

Ward: Prestwich - Sedgley

Item 04

Applicant: Mr Asim Humza

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

Proposal: Change of use from shop to restaurant and the retention of extract flue and AC unit

Application Ref: 71520/Full

Target Date: 09/07/2025

Recommendation: Approve with Conditions

Description

The application follows a temporary approval for a period of 12 months, granted in February last year. This application now seeks permanent consent and includes the use of the external canopy area at the front for customer seating. The first floor would remain in residential use with access via an external staircase at the rear.

The building has a ground floor area of 67sqm and is situated at the end of a row of two storey commercial properties that form a Neighbourhood Shopping Centre. The property was previously a jewellers shop which closed in 2022. The attached property on the east side is No.67 and is an accountant's office and on the west side, the detached property comprises two apartments (Nos.63A and B). Properties across Windsor Road and to the rear are also residential.

The previous application, submitted in 2023 initially sought permanent consent with opening to 11pm but, after concerns were raised about the potential impact from noise and disturbance to surrounding residential properties later in the evening, it was agreed that, in the first instance, to seek a temporary consent for 12 months and restrict opening to 9pm which is in line with the current licence arrangement. This would enable the business operations to be monitored in the light of any residential amenity issues such as noise and disturbance.

The extractor flue and an air conditioning unit are situated on the side/SW 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.

A noise report has been submitted with the application that assesses the impact of the existing kitchen extractor and condenser units. The report states that sound measurements were undertaken of the LAeq sound pressure levels over periods of 5 minutes with the installed kitchen extract fan and condenser unit operating (due to steady noise). Measurements were subsequently undertaken of the LA90 sound pressure levels over periods of 5 minutes for the background noise level (with the installed kitchen extract fan and condenser unit off). Atypical noises were excluded as far as reasonably possible.

The result of the assessment were reported as follows:

- Kitchen extract fan and condenser unit - 61dB
- Condenser only - 58dB
- Kitchen extractor unit only - 57dB
- Background (plant off) - 42dB

With both the installed kitchen extract fan and condenser unit operating the measured LAeq atmospheric plant noise emission levels were 19dB above the representative LA90 background sound level.

The report states that in order to reduce atmospheric plant noise emission levels from the installed kitchen extract fan and condenser unit, attenuation measures will be required and these are:

- The installed kitchen extract fan shall be fitted with an atmospheric silencer.
- The installed kitchen extract fan unit and all ductwork/silencers between the penetration of the facade and the exhaust end of the atmospheric silencer shall be acoustically lagged (50mm (min.) mineral wool slab (min. 16kg/m3) wrapped with a polymeric heavy mass barrier material of at least 10kg/m2).
- As the required acoustic enclosure could not be fitted in the current location, relocation of the condenser unit to the rear of the property is required where an enclosure could be fitted.
- The other option is to remove of the condenser unit from site altogether

Relevant Planning History

43163 - Part change of use of ground floor to tearoom - Approve with Conditions
10/11/2004

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

70340 - 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) - Approved 21/02/2024

23/0337 - Change of use of property to restaurant/hot food take away and installation of flue at rear of building - 21/09/2023

24/0035 - Premises used as a bar - 30/01/2024

24/0430 - Breach of condition no.3 (opening times) of planning permission 70340 -
31/12/2024

24/0451 - Building works at rear - 11/12/2024

Publicity

Immediate neighbours notified by letter dated 15/05/2025.

Three objections have been received from residents and these are summarised below:

- The use of the property as a cafe is inappropriate in a residential area.
- The extractor flue and AC unit have caused noise problems - proven by the noise report.
- Use of the canopied area has been a breach of planning control and has caused continued noise and disturbance.
- Opening beyond closing time, sometimes until midnight and later.
- Even earlier closing would cause a nuisance.
- Bins are often left on pavement and block access.
- Anti-social behaviour by customers and staff causing neighbourhood tension, disruption and conflict.
- Loud music/ noise pollution.
- Police have visited.
- Parking problems.
- Application forms are incorrect.

All objectors have been notified of the Planning Control Committee meeting.

Statutory/Non-Statutory Consultations

Traffic Section - Surface water run-off should not run off onto the public footway.

Environmental Health - No objection subject to mitigation measures undertaken on the flue

and AC unit.

Waste Management - No objection.

Licensing Department - The current licence restricts the sale of alcohol to 20.30hrs with closing at 21.00hrs.

Prestwich Village Neighbourhood Forum - No comment.

Police - securebydesign - The original objection is withdrawn if opening is restricted to 21.00hrs (as opposed to 11pm) as this would reduce potential for anti-social behaviour arising.

Pre-start Conditions - N/A

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
EN5/1	New Development and Flood Risk
PFE	Places for Everyone

Issues and Analysis

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.

Previous Temporary consent - The previous consent, granted in February 2024, was for 12 months and restricted the use of the external canopy area. It also required details of the flue to be submitted. It is clear that the external area under the canopy has been used for customer seating and there have been allegations of opening beyond the 9pm closing time. A number of food delivery websites indicate opening to 22.30.

Use - In principle, the initial replacement of a shop with a restaurant/cafe use (serving food and drink for consumption largely on the premises) was appropriate in land use terms and indeed in isolation, the use of the original ground floor of the property, falling into the current Class E Use, would be deemed as permitted and not require planning permission.

