

**Proposed development: Full Planning Application for Proposed single storey side extension to replace part of previously approved decking area**

**Site Address:  
Units 7 and 7A Brookhouse Business Centre  
Whalley Range  
Blackburn  
BB1 6BB**

**Applicant: Divine Patisseries Ltd**

**Ward: Bastwell & Daisyfield**

**Councillor Parwaiz Akhtar  
Councillor Iftakhar Hussain  
Councillor Shaukat Hussain**



## 1. SUMMARY OF RECOMMENDATION

- 1.1 The proposed development is recommended to be approved subject to the conditions detailed in Section 5.

## 2 KEY ISSUES

- 2.1 This application is presented to the Planning and Highways Committee due to the history of the application site. The previous planning application (the original approval 10/22/1004) was also reported to the Planning Committee on 16th February 2023. Members will recall the application was deferred at the 17<sup>th</sup> August 2023 Committee meeting, to allow further consideration of the proposed development relating to the increased footprint and capacity of the premises. There was also concerns expressed relating to the non-compliance by the applicant relating to the opening hours of the premises pursuant to Condition No.3 of application 10/22/1004.
- 2.2 This application seeks permission for a for a single-storey side extension to the Mii Chaii café/restaurant where there is an approved outdoor decking / seating area in situ.
- 2.3 The application site is located on Whalley Range and was formerly part of the Brookhouse Business Centre. The site lies directly adjacent to, but just outside the Whalley Range District Centre, within the Inner Urban Area of Blackburn in relative close proximity to the Town Centre, and a Coal Low Risk area.
- 2.4 Planning permission for the café/restaurant, including the outdoor decking / seating area, was approved at the 16<sup>th</sup> February 2023 Planning committee (ref 10/22/1004 - Retrospective change of use from showroom, offices and catering preparation area (Sui Generis use), to a Cafe (Class E) including New Glazing, Rear Extension and External Alteration, including new seating area to the side elevation).
- 2.5 Condition 3 of the 10/22/1004 permission includes a 23:00hrs closing time for the inside of the café/restaurant, but with shorter hours (to 20:00hrs) for the outdoor decking area. The condition states:
- 2.6 *“The use hereby permitted shall not take place outside the hours of 09:00hrs to 23:00hrs Mon-Fri, and 10:00hrs to 23:00hrs Sat, Sun and Bank Holidays. Furthermore, the external decking area shall not be in use for any purpose outside the hours of 09:00hrs to 20:00hrs (Mon-Fri), and 10:00hrs to 20:00hrs (Sat, Sun and Bank Holidays).”*
- 2.7 This application seeks to extend the building to replace the outdoor seating area with a single storey side extension so that all of the café/restaurant space would be indoors. The applicant explains that the intention is to provide customers with a better overall experience at all times of the day and seasons of the year and enable the opening hours to be equalised throughout the

premises. The proposal to bring the decking area inside would enclose the existing decking area to minimise noise.

2.8 The footprint of the new enclosed area would be over the bulk of the existing decking area. The applicant has clarified that access to this enclosure would be via the main Café. There would be no external doors leading in or out of the proposed enclosure and all windows would be fixed (non-opening).

2.9 The proposed scheme is considered acceptable for the reasons set out in this report.

2.10 The key issues to be addressed in determining this application are;

- Principle of Development
- Highways issues
- Design and visual amenity
- Residential amenity
- Other matters
- Planning balance

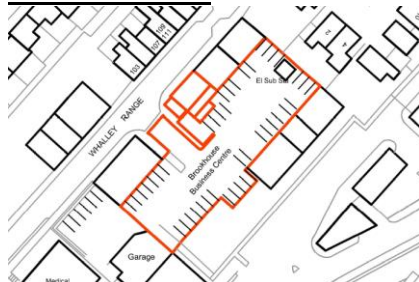
### 3 RATIONALE

#### 3.1 **Site and Surroundings**

3.1.1 The application site (Mii Chaii café / restaurant) lies within a commercialised setting, with a range of shops and local services. The surrounding area is mixed, with some residential dwellings also in the vicinity. The application site comprises an existing two storey commercial unit, which is just one of a number of units within the former Brookhouse Business Centre, within the Inner Urban Area of Blackburn, on the south/eastern side of Whalley Range, in a Coal Low Risk area.

