MANCHESTER CITY COUNCIL

Planning

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Date: 13 November 2023

Dear Sir/Madam,

Decline to Determine Application
Application No: 138059/FO/2023
Proposal: Retention of the enlarged opening along the Walmer Street elevation, including the installation of a shutter over the opening and the application of artificial turf to the side elevation and the erection of a small coal burner to the rear with flue.
Address: 360 Lounge, 54 - 56 Wilmslow Road, Manchester, M14 5AL,

I refer to the above planning application, which was registered valid on 28 September 2023.

On 27 September 2018 the Council issued an enforcement notice in relation to the following specified breach of planning control:

Without Planning permission:

1. the material change of use from a restaurant to a Shisha smoking place;
2. the installation of retractable plastic drapes to the canopy above the front forecourt area;
3. creation of an enlarged opening in the Walmer Street elevation and installation of roller shutters over new opening;
4. application of artificial turf to the side elevation wall;
5. erection of a rear porch extension.

The notice came into effect on 1 November 2018 and required the following steps to be taken:

1. Cease the use of the land as a shisha smoking place and remove all shisha pipes, tobacco and associated paraphernalia.
2. Remove the retractable plastic drapes from the canopy above the front forecourt area, shown on the attached photograph ENF/01.
3. Remove the artificial turf from the side elevation wall shown on the attached photograph ENF/01.
4. Remove the porch shown on the attached photograph ENF/02.
5. Return the ground floor side elevation to its condition before the breach took place, indicated on the attached photograph ENF/03 and shown on the attached drawing PL01 marked "EXISTING SIDE ELEVATION".

6. Remove all building materials, rubble and waste arising from carrying out the above steps.

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: 138059/FO/2023) 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 11 September 2023 and are matters for which planning permission is deemed to be required.

As the Council has 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