Given the 'permitted development' and the previous consent, the two main factors to consider in this application are the impact of the customer seating under the canopy at the front and presence of the extractor flue and AC unit.

Economy - Converted from the vacant shop, the property is a commercial unit that contributes to the economic vitality of the wider shopping centre. The National Planning Policy Framework indicates that planning policies and decisions should help create the conditions in which businesses can invest and significant weight should be placed on the need to support economic growth. It also states that planning policies and decisions should aim to achieve healthy, inclusive and safe places.

Visual amenity - Visually the external canopy, although relatively prominent on the forecourt, does not appear particularly incongruous within the shopping centre and does not have a seriously harmful visual impact. Given it is a relatively lightweight structure, it could be removed at any time. The flue on the side elevation is set well back down the side passageway and is not particularly prominent when viewed from the public road.

The visual impact of the cafe/bar, in its present form in this location and with opening to 9pm, is not 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.

It is noted that any later opening into the evening would have a greater visual impact on the streetscape through lighting and general activities associated with a cafe use, particularly given the existing canopy on the frontage.

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.

Situated close to residential properties, it is important to ensure that any noise and disturbance caused by the business is minimised.

Hours of Operation - With an opening time restricted to 9pm daily and a further restriction on the use of the area under the canopy, the previous temporary consent appeared to be reasonable and allowed the business operations to be assessed against residential amenity over a 12 month period.

For almost a year, the Local Planning Authority were unaware of any obvious problems arising in terms of noise and disturbance. In recent months however, complaints were received with regard to opening hours and noise and disturbance.

Complaints were investigated and checks were made but no evidence found of any breach.

Whilst the complaints may be valid, issues could be addressed with better management on the applicant's side and where appropriate, enforcement of any breaches by the Council.

As previously stated, the 12 month temporary consent was granted in order to assess the impact with regard to noise and disturbance, particularly with a focus on the canopy area. With complaints received and some evidence to suggest that opening times have not always been followed, it is considered that some control over the use, particularly the area under the canopy, is required, at least for a temporary period to determine if noise and disturbance issues can be appropriately addressed. Granting a further temporary consent and limiting the use for customer seating in this area to 19.30hrs (7.30pm) by suitable conditions may be a reasonable solution to this end. It is also important to note that there are regulations, other than planning, that exert control on noise and disturbance - Environmental Health, Anti-Social Behaviour team, Licencing and Police.

Flue and Extraction - With regard to the extractor flue on the side of the premises, the implementation of mitigation measures to reduce noise, set out in the noise report, would significantly reduce noise impact and it is considered that, with these measures in place, the flue would be acceptable.

The noise report recommends that the AC unit on the side elevation should either be relocated to the rear elevation or removed completely. The applicant has confirmed that the AC unit would not be used and as such a condition would be attached to require it to be removed on the interests of residential amenity.

Conclusion - With mitigation measures in place regarding the flue and AC unit, good management and strict adherence to the current licence restrictions on the sale of alcohol to 20.30hrs and business opening to 21.00hrs, it is considered that noise and disturbance from what is a relatively modest sized cafe would be significantly mitigated, particularly as the unit is the only food and drink/cafe use within the commercial row.

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 of the commercial row in chevron formation. As such it is difficult to determine which businesses within the centre are generating what levels of traffic. It is also noted that Bowker Vale tram station is less than 200m further along Windsor Road and this could well be contributing to the parking congestion.

Although the cafe/bar use is within a neighbourhood centre and focuses on local custom, it will undoubtedly generate some vehicular traffic. But as previously stated, this is the same for all the businesses along the commercial row. In the evenings when Windsor Road would be more likely to be 'parked up' with residents' cars, the commercial 'daytime' businesses would be closed so freeing up parking spaces. 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, subject to a condition requiring a suitable surface water run-off arrangement to be installed on the canopy, 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 should be kept off the frontage. This clearly has not been happening on a regular basis but with better management and enforcement, a more suitable arrangement could be achieved with bins store to the rear. Condition restricting commercial bin collection to opening hours and restricting bin storage on the frontage would be attached to any approval.

Public representations - The material planning issues raised by objectors have been addressed in the above report.

