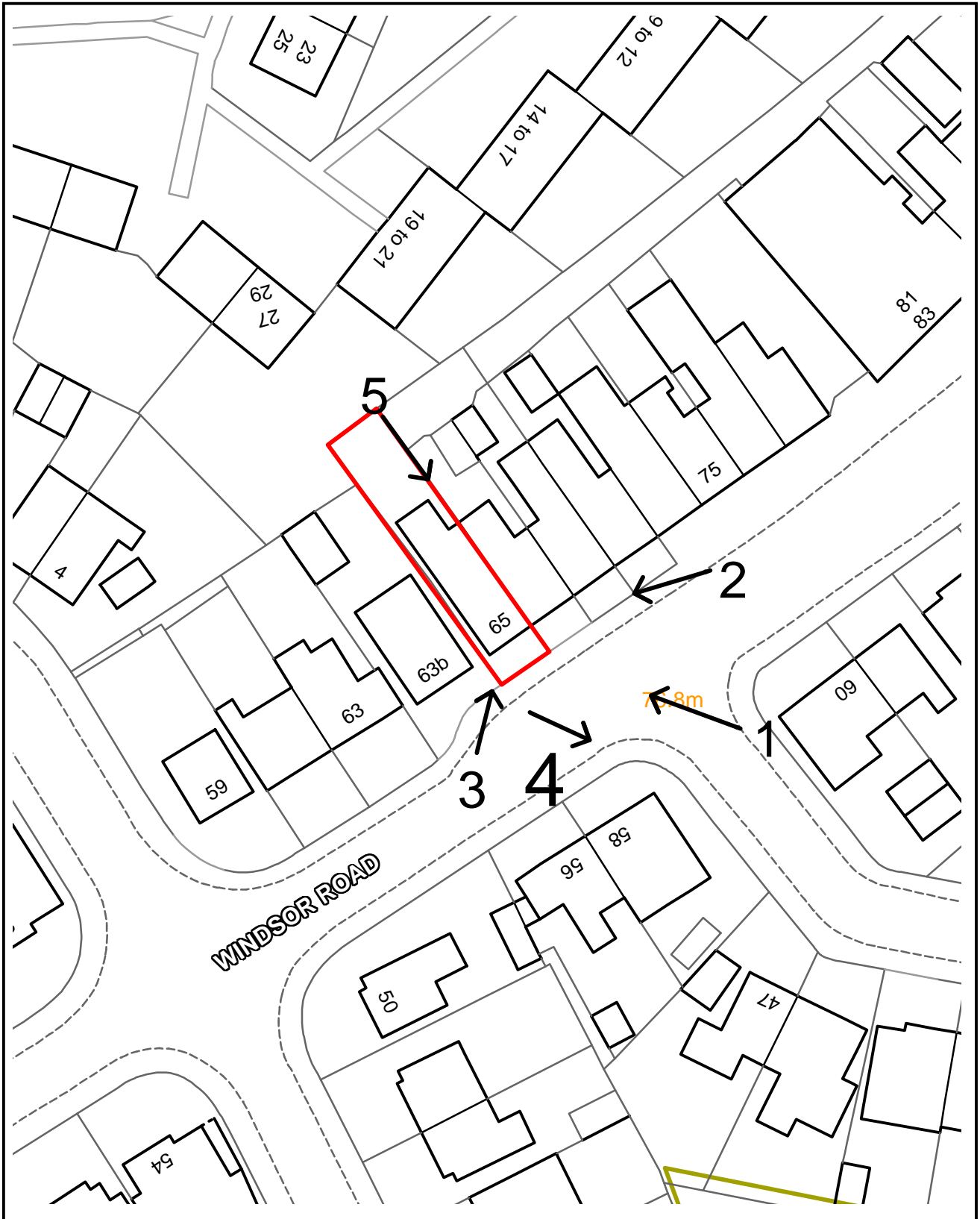
1. Permission is hereby granted for a limited period only, namely for a period expiring 12 months from the date of this decision notice, and the use comprising the development for which permission is hereby granted are required to be discontinued at the end of the said period and the external flue removed unless a valid application is received by the Local Planning Authority for its retention.  
Reason. In view of the temporary nature of the development and in order to retain control over its continued use having regard to the particular nature of the site and surroundings pursuant to The National Planning Policy Framework.
2. This decision relates to drawings numbered 01, 02, 03, 04a, 05b, 06b and 07a and the development shall not be carried out except in accordance with the drawings hereby approved.  
Reason. For the avoidance of doubt and to ensure a satisfactory standard of

design pursuant to the policies of the Bury Unitary Development Plan listed.

3. The use hereby permitted shall not be open to customers outside the following times: 07.30hrs to 21.00hrs daily.  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.
4. There shall be no customer service/seating in outside areas including under the canopy on the frontage.  
Reason. In order to limit noise and disturbance in the interests of residential amenity pursuant to UDP Policy S2/6 Food and Drink.
5. Within one month details of a scheme to manage fumes, vapours and odours to be extracted from the flue shall to be submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall be implemented to the written satisfaction of the Local Planning Authority within one month.  
Reason. In the interests of amenity pursuant to Policies S2/5 New Local Shopping Provision Outside Recognised Shopping Centres and S2/6 Food and Drink of the Bury Unitary Development Plan.
6. Commercial refuse collection shall only be within the following hours.  
07.30hrs - 18.00hrs  
Reason. In the interests of residential amenity pursuant to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.

