
Appeal Decision

Site visit made on 5 November 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2020

Appeal Ref: APP/P4225/W/19/3231646

56-58 Market Place, Middleton, Manchester M24 6AF

- 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 Hossein Azinfar against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 17/01127/FUL, dated 13 September 2017, was refused by notice dated 12 April 2019.
 - The development proposed is described as 'Proposed refurbishment of existing restaurant. Internal refit. Takeaway – food delivery. Installation of encased external flue to rear of property (retain A3 use).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. There are some discrepancies between the submitted plans and the building as it currently appears. The first floor windows on both front and rear elevations do not conform with either the 'existing' or 'proposed' drawings, while the flue installed at the rear is, as described in the appellant's statement, not clad as shown in the submitted plans. Security shutters which have been installed are described, although not shown, on the submitted drawings. I have determined the appeal on the basis of the submitted plans.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the host building, having particular regard to whether or not it preserves or enhances the Middleton Town Centre Conservation Area; and
 - The living conditions of the occupiers of the first floor flat, having particular regard to noise and odour.

Reasons

Character and appearance

4. The appeal site is a two-storey unit forming part of a terrace on the south side of Market Place within Middleton town centre. The ground floor is a restaurant with takeaway, while the first floor contains a one bedroom flat. The appeal

property is brick built with a rendered finish, and a pitched slate roof. To the rear a single storey lean-to extension backs onto a small area of scrubland on Old Hall Street.

5. The appeal site is within the Middleton Town Centre Conservation Area (the Conservation Area), and I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).
6. The Conservation Area is focussed on the north-south axis of Long Street and Middleton Parish Church. Much of its significance comes from the buildings of varying dates and architectural styles which reveal the historical and architectural layering of an earlier settlement. The 2008 Conservation Area Appraisal indicated that Market Place and Lodge Street have a dilapidated aspect, but that they contain some significant buildings. Market Place itself has some imposing Victorian and Edwardian commercial properties, and moving east towards Lodge Street some 50 metres or so beyond the appeal site the street is dominated by the now-derelict Providence Congregational Chapel. The Chapel is Grade II listed, as is the Royal Bank of Scotland building a similar distance west from the appeal site. The separation distances however are such that I do not consider that the appeal site forms part of the setting of these Listed Buildings.
7. The appellant is seeking permission for the formation of a new doorway to provide separate access to the flat above, installation of a new shopfront and replacement windows on the front, rendering of and a new door to the rear extension, and the installation of a new extraction flue to the rear.
8. The shop front shown in the submitted plans is modern in appearance, being full height floor to ceiling windows set within a coated metal frame. The use of a uPVC door to the upper flat and thick uPVC casement frames for the windows at first floor level would not reflect the traditional character of the Conservation Area. The proposed shop front as a whole would not respond at all to the advice contained within the Council's 2017 'Shop fronts and security shutters' Supplementary Planning Document (the SPD), which is intended to help ensure that development is sympathetic to heritage settings. As a result of the design and choice of materials, the proposed works at the front of the property would be detrimental to the character and appearance of both the host building and the Conservation Area.
9. The large flue shown to the rear of the property would be a bulky addition to the property, and would be made more rather than less prominent by the proposal to encase it within 'brick lookalike' panels. The unusual appearance of the proposed cladding would be harmful to the appearance of the appeal property and the character of the wider Conservation Area, although this would be mitigated slightly by its location away from the main street.
10. In combination, the proposal would have a substantially detrimental effect on the appearance of the host property and the Conservation Area. I accept that the proposal to render the rear extension and to create a new rear door is not

harmful to the character or appearance of either the building or the Area, but this does not outweigh the other harm I have identified.

11. The proposal therefore would not preserve or enhance the character or appearance of the Conservation Area. The harm to the Conservation Area's significance as a designated heritage asset would be less than substantial, and there are no public benefits arising from the proposal which would outweigh this harm.
12. I therefore conclude that the proposal would be harmful to the character and appearance of the host building and the Conservation Area. It conflicts with Policies P2 and P3 of the 2016 Rochdale Core Strategy (the RCS), and with advice in the SPD. These policies and guidance taken together seek to conserve and enhance heritage assets including Conservation Areas, to ensure that development is well-designed and makes a positive contribution to the townscape, and to enable shopfronts to be restored or redeveloped in a secure, sensitive and positive way. For the same reasons, the development fails to accord with the provisions of the National Planning Policy Framework (the Framework) which seek to protect and conserve heritage assets.

Living conditions

13. The large flue at the rear of the property is shown in the plans as being very close to the lavatory window of the upper flat in the appeal property. It is also near to an upper floor window of the adjoining property at No 60 Market Place although I am not aware of the use of the room served by that window.
14. While it is not unusual for there to be flats above restaurants and takeaways in many town centres, it is nonetheless important that the uses can coexist in a way which does not cause unacceptable harm to residents' living conditions. In the absence of any evidence regarding the noise and odour generated by the flue, I am not satisfied that it does not cause a significant adverse effect on living conditions.
15. I conclude that the development is harmful to the living conditions of occupiers of the first floor flat. It therefore conflicts with Policies G9 and DM1 of the RCS, which seek to ensure that development is compatible with surrounding land uses and adequately mitigates any harmful impacts arising from noise or odour pollution. For the same reasons it fails to accord with the provisions of the Framework, in particular paragraph 127 which seeks to create places which have a high standard of amenity for existing and future users.

Conclusion

16. For the reasons given above the appeal should be dismissed.

M Cryan

Inspector