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

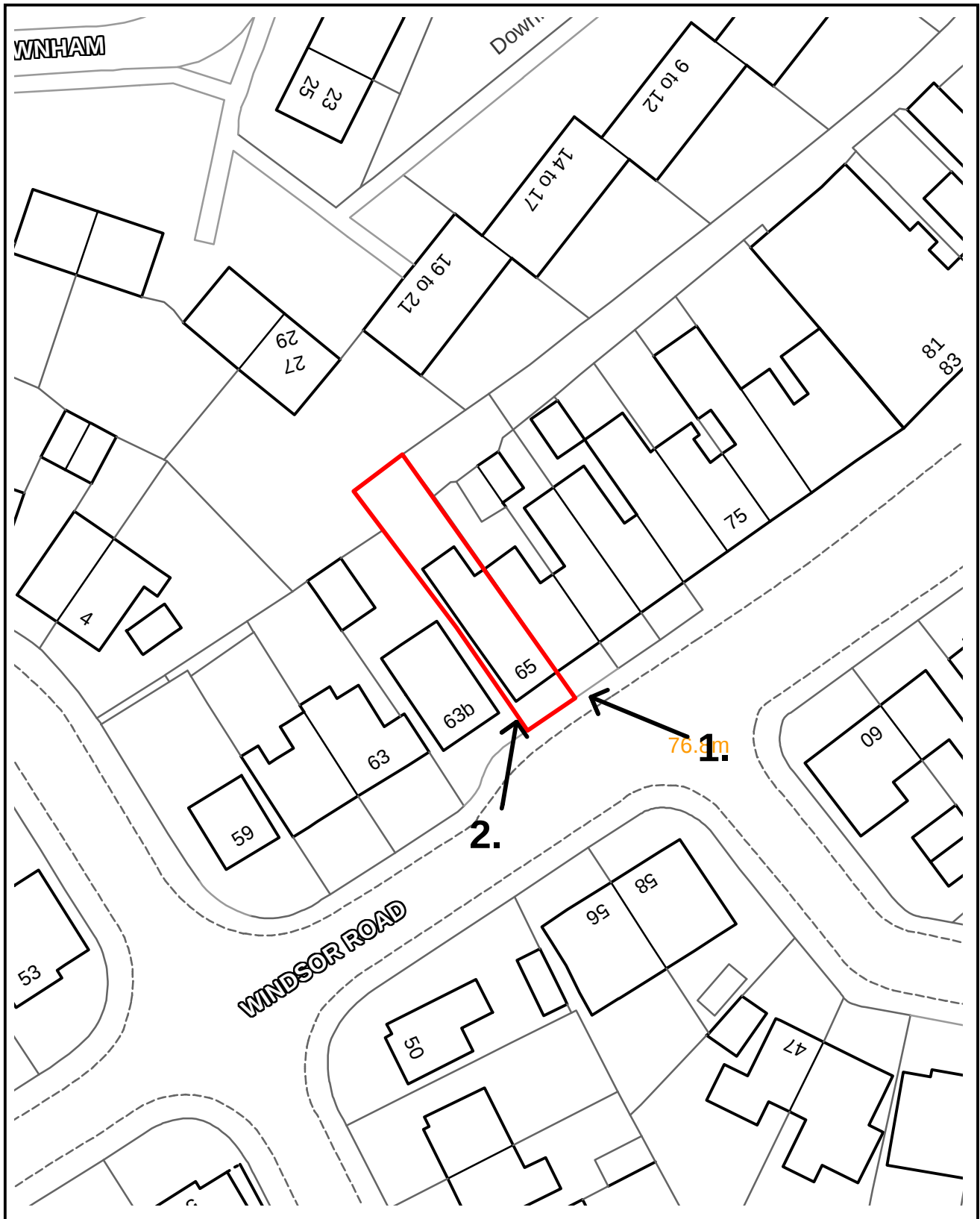
1. Permission is hereby granted for a limited period only, namely for a period expiring 12 months from the date of this decision notice, and the building, works and use comprising the development for which permission is hereby granted are required to be respectively removed and discontinued at the end of the said period and the land reinstated to its former condition unless a valid application is received by the Local Planning Authority for its retention.
Reason. In view of the 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 02, 03, 05C, 06D, 07 and 10 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 and Places for Everyone Joint Development Plan listed.
3. Within one month, all mitigation methods for the kitchen extraction fan unit must be carried out as recommended by the noise assessment dated 13 May 2024 (Lighthouse Acoustics ref 1424/le/02). Mitigation measures include:
The installed kitchen extract fan shall be fitted with an atmospheric silencer as specified in the Silencer Schedule 1424/SS1 enclosed at the rear of the report.
The installed kitchen extract fan unit and all ductwork/silencers between the penetration of the facade and the exhaust end of the atmospheric silencer shall be acoustically lagged comprising 50mm (min.) mineral wool slab (min. 16kg/m3) wrapped with a polymeric heavy mass barrier material of at least 10kg/m2.
Reason. In order to mitigate noise in the interests of residential amenity pursuant

to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.

4. Within one month of the date of this decision notice, the existing condenser unit shall be removed completely from the site.
Reason. In order to mitigate noise in the interests of residential amenity pursuant to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.
5. The business shall not be open to customers outside the following times: 08.00 to 21.00 daily
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy S2/6 Food and Drink of the Bury Unitary Development Plan.
6. Within one month, the surface water run-off from the canopy shall be channelled into the existing drain as indicated in the revised plan Dwg 10 to the written satisfaction of the Local Planning Authority.
Reason. In order to reduce surface water run-off to the public footway in the interests of flood risk and water pollution, pursuant to UDP Policies EN5/1 Flood Risk and EN7 Pollution Control.
7. All refuse bins shall be stored at the rear of the premises and only brought to the front on the appropriate collection day. No collections shall be undertaken beyond the closing time of 21.00hrs.
Reason. In the interests of residential amenity pursuant to UDP Policy S2/6 Food and Drink.
8. The external area under the canopy shall only be available for customer seating until 19.30hrs. After this time all seating shall be stored away to avoid useage.
Reason: In order to reduce possible noise and disturbance from the outside area 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**