For further information on the application please contact **Tom Beirne** on **0161 253 5361**

# Viewpoints



## PLANNING APPLICATION LOCATION PLAN

APP. NO 70340

ADDRESS: 65 Windsor Road, Prestwich, Manchester,

Planning, Environmental and Regulatory Services

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**Bury**  
Council

70340

Photo 1



Photo 2





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Photo 3



Photo 4



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Photo 5

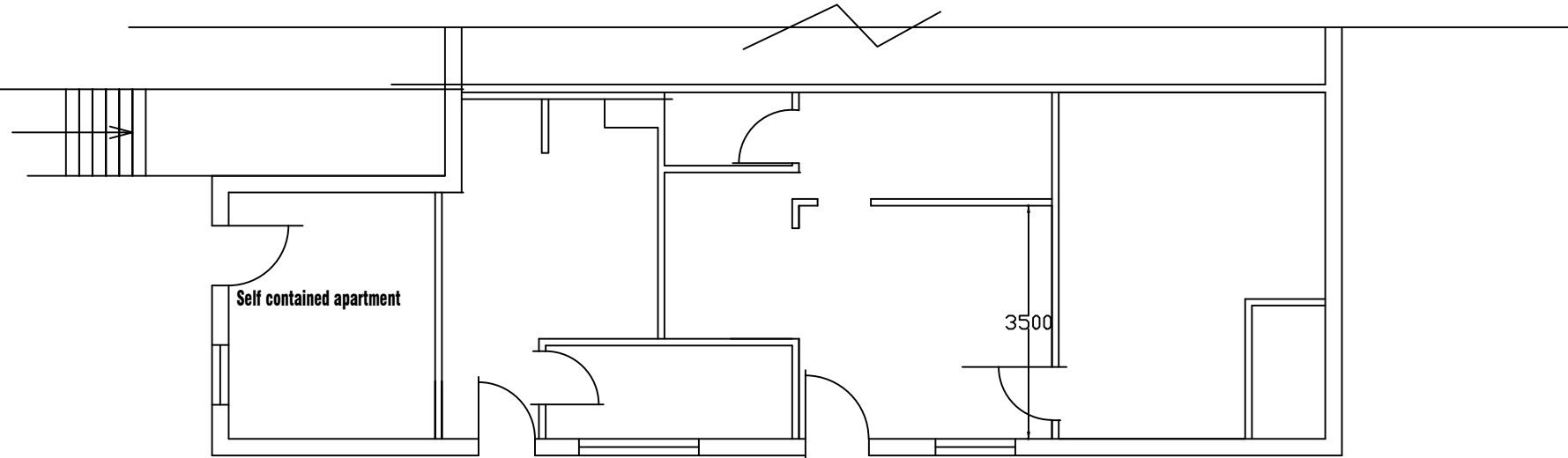


**SITE LOCATION PLAN**  
**AREA 2 HA**  
**SCALE 1:1250 on A4**  
**CENTRE COORDINATES: 383294, 403110**



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# Site Layout Plan


**H S H** 

Engineering Design Services Ltd  
428 Cheetham Hill Road Cheetham Manchester  
M8 9LE. UK 01617956385, 07940197 333

project title: Proposed change of the ground floor from a shop to restaurant including installation of an external flue pipe.

client: **Mr Asim Humza**

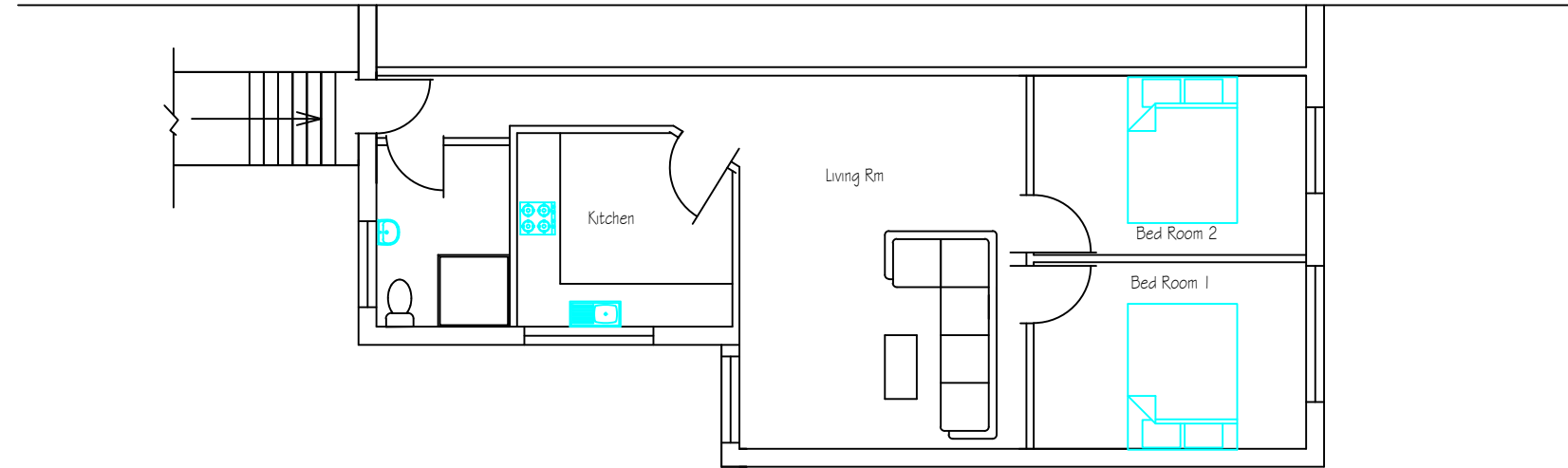
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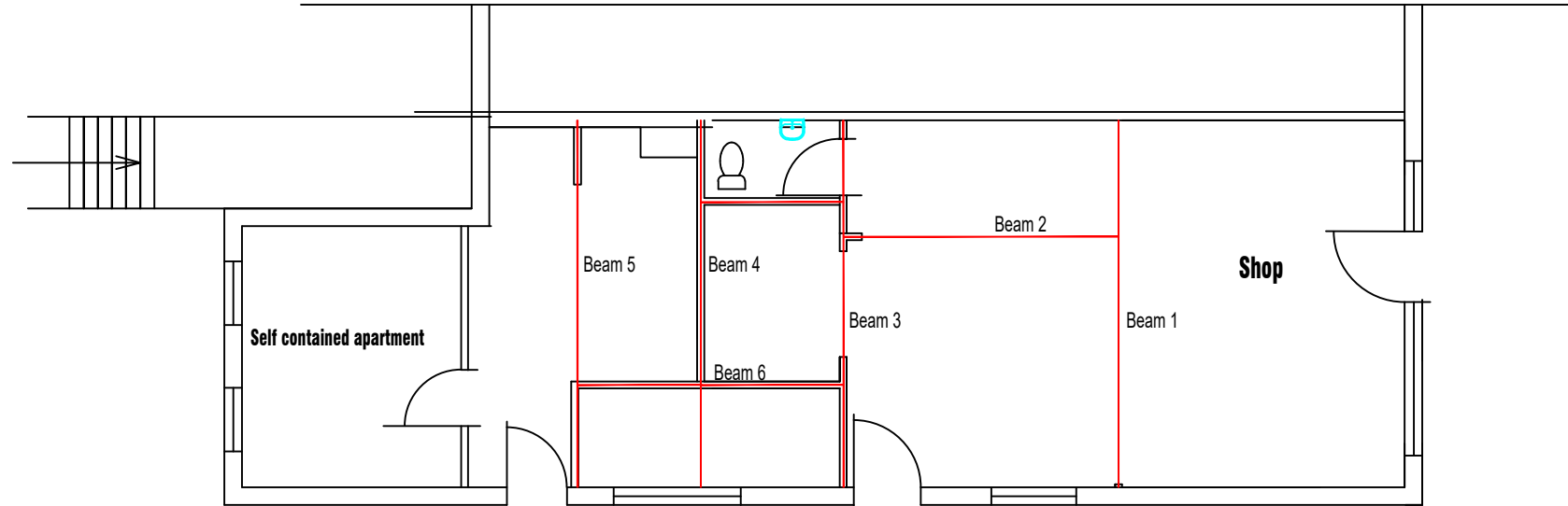
**65 Windsor Road Pretwich M25 ODB**

drawn by.	checked by.	approved by.	date
TZ			March 2023

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# 1st Floor Plan



# Ground Floor Plan


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client: **Mr Asim Humza**

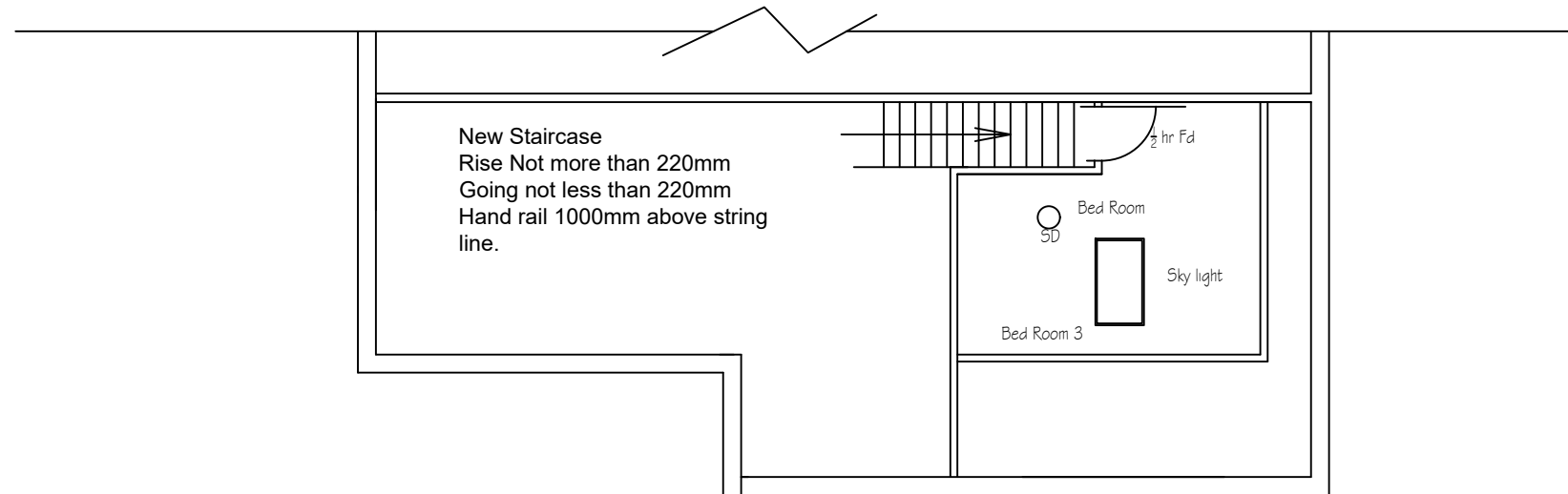
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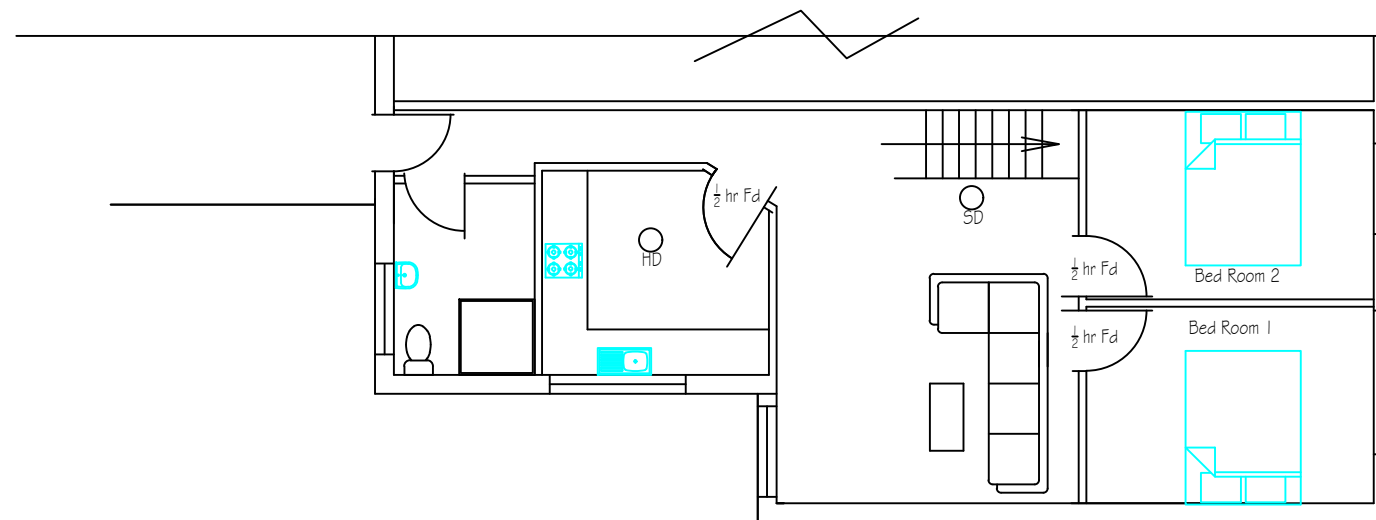
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drawn by.	checked by.	approved by.	date
TZ			March 2023

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**2nd Floor Plan**



**1st Floor Plan**


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428 Cheetham Hill Road Cheetham Manchester  
M8 9LE. UK 01617956385,07940197 333

project title: Proposed change of the ground floor from a shop to restaurant including installation of an external flue pipe.

client: **Mr Asim Humza**

dwg. title: Existing Plan

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**65 Windsor Road Pretwich M25 ODB**