3.1.2 The site also sits directly adjacent to the Whalley Range District Centre, as identified in the Local Plan Proposals Map (below). The adjoining units on Whalley Range to the south-west also sit within identified secondary retail frontage on the Proposals Map. This can be seen below.

Location Plan:



Local Plan Proposals Map:



3.1.3 The proposed enclosure would be sited on the existing decking area to the side of the café/restaurant, on the corner of Whalley Range and the entrance road into the shared rear car park, all part of the former Brookhouse Business Centre. There is a single storey commercial unit to the north-east, which formed part of the previous use of this group of units as showroom, offices and catering preparation area. On the opposite side of the access road to the south-west is one of a number of dessert parlours in the area. There is a mix of commercial and residential properties on the opposite side of Whalley Range.

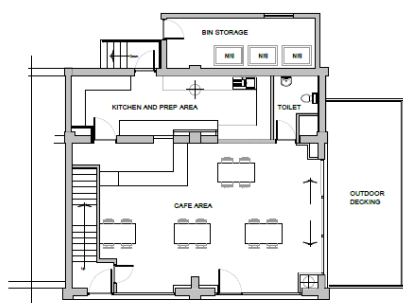
### 3.2 **Proposed Development**

3.2.1 This application is for a single storey flat roof side extension covering the majority of the footprint of the existing approved outdoor decking area, located in-between the main cafe/restaurant building and the access road into the shared rear car park.

3.2.2 The side wall of the building, which is currently the external wall, would become internal, connecting the extension to the main building. This elevation is already fully glazed, with sliding doors which can be opened up to allow the extension to either become part of the main café area or closed off as a separate space.

3.2.3 As with the existing decking area, the proposed flat roof extension would be slightly set back from the front (Whalley Range) elevation. The extension would use matching materials including the same brick and type of glazing units as the existing building. There would be full-height glazing on the front, side and rear elevations. There would be no external access/doors, and all windows would be non-opening.

### 3.2.4 **Existing plans and elevations**



EXISTING GROUND FLOOR PLAN.  
SCALE 1:50



EXISTING FRONT ELEVATION.  
SCALE 1:100

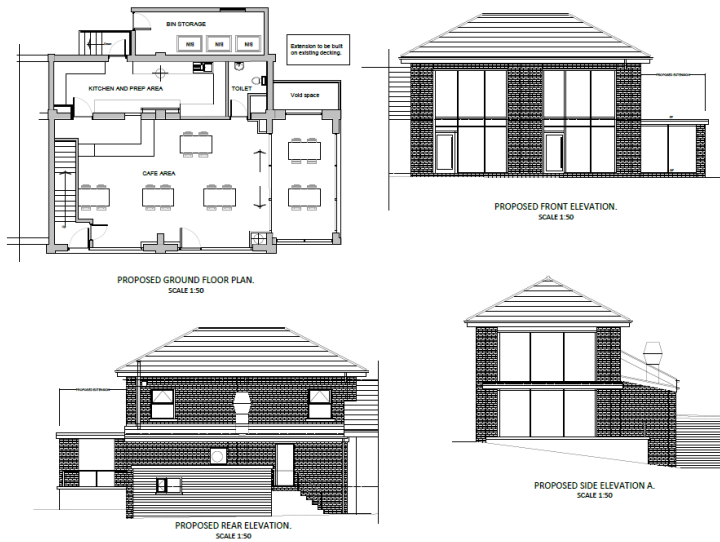


EXISTING SIDE ELEVATION A.  
SCALE 1:100



EXISTING REAR ELEVATION.  
SCALE 1:100

### 3.2.5 Proposed plans and elevations



3.2.6 Hours of operation would match those attached to the rest of the café/restaurant (09:00hrs to 23:00hrs Mon-Fri, and 10:00hrs to 23:00hrs Sat, Sun and Bank Holidays). The decking area presently has an hours of use restriction to 20:00hrs, but given this would become a fully enclosed area as part of the main café/restaurant, the 23:00hrs restriction would then apply to the whole premises.

3.2.7 The existing parking arrangements would also remain. The rear car park is shared by all the users of the units within the former Brookhouse Business Centre. There is no definitive parking allocation for the individual units.