71520- Viewpoints



ADDRESS: 65 Windsor Road, Prestwich,
Manchester, M25 0DB



Bury
Council

Planning, Environmental and Regulatory Services

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Photo 1



Photo 2

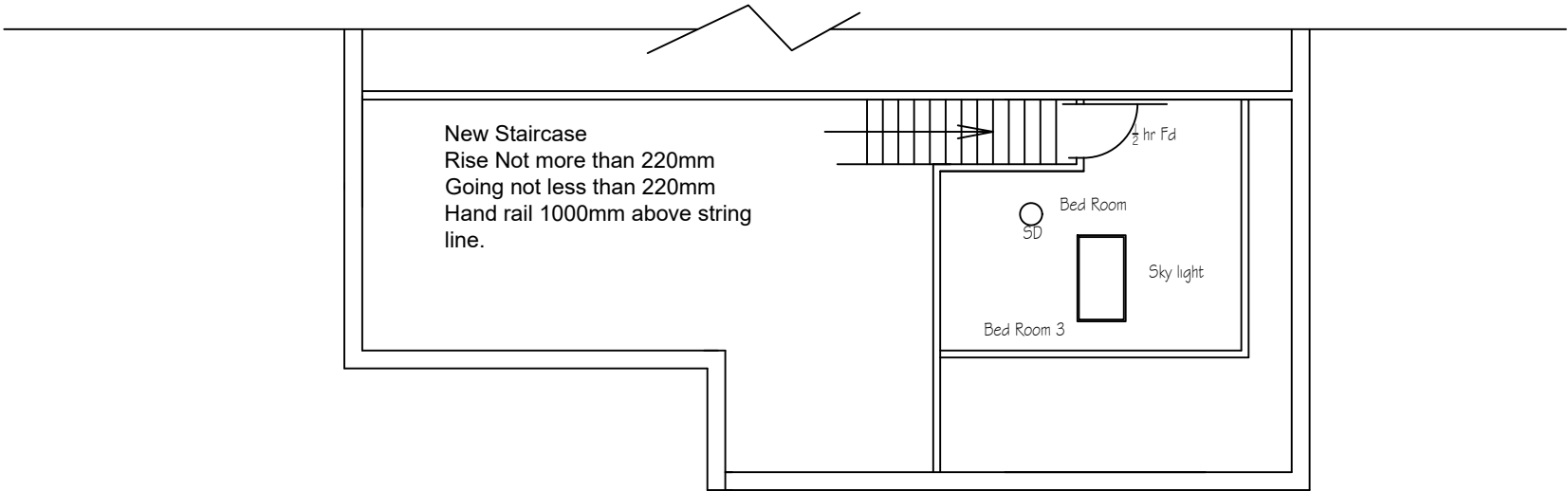


SITE LOCATION PLAN
AREA 2 HA
SCALE 1:1250 on A4
CENTRE COORDINATES: 383294, 403110

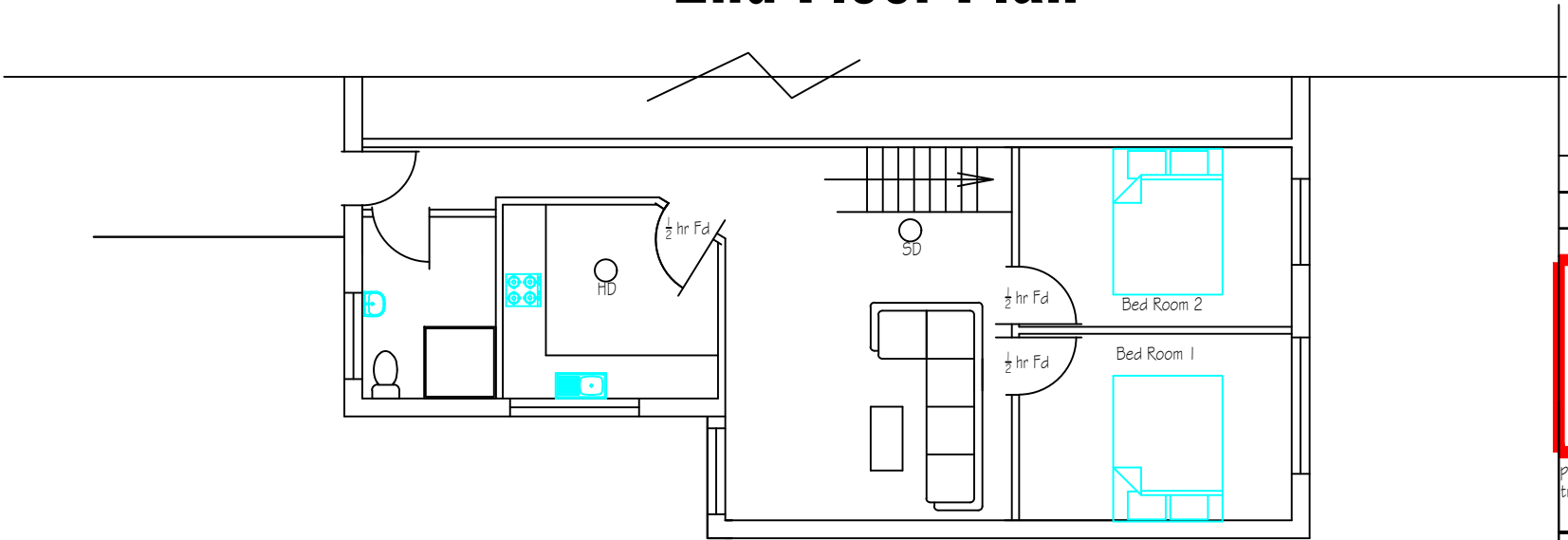