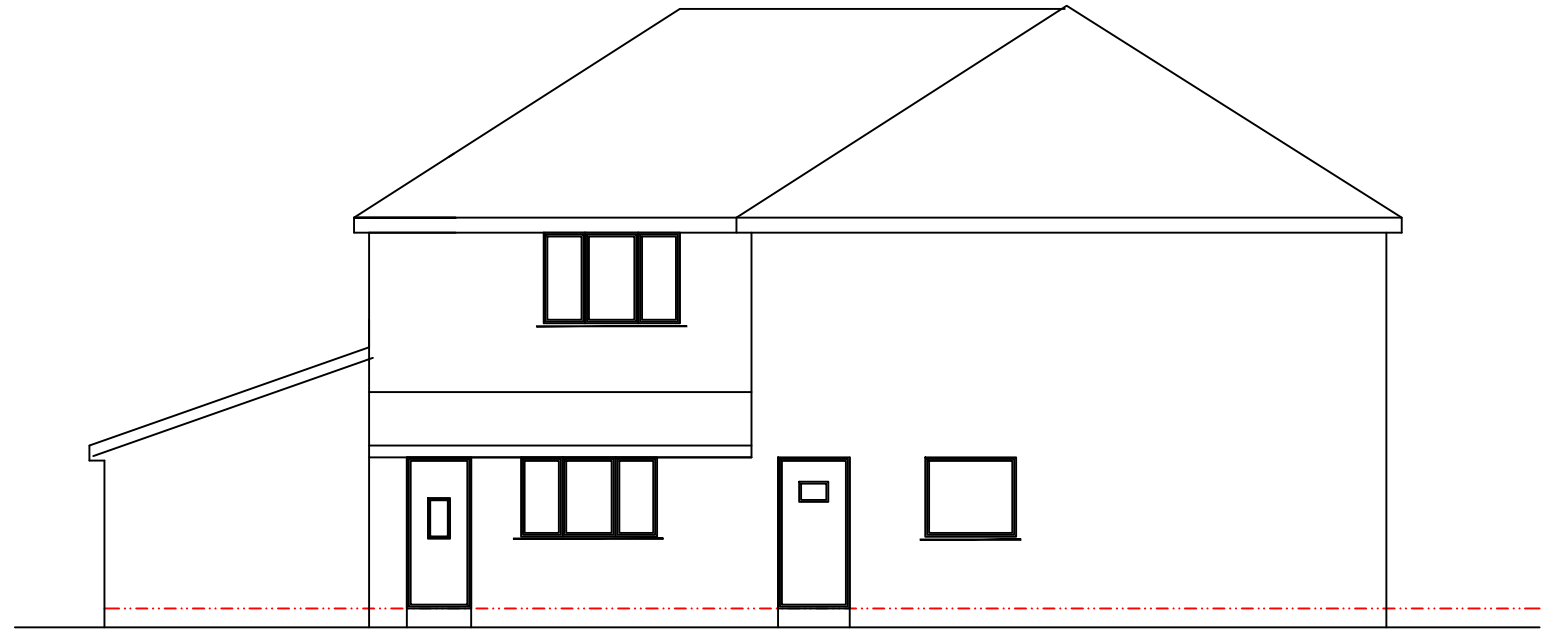
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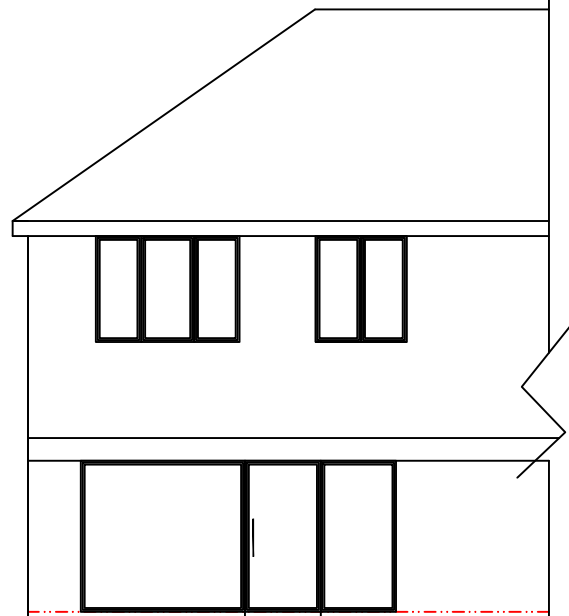


**Rear Elevation**

2600



**Side Elevation**



**Front Elevation**

Date	Rev	Description
07/06/28	A	Planning

**H S H**

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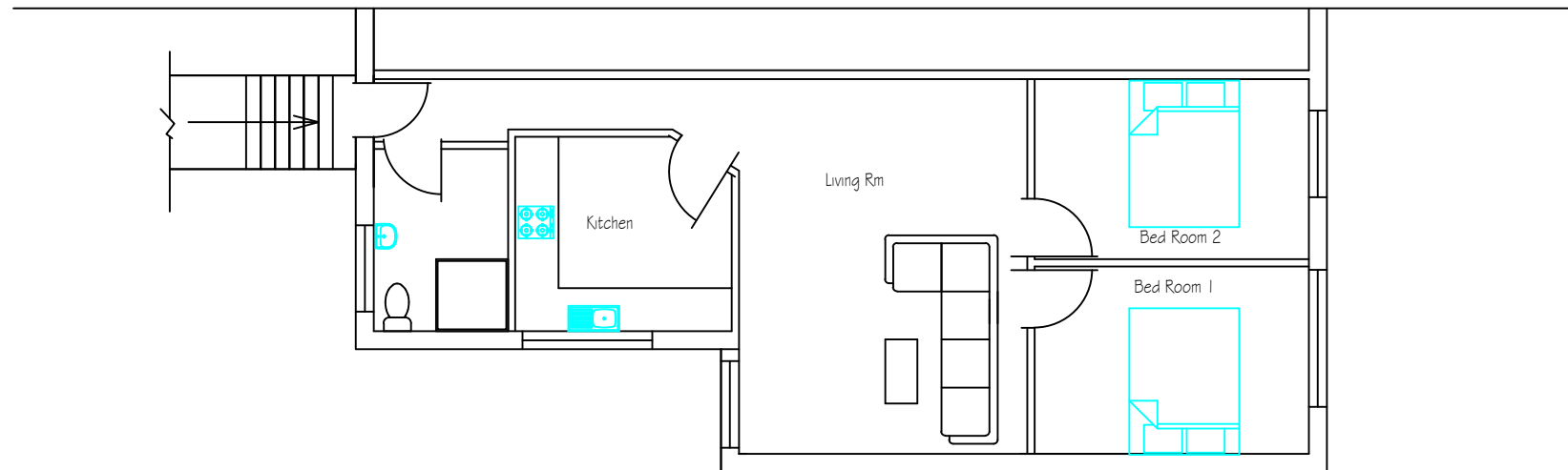
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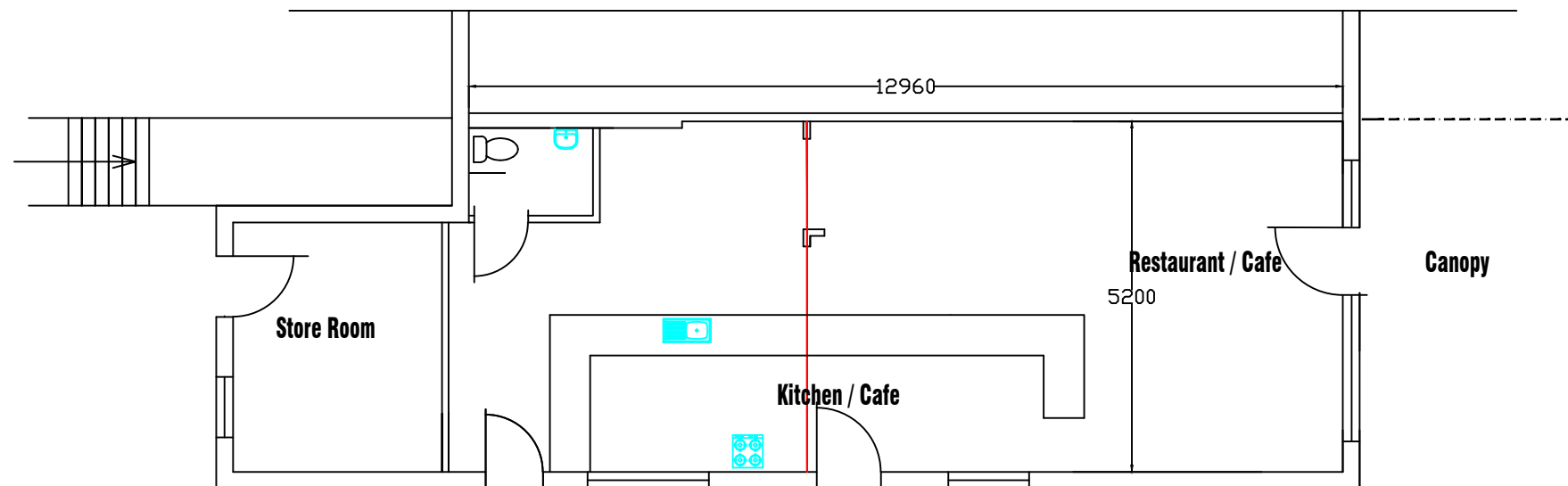
**65 Windsor Road Pretwich M25 0DB**