### 3.3 Site Photos





### 3.4 Planning history

- **10/22/1004** – approved Retrospective Application for Change of Use from Sui Generis to Cafe (Class E) including New Glazing, Rear Extension and External Alteration, including new seating area to the side elevation – Approved at the 16<sup>th</sup> February 2023 Planning Committee, subject to conditions.
- **10.92/0889** - Proposed Training Workshop & Office Units – Brookhouse Business Centre - Approved 25/08/92.
- **10/13/0675** - Change of use from education centre and offices to showroom, offices and catering preparation area – Approved 17/10/13.

### 3.5 Supporting documents

3.5.1 The following documents were submitted in support of this application:

- Planning Statement

### 3.6 Development Plan

#### 3.6.1 Blackburn with Darwen Core Strategy

- Policy CS16: Form and Design of New Development

#### 3.6.2 Local Plan Part 2 (adopted 2015):

- Policy 1: The Urban Boundary
- Policy 2: The Inner Urban Area
- Policy 7: Sustainable and Viable Development
- Policy 8: Development and People
- Policy 9: Development and the Environment
- Policy 10: Accessibility and Transport
- Policy 11: Design
- Policy 27: District Centres – a Framework for Their Development

#### 3.6.3 **Other material considerations**

BwD adopted Parking Standards

Borough wide Design Guide SPD

National Planning Policy Framework

## **4.0 ASSESSMENT**

### **4.1 Principle of Development**

- 4.1.1 Policies 1 and 2 of the Local Plan identify the inner urban area as the preferred location for new development.
- 4.1.2 The application site also lies directly adjacent to the Whalley Range District Centre. Policy 27 of the Local Plan is clear that this policy applies to proposals “*Within and adjacent to District Centres..*”.
- 4.1.3 Policy 27 supports development where it encourages mixed uses, and where it responds to the scale and function of the centre. Proposals involving conversion and adaptation of premises or involving changes of use should take place within existing buildings and frontages in order to consolidate and strengthen the vitality of the centre. They should retain or provide shop fronts in order to maintain active frontages and retain the character and vitality of the centre.
- 4.1.4 The proposed development only relates to the construction of a structure over an existing outdoor decking/seating area to the side of the premises, with no change of use proposed. The proposal would not have any detrimental impact on the scale and function of the centre, and subject to being satisfactory in all other respects, the proposal is considered acceptable in principle, and in accordance with Policies 1, 2, and 27 of the Local Plan.

### **4.2 Highways issues**

- 4.2.1 Policy 10 outlines a general requirement for all development proposals to not prejudice road safety, or the safe and convenient movement of all highway users. Parking should also be provided in accordance with the BwD Parking Standards. In addition to avoiding unacceptable impacts on highway safety, the Framework also seeks to ensure that the cumulative impact of development on the highway network is not severe.
- 4.2.2 The Highway Authority raised an objection to the original approval on the basis that no parking was offered to support the increase in vehicle movements (compared to the previous training centre use), and that the café/restaurant would be detrimental to highway safety, and contrary to Policy 10 of the Local Plan.
- 4.2.3 This time the Highways Authority has once again raised an objection, referring to the increased (indoor) capacity of the café / restaurant, and a potential increase in customer footfall throughout the year as a result of the proposed enclosure. The Highways consultee comments that not all visitors will be from the immediate area; that cars are still parking on double yellow lines outside the premises; and that existing parking in the area is fully saturated. The Highways consultee goes on to suggest that the additional floor area would exacerbate the existing situation, without any recourse to highway safety, and



would therefore be detrimental to highway safety, and contrary to Policy 10 of the Local Plan.

