

Appeal Decision

Site visit made on 21 February 2017

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 March 2017

Appeal Ref: APP/W4223/W/16/3163748

95 Huddersfield Road, Oldham, Lancashire, OL1 3NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Schofield (RA Schofield SIPP) against the decision of Oldham Metropolitan Borough Council.
 - The application Ref PA/338530/16, dated 28 April 2016, was refused by notice dated 1 September 2016.
 - The development proposed is change of use from A1 to A5.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon the (i) character and appearance of the area; and (ii) the vitality and viability of the commercial frontage.

Reasons

Character and Appearance

3. The parade is a traditional two-storey terrace. The flue would be on the side elevation of the building. Although the flue could be painted to match the wall paint, it would be a tall, utilitarian and chunky structure which would look unattractive and incongruous to the building.
 4. I accept that there are a few trees nearby but these do not provide very much screening to the side elevation. Regardless of it being set away from the front elevation, it would be prominent in the street-scene. I also appreciate that there is other commercial paraphernalia in the vicinity but this does not justify further harm.
 5. I note the appellant has resolved the issue over the distance of the base of the flue from the pavement, but this does not overcome the harm I have described.
 6. Therefore, I conclude that the proposed development would harm the character and appearance of the area. Consequently, it would conflict with Policies 9, 15 and 20 of the Oldham Joint Core Strategy and Development Management Policies, 2011 (CS DMP) which seek to achieve good design and to protect the local environment. It would also conflict with Oldham Supplementary Planning Document, Vibrant Centres (SPD) which says that external extraction flues
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should be hidden from view of the street scene wherever possible. Furthermore, it would conflict with paragraphs 58 and 64 of the National Planning Policy Framework which promotes good design.

Vitality and Viability

7. The building is located within a row of 8 commercial units which fall within the Greenacres Business Employment Area (GBEA). There are several large-scale commercial premises in the immediate vicinity, including the fast food outlets, KFC and McDonalds and the superstores, B&M Stores and Tesco Extra.
8. Policy 15 of the CS DMP indicates that 70% of primary frontages should remain in retail use but I have no indication that the appeal site is within a Primary Frontage and therefore I find no conflict with Policy 15.
9. Policy 16 of the CS DMP indicates that 75% of a frontage should remain in retail use unless it can be demonstrated that a retail use is not commercially viable. The aims and objectives of this policy are to retain convenient facilities near people's homes and to reduce the need to travel. The Council's SPD says that no more than 10% of a frontage should be in A5 use and this is to retain the viability and vitality of the Borough's commercial areas.
10. The proposal would result in four of the eight units being occupied by A5 uses. This would be clearly in excess of the thresholds set out in Policy 16 and in the SPD. However, the appellant has provided evidence from his letting agent that although the last use of the premises was a shop it has been marketed for a couple of years with very little interest except for A5 use. I saw at my day-time site visit that the unit was closed with its shutters down.
11. Furthermore, due to the proximity of the B&M Store and the Tesco Extra, there is no shortage of the sale of day to day retail goods in the immediate area. As such, the aims and objectives of Policy 16 would not be compromised by the change of use and there are convenient retail facilities in the immediate area. Also, as the evidence from the appellant points to a shop use not being commercially viable, I find no conflict with this policy.
12. The appellant has also stated that the takeaway would be to serve the employees of the GBEA and would accept a condition limiting the opening hours to 11am to 7pm. This would mean that the premises would be open during the day and therefore the daytime viability and vitality of the parade would not be harmed by the proposal. Given these daytime opening hours, together with the lack of viability of a retail use, I find that the A5 use would not conflict with the aims and objectives of the SPD either.
13. I therefore conclude that the proposed development would not be harmful to the vitality and viability of the commercial frontage.

Conclusion

14. Whilst I find no harm to the vitality and viability of the commercial frontage, I do find harm to the character and appearance of the area and consequent conflict with the development plan. For this reason, the appeal is dismissed.

Siobhan Watson

INSPECTOR