MANCHESTER CITY COUNCIL

# Town & Country Planning Act 1990 (as amended)

# Refusal of Planning Permission

**Applicant**

Mr Sikander Ellahi
659A Hyde Road
Manchester
M12 5PS

**Agent (if used)**

Mr Subhan Saleem
64 Heaton Street
Prestwich
M25 1HH

## Part 1 – Particulars of the application/development

**Proposal**: Change of use of existing hair salon to hot food takeaway (sui generis) with associated fume extraction flue to rear

**Location**: 659A Hyde Road, Manchester, M12 5PS

**Date of application**: 6 September 2023

**Application number**: 137719/FO/2023

## Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **Refused** in accordance with the application and plans submitted for the reason(s) listed below.

## Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. In this case it is considered that the concerns about the scheme are significant and fundamental and cannot be overcome with simple amendments. The proposal would not improve the social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. The applicant was invited to withdraw the application, but wishes to see it determined.

## Reason(s) for decision

1) The proposed use is located outside an established and defined shopping parade/centre where hot food take away uses are usually considered to be appropriately located, to avoid any adverse impacts on the character or amenities of the occupiers of residential premises. The proposed use is therefore considered to be contrary to saved policy DC10 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Manchester Core Strategy.

2) The use of the premises as a hot food take-away (sui generis use) would have a detrimental impact on the amenity of neighbouring residents, particularly in relation to those residing in the adjoining terraced properties on Hyde Road and Norman Street, due to the increase in the comings and goings to and from the premises, and associated noise, disturbance and increase in vehicular and pedestrian traffic particularly late at night. The proposed change of use is therefore contrary to the provisions of policies SP1, DM1 and C10, of the Manchester Core Strategy, saved policies DC10 and DC26 of the Unitary Development Plan for the City of Manchester and Policy 2 of the Hot Food Takeaway Supplementary Planning Document.

3) The proposed hot food take away would be situated within 400 metres of the Co-op Academy High School and would be open for business before the hours of 5.30 pm weekdays thereby exposing children to foods that contribute towards obesity. The proposed development is therefore contrary to the provisions of policies SP1 and DM1 of the Manchester Core Strategy, Policy 3 of the Hot Food Take Away Supplementary Planning Document and policy JP-P6 of the 'Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039', adopted in March 2024.

Date: 15 April 2024

Signed: 

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

## Notes

1. This decision relates only to that required under the Town and Country Planning Act 1990 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of the notice of the decision. However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-decision. The Inspectorate will publish details of your appeal on the internet. Alternatively If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the City Council (planning@manchester.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.