- 4.2.4 It is accepted that the maximum number of people who could visit the café/restaurant during inclement weather and/or during the evening (after 20:00hrs) would slightly increase, but this would only be relevant at times when the café/restaurant is at or close to full capacity, and the existing decking is unsuitable for use.
- 4.2.5 In any case, the proposed enclosure would only be small scale, and the overall maximum capacity would not change from the existing situation. Arguably, the proposal could be considered to reduce the existing capacity of the café/restaurant, because the construction of the enclosure would result in a small area of the existing decking becoming inaccessible, meaning there would actually be a slight reduction in the overall café/restaurant floorspace.
- 4.2.6 The proposal seeks to provide greater comfort for customers and allow more efficient management of the café/restaurant space. Even if it is accepted that there would be a minor increase in capacity, any increase in customer numbers would only occur at times when the café/restaurant is at or close to full capacity, and the existing decking is unsuitable for use.
- 4.2.7 Given the small size and scale of the proposal, and taking into consideration the existing authorised use of the decking area, it is not considered that enclosing this small area would materially increase vehicle movements / parking demand to unacceptable levels. Nor would it have an unacceptable detrimental impact on highway safety, or have a severe cumulative impact on the highway network.
- 4.2.8 The application site is located directly adjacent to a District Centre in a highly sustainable and accessible location. The District Centre designation recognises not only the sustainable location but also the potential for linked trips. Many trips to the centre will be multi-purpose, and trips to the cafe will therefore not create substantial new parking demand as a standalone destination in its own right, but will largely be used by people who are already in the area, either visiting other shops in the District Centre, and/or who live locally and will arrive on foot. Providing on-site parking within District Centres is not a prerequisite of Policy 27, which for clarity includes development adjoining District Centres, sets out a framework for development in District Centres.
- 4.2.9 Proposals should only be refused on highways grounds where there is a demonstrable unacceptable detrimental impact on highway safety, and/or the cumulative impact of development on the highway network is severe. In this case it is not considered that these thresholds are met. It is therefore considered that the proposal is acceptable on highways grounds, in accordance with Policy 10 of the Local Plan, and the NPPF.



### 4.3 Design and Visual Amenity

- 4.3.1 In general terms, Core Strategy Policy CS16 and Local Plan Policy 11 require all development proposals to represent a good standard of design through demonstrating an understanding of the sites wider context and making a positive contribution to visual amenity.
- 4.3.2 The proposed flat roof side extension would cover the majority of the footprint of the existing approved outdoor decking area. As with the existing decking area, the extension would be slightly set back from the front elevation. The extension would use matching materials including the same brick and type of glazing units as the existing building. It would have full-height glazing on the front, side and rear elevations.
- 4.3.3 The proposed extension has been designed to harmonise with the existing building and is appropriate in scale and proportion, as well as replicating the key design elements of the existing building, notably the brickwork and the contemporary full-height glazing. The vertical emphasis of the curtain wall glazing and brick work of the existing building would also carry through to the extension, positively reinforce the character and quality of the street scene.
- 4.3.4 The scale and design of the modern addition would therefore be entirely appropriate to the existing building and would be subordinate to it, thereby not detracting from the character and appearance of the main building. It would also
- 4.3.5 Although the proposal would bring the massing of the built form closer to the rear car park access road from Whalley Range, the access is already quite wide, with room for 2 vehicles to pass side by side, and with footpaths on either side. It is further noted that the building (the dessert parlour) on the other side of the access road also projects up to the edge of the pavement.
- 4.3.6 Furthermore, the footprint of the single storey flat roof extension would not project any further to the side of the main building than the footprint of the existing decking area, and the front of the enclosure would be set back slightly from Whalley Range, with large amount of glazing. The extension is therefore considered acceptable in terms of its impact on the openness of the access road to the car park and would not “close in” the access to an extent that the character of the street scene would be adversely affected.
- 4.3.7 In summary, the proposed alterations would result in an active, modern addition that would be in keeping with the existing building, and the function, mixed character of the Whalley Range District Centre. It is therefore considered that the proposal would have an acceptable visual impact, meeting the requirements of Policy 11 of the Local Plan and Policy CS16 of the Core Strategy.

#### **4.4 Residential Amenity**

- 4.4.1 Policy 8 of the Local Plan states that all development proposals must secure a satisfactory level of amenity and safety, with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy/overlooking, and the relationship between buildings. Also that it will, in isolation and in conjunction with other planned or committed development, contribute positively to the overall physical, social, environmental and economic character of the area in which the development is sited.
- 4.4.2 A condition was attached to the original café/restaurant approved under 10/22/1004 to restrict the use of the existing open decking area to no later than 20:00hrs. This was different to the rest of the café/restaurant, which can operate until 23:00hrs, because of the additional noise that would likely arise from the open deck area compared to noise from inside the main café/restaurant. The proposed enclosure would therefore have a positive effect in this respect, helping to enclose noise within the building, to the benefit of local residents.
- 4.4.3 The Council's Public Protection team raised no objections to the proposal, subject to appropriate conditions and informatives, including a condition restricting hours of use to the same as the rest of the café/restaurant.
- 4.4.4 It is also considered appropriate to attach a condition ensuring that there is no external access, and that all windows are fixed / non-opening. The applicant has confirmed that this will be the case. Such a condition is considered reasonable in these circumstances.
- 4.4.5 The proposal is therefore likely to have a positive impact in terms of local amenity, especially when assessed in the context of the existing use of the building and the outdoor decking area, and the commercial setting of the application site directly adjacent to a District Centre. The proposal is therefore considered to have an acceptable impact in terms of residential amenity, and accords with Policy 8 of the Local Plan.