drawn by.	checked by.	approved by.	date
TZ		-	March 2023

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# 1st Floor Plan



# Ground Floor Plan

Date	Rev	Description
25.9.23	A	Planning

**H S H**

Engineering Design Services Ltd  
 428 Cheetham Hill Road Cheetham Manchester  
 M8 9LE. UK. 0161 7956385, 07940197 333

project title: Proposed change of the ground floor from a shop to restaurant including installation of an external flue pipe.

client: Mr Asim Humza

dwg. title: Proposed Plans

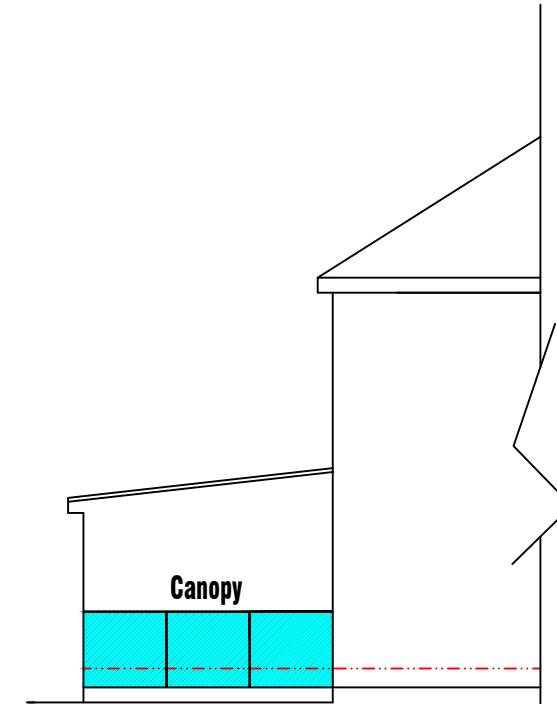
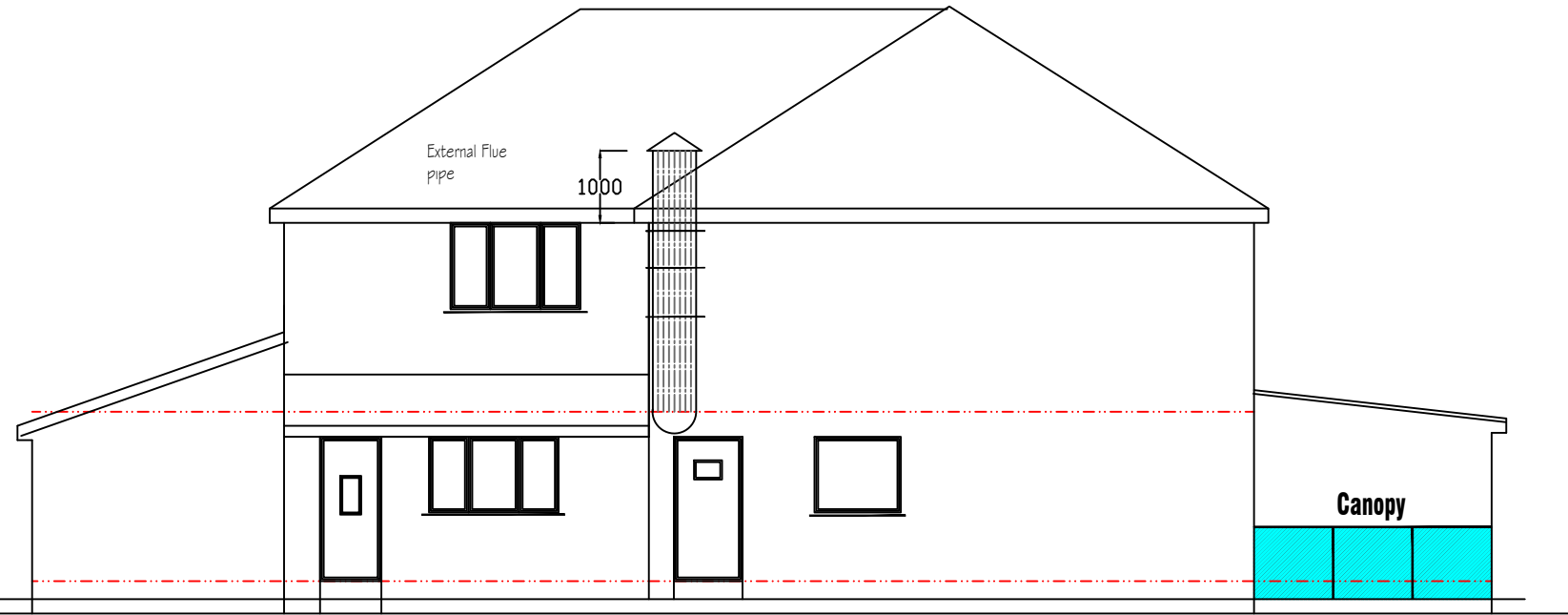
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65 Windsor Road Pretwich M25 0DB