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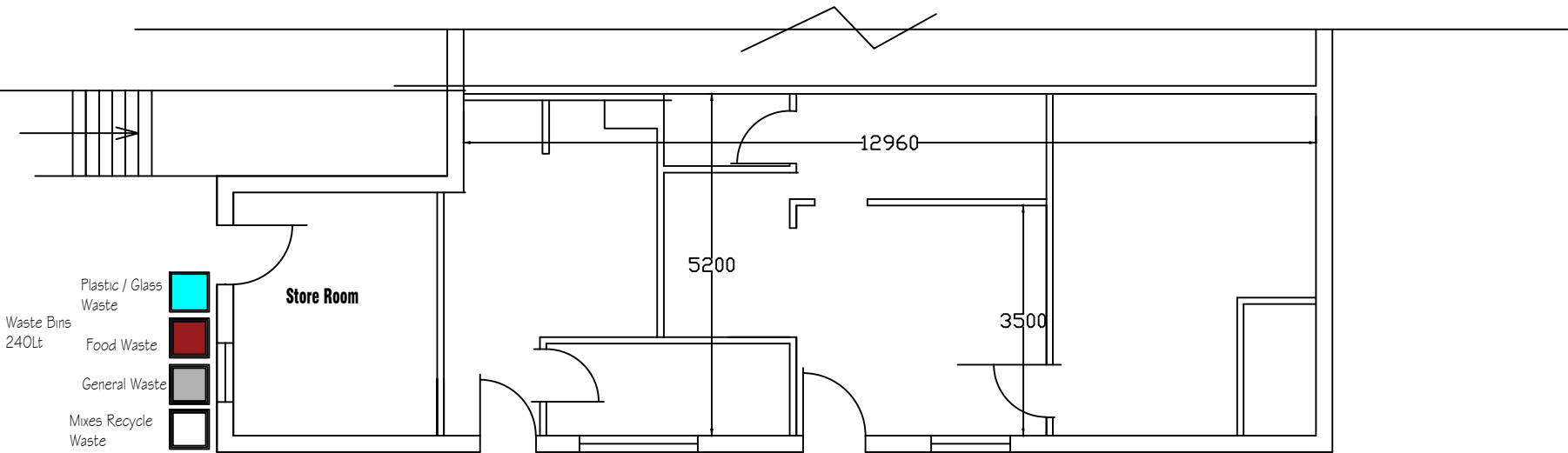
2nd Floor Plan



1st Floor 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		
dwg. title	Existing Plan		
dwg.no.	sheet no.	scale.	job no.
03		1:100 @ A3	
65 Windsor Road Pretwich M25 ODB			
drawn by.	checked by.	approved by.	date
TZ			March 2023

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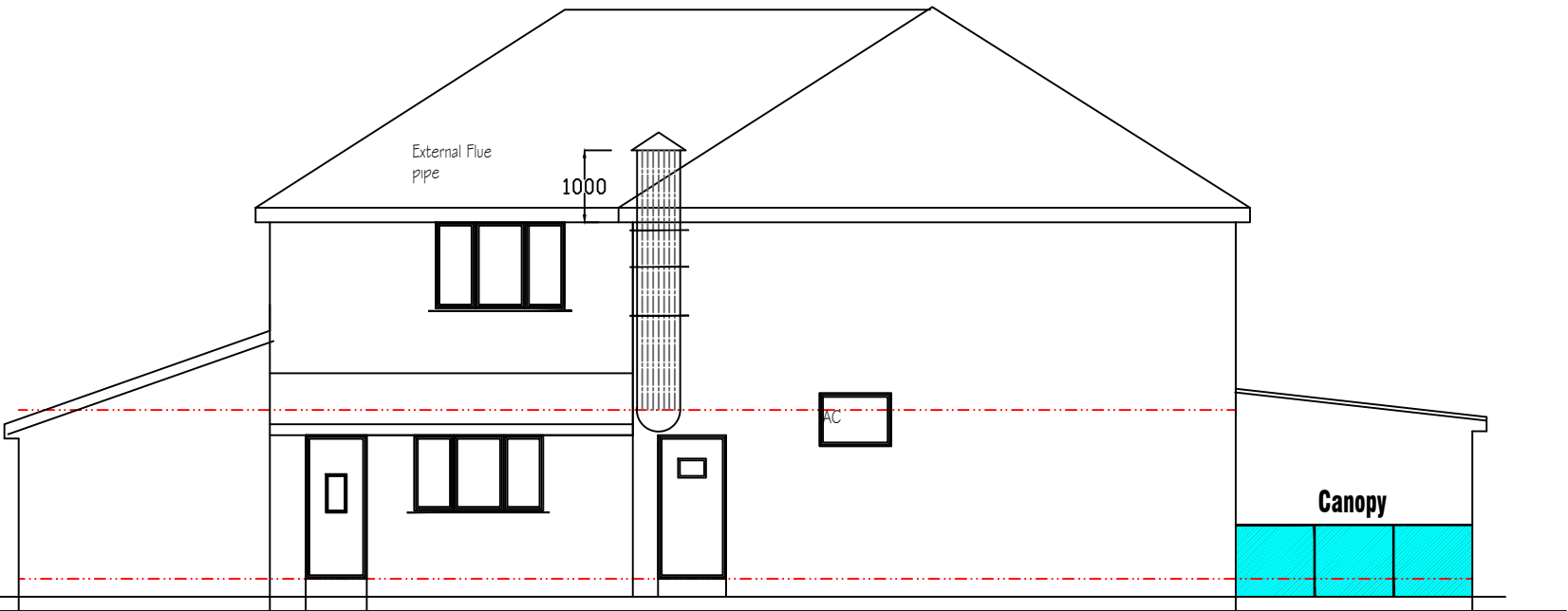
Site Layout Plan

