



Appeal Decision

Site visit made on 7 July 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2020

Appeal Ref: APP/P4225/W/20/3250753

Ground Floor Shop, 814 Manchester Road, Castleton, OL11 3AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class M, Paragraph M.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Bernard Akin against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 19/01494/PRA56, dated 18 December 2019, was refused by notice dated 12 February 2020.
 - The development proposed is described as "*change of use of ground floor shop to flat*".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO'), with particular regard to whether the appeal unit was last used as a shop.

Reasons

3. Class M of the GPDO permits a change of use from Class A1 (shops) to a use falling within Class C3 (dwellinghouse) as well as building operations reasonably necessary to convert the building. However, the building must have been used for Class A1 (shops) on 20th March 2013, or in the case of a building which was not in use on that date, when it was last in use.
4. In this case, the ground floor unit is currently disused, and it has been vacant for a number of years. There is no dispute that it was in retail use between 1990 and 1997, although this use has not resumed since then. Subsequently, the unit was granted planning approvals for a change of use to a restaurant in both 2000 and 2002 (Refs 00/D38327 and 02/D39826). In this regard, works were undertaken in order to facilitate this change of use, including internal alterations and the installation of an extraction flue (which was visible at the time of my site visit). Whilst pre-commencement conditions to permission Ref 02/D39826 were not discharged, at the very least, some works were clearly undertaken towards implementing a restaurant use.

5. The appellant has provided black and white photographs of the appeal unit that purportedly date to 2003 and 2011. However, both of these images are of poor quality and it is difficult to ascertain whether any changes had been made to the frontage between them. In any case, signage associated with a restaurant use could have been removed before the second photograph was taken. Accordingly, I attach little weight to these images.
6. A statement has also been submitted that purports to be from a local resident who has lived in the area since 1999. This states that the appeal unit has never been used as a restaurant. However, as this is not a sworn affidavit I attach only limited weight to it.
7. The onus is on the appellant to demonstrate that the building benefits from the permitted development right. For the above reasons, I do not consider that sufficient evidence has been provided to establish that the unit was last used for Class A1 (shops). On the balance of probabilities, the permitted development rights under Class M therefore do not apply to the appeal building.

Conclusion

8. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR