

Appeal Decision

Site visit made on 17 September 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2024

Appeal Ref: APP/R2330/W/24/3343473

3 Water Street, Accrington, Lancashire BB5 6PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mehmood Alam against the decision of Hyndburn Borough Council.
 - The application Ref is 11/24/0070.
 - The development proposed is change of use from retail (salon) to 2 contained flats - 1 at ground floor 1 at first floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development contained in the banner heading above is taken from the planning application form. There is no evidence before me that the appellant agreed to that contained on the Council's decision notice.
3. The proposed conversion of a class E premises to 2 dwellings would result in the loss of ground floor retail space within Accrington town centre. However, the Council has confirmed that as 71% of the secondary shopping frontage would remain in commercial use, the proposal would comply with Policies ATC2 of the Accrington Area Action Plan and Policies DM3 and DM4 of the Hyndburn Development Management DPD (DMDPD)¹. Based on all that I have seen and read, I have no reason to take a different view.
4. The main issue in relation to this appeal is therefore, the effect of the proposed loss of a shop front on the character and appearance of the area.

Reasons

5. The appeal site comprises a vacant 2-storey building previously used for commercial purposes. A shop front exists at ground floor level. Water Street is a short side street where ground floors are all in commercial use, with No 7 Water Street being an exception as a 2-storey dwelling. Due to the presence of large shopfronts including fascia signage, the street has a predominantly commercial character.
6. Criterion 2b of Policy DM28 advises that in town or local centre locations outside of conservation areas, the repair and restoration of traditional shop fronts will be expected, combined with an acceptance of contemporary design

¹ As set out within the observations and assessment section of the Council's officer report.

where this brings life and interest. The policy goes on to advise that proposals for alterations to existing shop fronts should complement the original design proportions, materials and detailing of the front of the shop, surrounding street scene and the building it forms part of.

7. Policy DM28 refers to Development Management Guidance Note GN5: Shop Front Design (GN5). It states that 'in all cases, where a traditional or historic shopfront exists, the Council will encourage its retention.' Hence, Policy DM28 and GN5 are clear that traditional shopfronts including those outside of Conservation Areas, are expected to be retained. There is no suggestion in the policy that an exception applies when converting a building to a non-commercial use. The proposal does not attempt to repair and restore the shop front and would result in its total removal.
8. The Council has used the words historic and traditional interchangeably when describing the shop front², but the two are not necessarily the same. There is no compelling evidence before me that the shop front is historic. Neither am I convinced that its asymmetrically recessed position is traditional.
9. However, I observed that the shop front is constructed of timber and contains features that would be expected in a traditional shop front. These include raised and fielded panels, pilasters, stall riser and fascia, although their specific detailing is chunkier than would typically be expected. In the absence of any compelling evidence to demonstrate otherwise, I consider that it is of a traditional appearance sufficient to meet the definition set out in paragraph 14 of GN5. In need of repair, nonetheless the shop front adds positively to the commercial character of the area, more so than the poor-quality versions in modern materials found nearby. Its removal would therefore be harmful to the host building and wider street scene.
10. Even if I could accept the loss of the shop front, the remedial works would also have to be acceptable. The appellant has suggested that the materials and finishes of the ground floor would replicate that of the floor above³. However, the planning application form does not suggest that would be the case. The submitted plans are lacking in detail but appear to indicate that render would be used at ground floor level with stonework above⁴. This would relate poorly with the textured stonework found at first floor level, notwithstanding its painted condition, nor the honey-coloured stonework which is a significant unifying feature within the street scene.
11. Whilst the removal of the shop front surround to the right-hand side is likely to have a positive impact on the appearance of the building, given that it relates to a domestically proportioned rather than shop front window, its replacement with render would result in a poor-quality finish. This is evident from the current ground floor render treatment.
12. I have considered the extent to which this harm could be mitigated by condition. Whilst it may be possible that the proposed materials could be satisfactorily dealt with in this way, there is no evidence before me that the appellant could source stone of the correct size and texture to match the existing. In any event, a materials condition would not mitigate the loss of a

² Historic is referred to in the reason for refusal on the Council's decision notice and traditional is used in its officer report and statement of case.

³ Appellant's email of 19 September 2024.

⁴ As shown in the differing treatment on the proposed elevation drawing.

shop front of traditional appearance, such that a condition would not be reasonable in this instance. I acknowledge that large openings within dwellings in a town centre location may not be desirable. However, there are likely to be more sensitive design approaches that achieve a satisfactory degree of privacy whilst retaining the traditional features of the shop front.

13. Although the proposed use is supported by local plan policies, no evidence has been presented to indicate that the requirement within Policy DM28 relating to the retention of traditional shop fronts should be waived. The removal of a traditional shop front and its replacement with unsympathetic materials, would adversely affect the appearance of the host building and the wider street scene. The proposal would therefore be harmful to the character and appearance of the area, failing to comply with Policy DM28 of the DMDPD as set out above. It would also fail to comply with Policy DM26 of the DMDPD and Policy ENV6 of the Hyndburn Core Strategy (2012), which together seek to ensure high quality design that enhances the local distinctiveness of the area.

Other Matters

14. Bringing the building back into active use, with the provision of 2 flats would contribute to local housing supply in an accessible town centre location. Whilst any housing contribution is worthwhile, there is no evidence before me to suggest that the Council cannot demonstrate a 5-year housing land supply. Although the planning application indicates that the flats would be for social, affordable or intermediate rent, no substantive evidence has been presented to indicate that they would meet the definition of such properties⁵. Even if I could consider them as affordable dwellings, there is no legal agreement before me to secure them as such. The benefits attract limited weight.
15. The proposed conversion is said to be necessary to generate income from the property, following unsuccessful attempts to let it for business purposes. Prior approval has recently been granted for the use of the first floor as a flat, under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015⁶. This provides a fallback position in respect of the upper floor of the building. However, as there is no indication it would result in the loss of the shop front, it would be less harmful than the proposal. No evidence has been presented regarding the marketing of the premises for business purposes.
16. Concerns regarding the alleged lack of communication from the Council during the determination process are a matter for the parties.

Conclusion

17. The proposal would result in harm to the character and appearance of the area through the loss of a shop front of a traditional appearance and its replacement with a poor-quality façade. This harm would not be outweighed by the limited benefit arising from the provision of 2 residential flats. Consequently, there are no considerations in this instance that lead me to find otherwise than in accordance with the development plan. The appeal is dismissed.

M Clowes - INSPECTOR

⁵ As set out at Annex 2: Glossary of the Framework.

⁶ Planning reference 11/24/0241 as set out in paragraph 2.4 of the Council's statement of case.