



Planning

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Mr Shariq Poonawala
Mecha Works Ltd
Unit 7 Freetown Business Park
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Date: 5 May 2020

Dear Sir or Madam,

**Town & Country Planning (General Permitted Development Order) (England) 2015
(as amended) Schedule 2, Part 3 Class C**

Application No.: 126798/P3CPA/2020

Description: Prior Approval for change of use from a shop (A1) to a restaurant (A3) together with fume extraction flue to rear

Location: 1A Grandale Street (referred To As 100A Wimslow Road On The Application Form), Manchester, M14 5WS

The above application was registered as valid on 23 April 2020.

When assessing the criteria of the prior approval scheme under Schedule 2, Part 3, Class C of the above Order, the proposal must comply with all of the requirements to be permitted development. Class C of the Order sets out that "Development constituting of -
(a)

a change of use of a building from a use (i) falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order, ...to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order," is permitted development. Where this includes the installation of extraction equipment, including an external flue, as it does in this case, the change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order, together with the extraction equipment are permitted development under Class C.(b). However, the prior approval route for a change of use from A1 to A3 is not available to you on this occasion.

On 22 October 2019, the Council issued an Enforcement Notice which alleged, "Without planning permission, the material change of use of the land to a hot food takeaway (Class A5), together with the erection of a flue and fume extraction equipment on the side elevation as shown edged in blue on the attached photograph ENF/01". The Enforcement Notice was the subject of an appeal, this lodged on 22 November 2019 under reference APP/B4215/C/19/3241767 and was dismissed on 13 March 2020. In the formal decision letter at paragraph 5, the Inspector assessed the evidence relating to the history of the use, noting that the appellant stated that the property "...was turned into a cafe restaurant in 2009, on the impression that the whole building had planning to be turned into a A3 from the planning that was obtained in 1974" and that "The cafe underwent some changes in 2012...", this to facilitate the change to Class A5. In this regard the change of use of a Class A3 use, or any other use, to a Class A5 use is not permitted development and the Inspector concluded that "On the Appellant's own evidence, the breach of planning control is not immune from enforcement action through the passage of time".

When an Enforcement Notice has been issued, s.57(4) of the Town and Country Planning Act 1990 (as amended), permits reversion to the use immediately preceding that constituting the breach of planning control; this providing that the previous use was lawful. The appellant made it clear in the evidence submitted in the 2019 appeal, that there had been a change from Class A1 to Class A3 in 2009, with a subsequent change to Class A5 in 2012, as such there was an interim unauthorised Class A3 use which had not become lawful. Accordingly, there is no route to revert back to a Class A1, without first obtaining planning permission and as such the prior approval route for a Class A1 to Class A3 is not available.

This letter is to be treated as a refusal of this application, in accordance with paragraph W.(3)(a) of the Order, and as such you have the right of appeal under Section 78 of the Town & Country Planning Act 1990 (as amended) as set out in paragraph W.(4). Any such appeal must be submitted using the Planning Inspectorate's website at <https://acp.planninginspectorate.gov.uk/> within 6 months of the date of this letter.

Alternatively, you will need to apply for planning permission by completing a full planning application form and should provide: a site location plan with the application site edged in red and a least one road name (to scale); existing and proposed floor plan drawings (to scale) of the premises; together with a waste management strategy (details can be found via this following link http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy); details of any fume extraction equipment installed at the property together with the technical specification; and the required fee of £462.

Should you wish to discuss this matter any further please contact Dave Morris.

Yours faithfully,



Julie Roscoe
Director of Planning, Building Control & Licensing