H S H

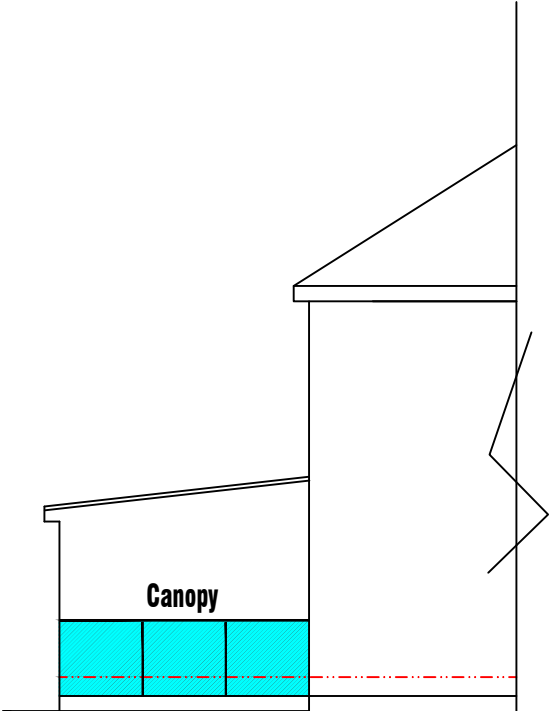
Engineering Design Services Ltd
428 Cheetham Hill Road Cheetham Manchester
M8 9LE, UK 01617956385,07940197 333

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

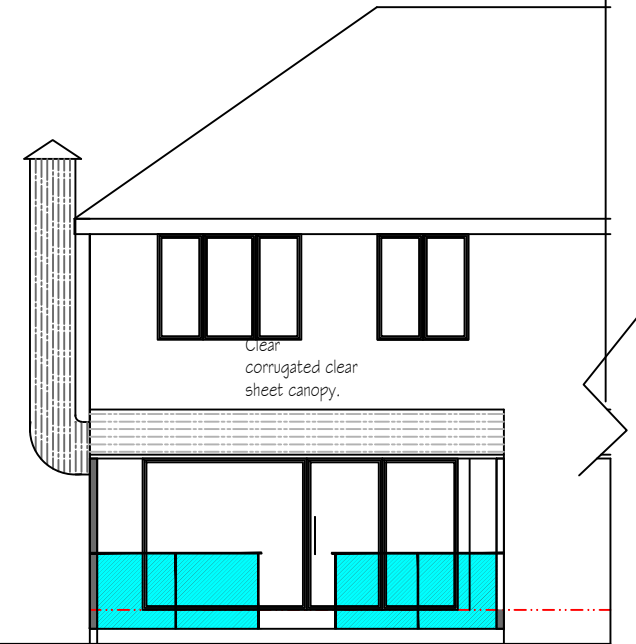
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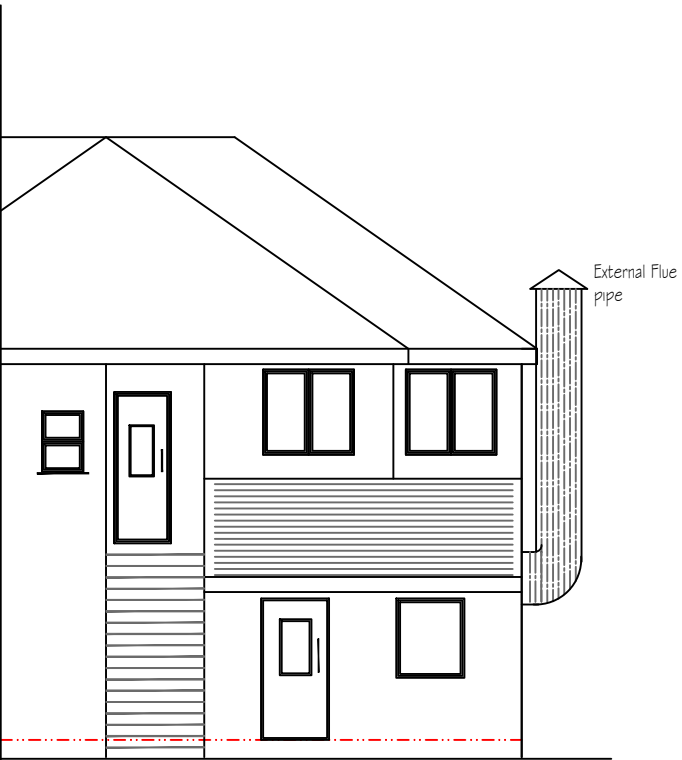
Side Elevation



