MANCHESTER
CITY COUNCIL

Planning

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Manchester M60 2LA

Mr Darren Pomfret
Darren Pomfret
8 Gas Street
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Date: 27 December 2019

Dear Sir/Madam,

Decline to Determine Application
Application No: 125302/FU/2019
Proposal: Change of use from restaurant/cafe (Class A3) to shisha cafe (sui generis) with opening hours of Sunday to Thursday 09:00 to 22:30 and Fridays and Saturdays 09:00 to 23:00
Address: 108 Wilmslow Road, Manchester, M14 5AJ

I refer to the above planning application, which was registered on 5 November 2019.

On 26 July 2018 the Council issued an enforcement notice in relation to the following specified breach of planning control:

Without Planning permission;

The material change of use from a restaurant (A3) to a Shisha smoking place (Sui Generis).

The notice came into effect on 11 September 2019, following an appeal to the Secretary of State; the notice required the following steps to be taken:

Cease the use of the land as a Shisha smoking place and remove all Shisha pipes, tobacco and associated paraphernalia from the land.

Under Section 70C of the Town and Country Planning Act 1990, a Local Planning Authority may decline to determine an application for planning permission, if granting that permission would involve granting, wholly or partly a permission for any matters specified in a pre-existing enforcement notice. A notice is "pre-existing" if it had been issued before the receipt of the planning application being determined as specified by Section 70C(2).

In the opinion of the Local Planning Authority, the proposal of this planning application (ref: 125302/FU/2019) as set out in the documents and associated plans, relates to matters pertaining to a "pre-existing" enforcement notice, i.e. one issued prior to the receipt of the application on 29 October 2019 and are matters for which planning permission is deemed to be required. An appeal against the Enforcement Notice, which included an assessment of the planning merits an ground (a) ("the deemed application"), was dismissed on 11 September 2019, following a two day Public Inquiry starting on 30 July 2019.

As the Council have already deemed the development to be unacceptable and have taken formal action, any approval of the matters presently before me will be in direct contradiction to those decisions previously made. Therefore, pursuant to Section 70C of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

As the decision to decline to determine the application has been made within the statutory 8 week period, there is no right of appeal to the Secretary of State against non determination under Section 78 as that right is lost under the provision of Section 78(2)(aa).

Yours faithfully,

Julie Roscoe
Director of Planning, Building Control & Licensing