



Appeal Decision

Site visit made on 4 December 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Appeal Ref: APP/B4215/W/19/3237223

146 Cheetham Hill Road, Manchester M8 8PZ

- 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 Shakil Ahmed against the decision of Manchester City Council.
 - The application Ref 123150/FO/2019, dated 26 March 2019, was refused by notice dated 22 July 2019.
 - The development proposed is described as the “change of use of ground floor from retail (Class A1) to restaurant (Class A3)”.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the wholesale trade function of the area and highway safety.

Reasons

Wholesale Trade Function

3. The appeal site comprises a vacant, three-storey, mid-terrace property. It is located within a row of commercial and retail units fronting onto Cheetham Hill Road. The wider area predominantly consists of wholesalers and distributors focusing on textile, clothing and other trades, but also includes a mix of retail, food and drink related uses and a range of other uses.
4. Turning to the Policy context, saved Policy CC10 of the Manchester Plan the Unitary Development Plan for the City of Manchester 1995 (the UDP) seeks to encourage the continued high level of economic activity in Strangeways and lower Cheetham Hill Road areas. It goes on to recognise the regional role played by the locality and seeks to improve the efficiency of wholesale cash and carry and bulk distributive trades.
5. Saved Policy DC10 of the UDP states that planning application for food and drink uses shall have regard to the general location of the proposed development, including any reference to the area in other policies in the Plan. Therefore, in this instance, saved Policy DC10 is linked to saved Policy CC10.
6. Policies DM1 and SP1 of the Manchester Core Strategy Development Plan Document (2012) (CS) sets out specific detailed guidance for consideration in

- all proposed developments and sets out the spatial principles for development respectively.
7. The proposal would result in the conversion of the ground floor of the property to a restaurant and associated facilities, while access to the upper floors would be altered the submitted plans denote these areas simply as “store”. The appellant has not detailed the expected number of tables that could be provided within the restaurant.
 8. The current use of the building is at dispute between the parties, the Council referring to the existing signage at the property that details a cash and carry function. The appellant refers to the planning history of the site as detailed within the planning officer’s report that refers to an approved application for a “first floor rear extension to shop”. However, I note that a preceding application referred to the existing use as being “a warehouse for Electrical and Allied goods” and that there is not another application relating to a change of use to a shop.
 9. I have very limited substantive evidence regarding the existing lawful use of the site and while it is a finely balanced decision, I nonetheless find that on the basis of the evidence before me the existing use of the premises is as a cash and carry. Consequently, as a result of the proposed development it would no longer be available for wholesale trade use.
 10. The appellant contends that the prevailing wholesale businesses have “long since disappeared” and refers to the terrace that accommodates the appeal site as including six retail units, three take away units and one restaurant unit. Indeed, the Council’s reason for refusal refers to the proposed development resulting in an over concentration of such uses in the area.
 11. On the basis of the evidence before me and my observations at my site visit, I agree that, in the specific location of the proposed development, the number of food and drink uses is already high, the proposed development would further increase this leading to an overconcentration of such uses undermining the wholesale cash and carry and bulk distributive trades of the area.
 12. The appeal property is currently vacant, and the appeal proposal would bring the property back into effective economic use. This is a material consideration that weighs in favour of the proposed development. However, I have not been provided with any substantive details as to the length of time that the property has been vacant or the efforts to market and let the property to other occupiers. Therefore, I attach only limited weight to this material consideration and I find that it does not outweigh the harm that I have identified previously.
 13. The Council has referred to the Strangeways Local Plan (the SLP). However, I have not been provided with a copy of this document. The Officer’s report details that the site falls within the Workshop Village as identified in the SLP. A primary objective of the SLP is to retain and improve the neighbourhood for employment use businesses.
 14. I have also had regard to the recent appeal decision referred to me by the Council¹. I note that the Inspector similarly concluded that the proposal would harm the wholesale function of the area.

¹ Appeal Reference: APP/B4215/W/17/3189312 - 26th February 2018

15. To conclude on this main issue, on the basis of the evidence before me I find that the proposal would harm the wholesale function of the area, contrary to saved Policies CC10 and DC10 of the UDP. In addition, the proposal would not comply with Policies DM1 and SP1 of the CS, which, among other matters, seek to ensure that the development is appropriately sited and enhances or creates character. Furthermore, it would fail to accord with the aspirations of the SLP and the objectives of the National Planning Policy Framework (the Framework).

Highway Safety

16. The proposal would create two car parking spaces on the pavement to the front of the property in close proximity to an existing pedestrian crossing. The appellant states that the proposed restaurant use benefits from independent car parking to the rear of the site, accessed via Derby Street. The number and arrangement of these car parking spaces are not detailed on the submitted plans and I note that this area would also be utilised for servicing the restaurant. As such, I find that this area is likely to make only a very limited contribution to the overall parking demand created by the proposed development.
17. I have not been provided with details of the number of car parking spaces that the proposed use would generate. Furthermore, while the appellant's Design and Access Statement accepts that the proposal would result in an "intensification in the use of the site" this would be mitigated by the evening opening of the restaurant when more on street car parking would be available and, the Appeal Statement asserts that many customers of the proposed restaurant would arrive "on foot, by public transport or by taxi" resulting, the appellant states, in the proposed development requiring less parking and generating less traffic than the existing use.
18. Saved Policy DC10 of the UDP refers to "safe and convenient arrangements for car parking" and Policies DM1, SP1 and T2 of the CS refer to appropriate levels of carparking and protecting the safety and wellbeing of residents.
19. I have been provided with very little substantive evidence with regards this main issue. However, on the basis of the evidence before me I find that the appellant has not adequately demonstrated that the proposed development would provide appropriate levels of carparking and the two proposed spaces to the front of the property, in close proximity to the pedestrian crossing, would not protect the safety and wellbeing of residents. As such, I find that the proposed development is contrary to saved Policy DC10 of the UDP, Policies DM1, SP1 and T2 of the CS and the Framework.

Other Matters

20. The appellant details that a fallback position exists because "Class C of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 specifically allows for the change of use of a retail premises to a café/restaurant for units which have a floor area of less than 150 sqm" and "given that the appeal property measures 129 sqm, it is an option available to the appellant to submit a prior approval application to the Council for the change of use proposed."
21. However, as detailed previously the current use of the building is at dispute between the parties with the appellant asserting that the site was last used as

a shop and the Council referring in their Appeal Statement to a cash and carry operation at the site. At my site visit I noted that the signage at the property referred to a cash and carry use.

22. Furthermore, with the exception of the above statements made by the appellant in their statement of case, I have no substantive evidence before me to indicate that there is a significant probability that the prior approval application would be made and that the change of use would be allowed and thereafter be carried out. Indeed, the appellant's argument appears to make the planning application and subsequent appeal redundant, and yet the application was progressed through to determination and an appeal submitted.
23. These actions appear to contradict the statements made regarding the fallback position. I therefore find that this limits the weight to be attached to the suggested fallback position and it does not outweigh the harm I have identified previously.

Conclusion

24. For the reasons given above the appeal is dismissed.

Mark Brooker

INSPECTOR