Elevation From No 67



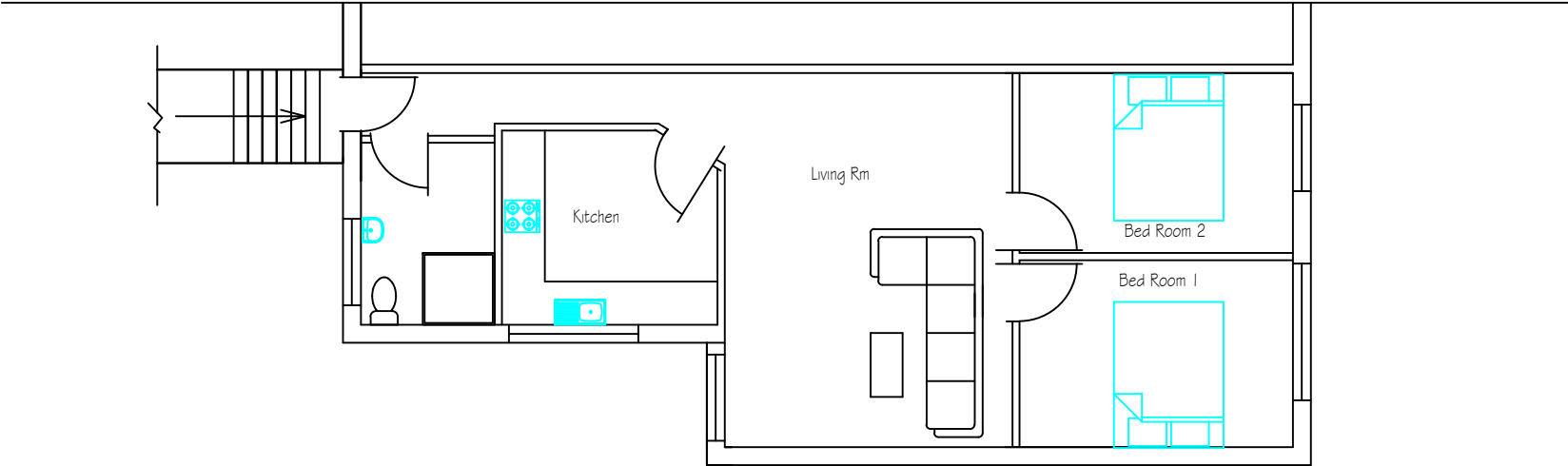
Front Elevation



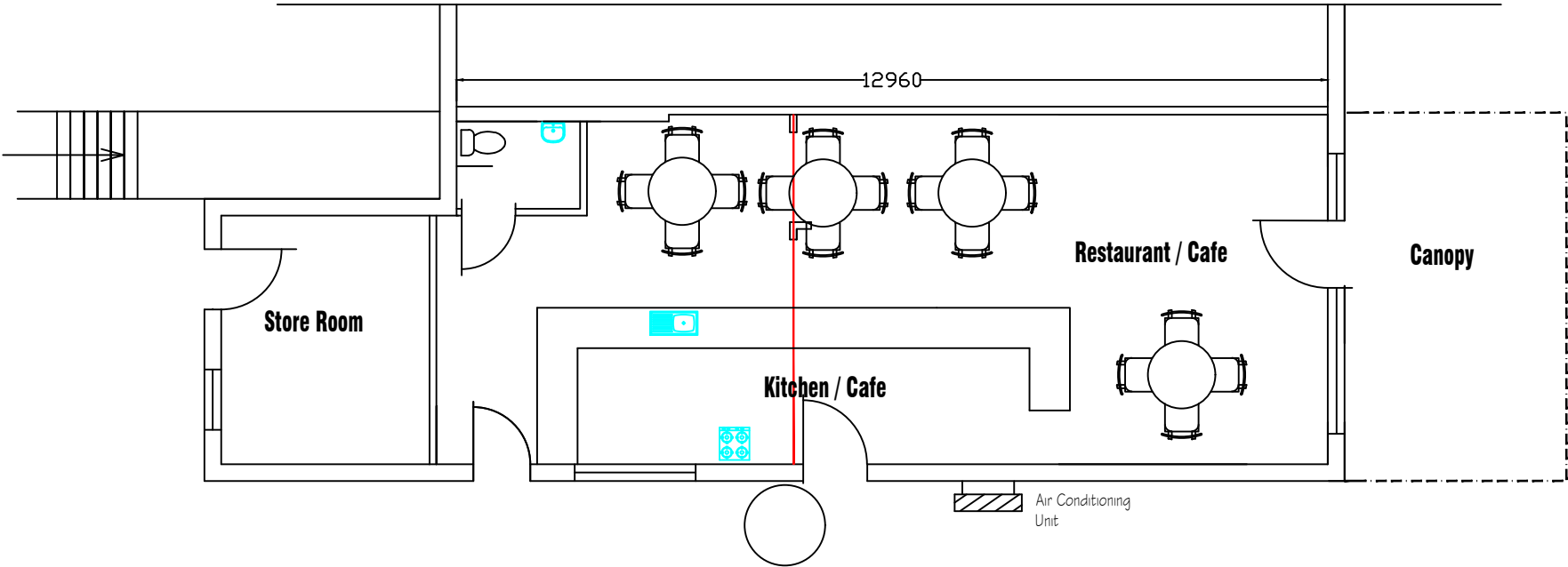
Rear Elevation

Date	Rev	Description	
25.9.23	A	Planning	
24.01.24	B	Planning	
25.01.24	C	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	As Constructed		
dwg. no.	sheet no.	scale.	job no.
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65 Windsor Road Pretwich M25 0DB			
drawn by.	checked by.	approved by.	date
TZ			March 2023