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TZ			March 2023

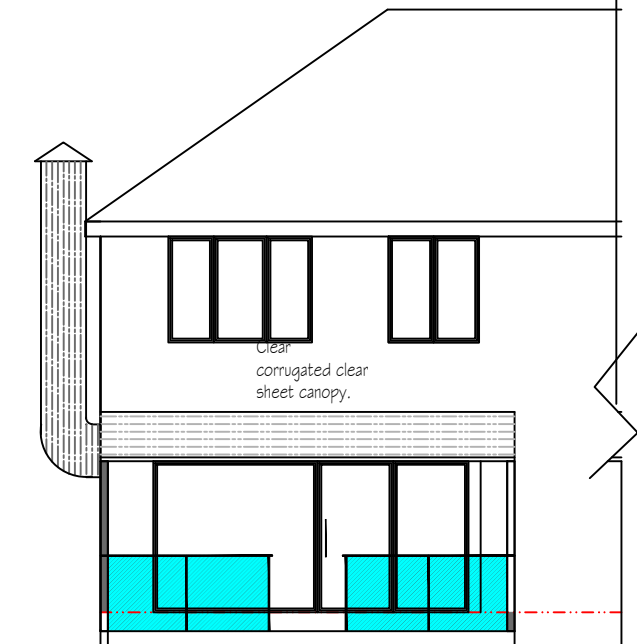


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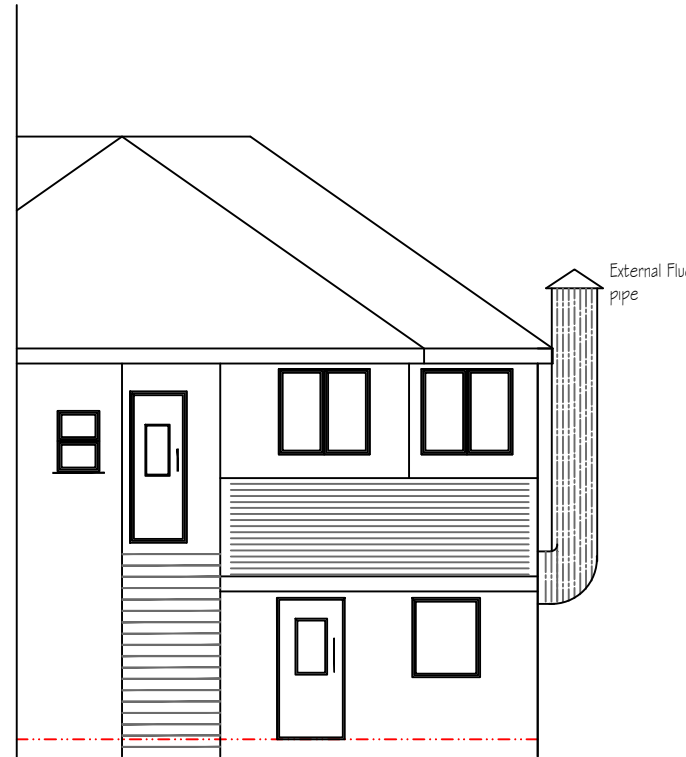