#### **4.5 Planning balance**

- 4.5.1 The objection from Highways is noted, but as set out in this report, any increased highway impacts arising from the proposed enclosure over the existing decking area are likely to be negligible, and are not considered to outweigh the positive effects of the proposal.
- 4.5.2 Positive effects include improved customer facilities at the café/restaurant, the associated social and economic benefits, and the reduction of existing noise arising from the open decking area, which would be to the benefit of local residents. The planning balance suggests therefore that the development should be approved, subject to conditions.

## **5 RECOMMENDATION:**

### **5.1 Delegated authority is given to the Strategic Director of Growth and Development and Deputy Chief Executive to approve planning permission, subject to the following conditions;**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Project no. 050 / WSA / 2022, Dwg no. 03: Site Location Plan.

Project no. 050 / WSA / 2022, Dwg no. 02: Proposed Floor Plans and Elevations.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The use hereby permitted shall not take place outside the hours of 09:00hrs to 23:00hrs Mon-Fri, and 10:00hrs to 23:00hrs Sat, Sun and Bank Holidays.

REASON: To safeguard the amenities of local residents and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

4. The external construction materials shall be as stated on the application form and approved drawings and they shall not be varied without the prior written consent of the Local Planning Authority.

REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.

5. The enclosure hereby permitted shall have no external access, and all windows on the external elevations of the enclosure shall be non-opening.

REASON: To minimise noise and disturbance and to safeguard the amenities of local residents and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

6. During the construction phase, there shall be no site operations on any Sunday or Bank Holiday nor on any other day except between the following times:

Monday to Friday      08:00 – 18:00 hours

Saturday                09:00 - 13:00 hours

**REASON:** To ensure appropriate hours of site work to minimise noise during the construction phase, to safeguard the amenities of local residents and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

## **6 CONSULTATIONS**

### **6.1 Highways**

#### **6.1.1 Objection raised due to additional vehicles generated will add harm to highway safety, detrimental to highway safety, contrary to Policy 10 of the Local Plan Part 2.**

The application seeks consent for proposed single storey side extension to replace part of previously approved decking area.

In accordance with adopted parking standards. The extension proposed would increase the public seating associated with the premises throughout the year.

The current decking is only usable at seasonal times (weather permitting).

The addition of an enclosed extension would increase the customer footfall throughout the year.

The site recently acquired retrospective planning consent for the Mii Chai business, this was to be supported by the car park at the rear, which now operates as an ANPR car park.

The concerns expressed at the original application still stand. Having visited the site, on a number of occasions the abhorrent parking that we were concerned about along Whalley Range on double yellow lines still occurs even with the introduction of available parking to the rear.

The property is located on the fringe of the Whalley Range Bazaar Area. The existing parking in the adjacent streets is fully saturated. It is recognised that the site is sustainable, however not all visitors will be from the immediate area, as the bazaar does attract visitors from a wider area and also from outside the borough.

There are ongoing issues with the highway network in the immediate locality, this has culminated in joint departmental investigations being undertaken, involving the Police, Neighbourhood Teams, traffic and parking.

In addition to the above, there is a priority give way positioned right outside/close to the property. This also highlights the need to keep the area clear from intensive movements, for safety reasons.

To conclude the additional floor area would continue to exacerbate the existing situations without any recourse to highway safety, we therefore object to the application for the following reasons:

- Additional vehicles generated will add harm to highway safety
- detrimental to highway safety

- contrary to policy 10 of the Local Plan Part 2

## 6.2 Public Protection

### 6.2.1 No objections, subject to conditions / informatives.

With reference to the above application, I recommend that the following condition(s), informative(s) and/or comment(s) be included if planning permission is granted:

#### Condition – Hours of Use Restriction

The approved use shall be restricted to the following times:

Monday to Friday: 09:00 – 23:00 hours

Saturdays/Sundays/Bank Holidays: 10:00 – 23:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

Reason: To ensure appropriate hours of use to minimise noise disturbance at residential premises.