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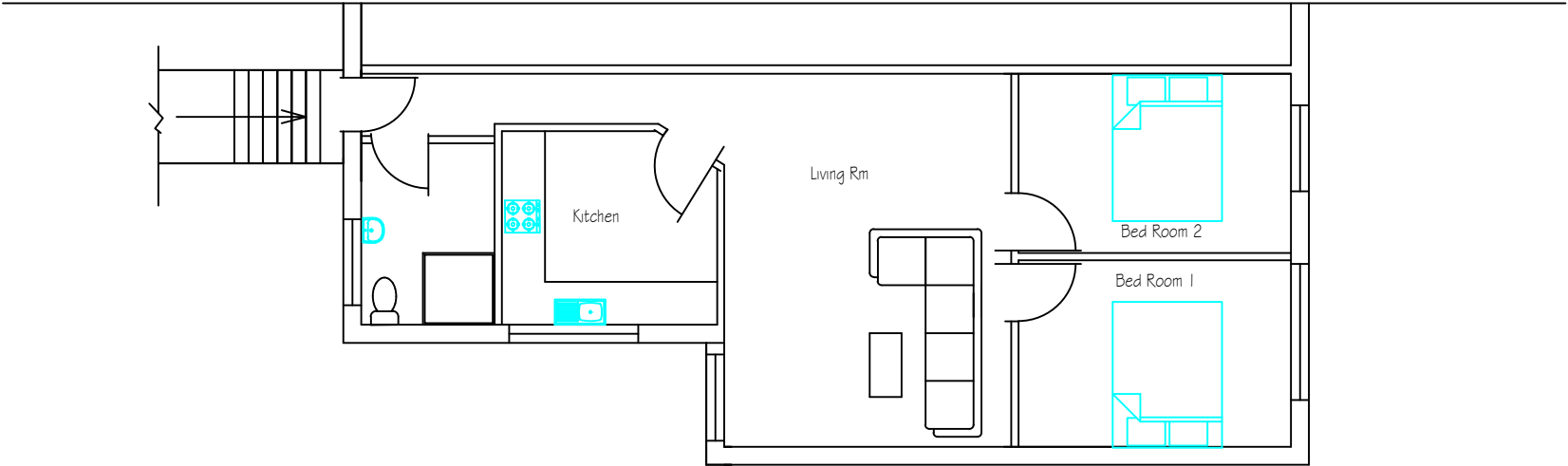
1st Floor Plan



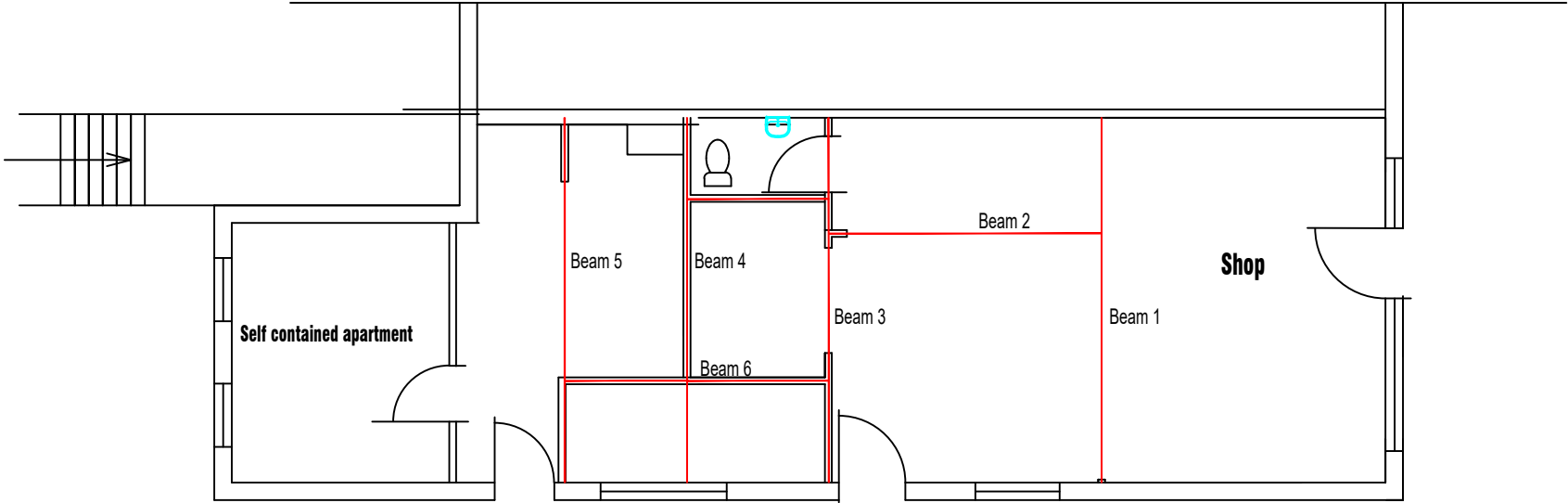
Ground Floor Plan

Date	Rev	Description	
25.9.23	A	Planning	
20/01/25	B	Planning	
16/03/25	C	Planning	
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.		
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dwg.no.	sheet no.	scale.	job no.
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1st Floor Plan



Ground Floor Plan

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