MANCHESTER
CITY COUNCIL

Planning

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Mr Yunus Jiva
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Date: 22 December 2023

Dear Sir/Madam,

Decline to Determine Application
Application No: 138513/FO/2023
Proposal: Addition of roof terrace with retractable roof for mixed use as restaurant (E(b)) and for shisha smoking (sui generis).
Address: Huntsman Inn, 130 Wilmslow Road, Manchester, M14 5AH,

I refer to the above planning application, which was registered valid on 22 November 2023.

The City Council has exercised its powers to decline to determine the application, pursuant to Section 70C of the Town and Country Planning Act 1990.

Under Section 70C of the Town and Country Planning Act 1990 (as amended) 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).

On 14 September 2021 the City Council issued an enforcement notice for a breach of planning control which alleged that condition 13 of planning permission referenced 120947/FO/2018 was not being complied with. This states:

No part of the premises shall be used for the smoking of shisha at any time and none of the areas outside the building, including to the rear, shall be used as an external seating area or for use by patrons of the premises.

Reason - For the avoidance of doubt and to safeguard the amenities of the occupiers of nearby properties, pursuant to saved policies DC10 and DC26 of the Unitary Development Plan and policies SP1 and DM1 of the Core Strategy.

On 4 March 2022, an appeal against the notice was lodged with the Secretary of State.

It was concluded that that the appeal should not succeed, and planning permission not granted.

In the opinion of the Local Planning Authority, the current planning proposal relates to matters pertaining to a "pre-existing" enforcement notice.

As the Council have already deemed the development to be unacceptable and have taken formal action, any approval of the matters presently before the Council would 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. An appropriate entry will be made in the planning register to reflect this decision.

Therefore, pursuant to Section 70C of the Town and Country Planning Act 1990 (as amended), the City Council as Local Planning Authority, hereby declines to determine the application.

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).

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Yours faithfully,

Julie Roscoe
Director of Planning, Building Control & Licensing