**Elevation From No 67**

**Side Elevation**



**Front Elevation**



**Rear Elevation**

Date	Rev	Description
25.9.23	A	Planning
24.01.24	B	Planning
25.01.24	C	Planning

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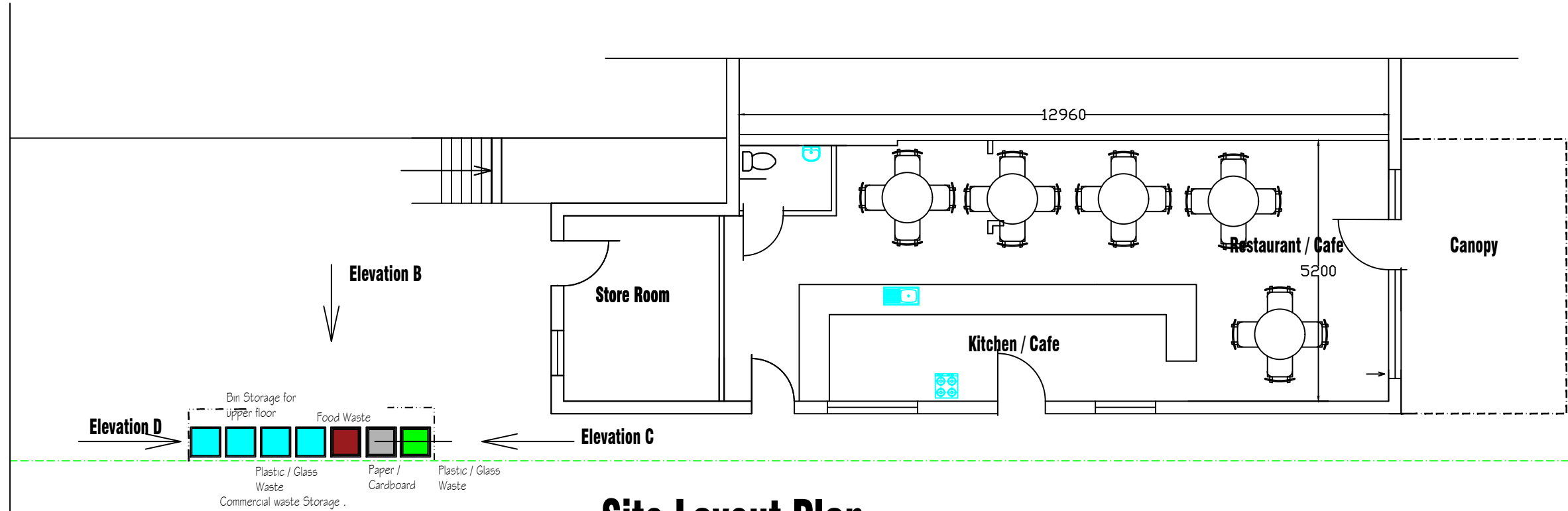
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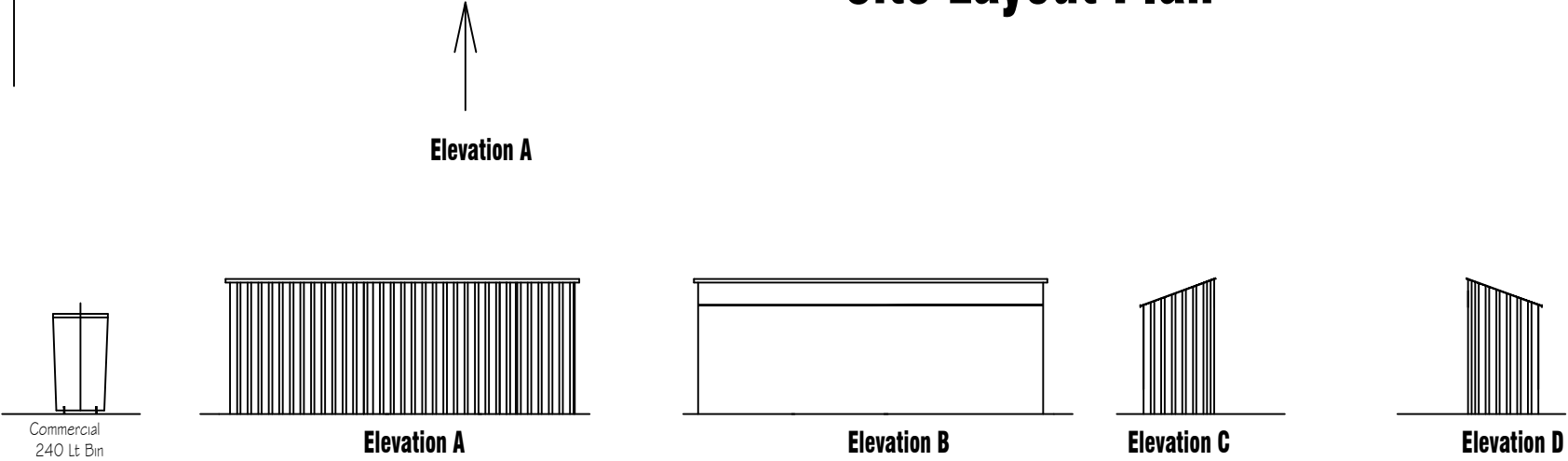
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# Site Layout Plan




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 Engineering Design Services Ltd  
 428 Cheetham Hill Road Cheetham Manchester  
 M8 9LE. UK 01617956385,07940197333

project title	Proposed change of the ground floor from a shop to restaurant including installation of an external flue pipe.		
client	Mr Asim Humza		
dwg. title	Proposed Waste Bin Plan		
dwg. no.	sheet no.	scale.	job no.
07A		1:100	A3
65 Windsor Road Pretwich M25 ODB			
drawn by.	checked by.	approved by.	date
TZ			March 2023