#### Condition – Air Quality (Small Commercial Development)

Prior to commencement of the development hereby approved, a scheme for the provision of charging points for low emissions vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to commencement of the proposed use and retained thereafter.

Reason: In accordance with Policy 36 of the Blackburn with Darwen Borough Local Plan Part 2 and Paragraph 110 of the National Planning Policy Framework 2019, which states that developments should be designed to enable charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. This condition implements the requirements of Council's Air Quality PAN and the Principles of Good Practice in the EPUK & IAQM guidance Planning for Air Quality. These are readily achievable mitigation measures that reflect current good practice and help to reduce the cumulative impact of current and future developments.

#### Construction Phase Control Condition – Hours of Site Works

There shall be no site operations on any Sunday or Bank Holiday nor on any other day except between the following times:

Monday to Friday 08:00 – 18:00 hours

Saturday 09:00 - 13:00 hours

Any variation of the above hours restriction must be approved in writing by the Planning Authority.

Reason: To ensure appropriate hours of site work to minimise noise during the construction phase.

## 7 **Publicity**

- 7.1 The proposed development has been publicised through letters to 34 properties and businesses in the immediate area, and a site notice was displayed on 4<sup>th</sup> July 2023.

7.2. Whilst no objections were raised directly by local residents, a representation was received from the Office of Kate Hollern MP, Member of Parliament for Blackburn, referring to the following issues (raised by a local resident):

- Detrimental to the residential area.
- Detrimental to the character and vitality of the Whalley Range area.
- Overconcentration of food outlets in the area.
- Detrimental effect on road safety due to increased volume of traffic.
- Detrimental impact on the health of young people in the borough by virtue of its location within 400 metres exclusion zone around primary schools and two Madressas.
- Overdevelopment - it would narrow the appearance of the current wide access to the Brookhouse Business Park.

7.3 Most of the above matters have been addressed, directly or indirectly, in the main body of this report.

7.4 The only issue raised in the MP letter that is not covered in this report is potential health impacts / encouraging healthy eating. Fundamentally, the use of the premises has already been established by the previous approval, and the existing decking area that would become enclosed as a result of this application already benefits from the authorised café/restaurant use of the premises.

7.5 The proposal would therefore have a neutral impact in terms of health. Given there would be no material change of use, and no increase in floorspace as a result of this proposal, it is not considered necessary or reasonable to assess health impacts as part of this application.

**8 CONTACT OFFICER: Tom Wiggans – Planning Officer**

**9 DATE PREPARED: 4<sup>th</sup> October 2023**

## 10 SUMMARY OF REPRESENTATIONS

**Objection – Kate Hollern MP, on Behalf of Mr Asif Iqbal, 140 Whalley Range, Blackburn, BB1 6NL.**

**Received: 14/07/2023**

I write on behalf of my constituent, Mr Asif Iqbal, of 140 Whalley Range, Blackburn, BB1 6NL.

Mr Iqbal has contacted my office to express concern at recently announced proposals to erect a side extension at premises near to his home – namely the Mii Chaii cafe.

At the present time the proposed location of the extension is occupied by an outdoor decking area.

My constituent objects to these proposals on the following grounds:

- 1. The proposal is detrimental to the surrounding area which is residential.*
- 2. It would also likely lead to a detrimental impact on the character and vitality of the Whalley Range area.*
- 3. It is evident that there are a high number of existing food outlets already in the area and further expansion is considered as over concentration of such uses.*
- 4. A detrimental affect on road safety due to increased volume of traffic.*
- 5. The business would have a detrimental impact to the health of young people in the borough by virtue of its location within 400 metres exclusion zone of around two primary schools and two Madressas.*

Having discussed the matter with my constituent I believe Mr Iqbal also considers that construction of the extension would constitute overdevelopment as it would effectively narrow the appearance of the current wide access to the Brookhouse Business Park.

Mr Iqbal is aware that in recent months a temporary gazebo has been erected on the decking, and he is concerned that this application is a means of the premises extending its capacity from that previously agreed by the Council – with an inevitable associated increase in the movements of customers in an already very busy area.

In light of this, I would be most grateful if the concerns expressed could be noted in connection with any considerations of this application, and if my own interest could also be noted.