

KG Planning Ltd

Kate Grimshaw, Chartered Town Planning Consultant

Manchester City Council
Planning Department
PO Box 532
Town Hall
Manchester
M60 2LA

27th May 2022

To whom it may concern,

78-88 High Street, Manchester, M4 1ES

Certificate of lawfulness application

Introduction

KG Planning Ltd have been instructed by James Stewart (Koropisz Ltd) to apply for a Certificate of Lawfulness of existing use or development under Section 191 of the Town and Country Planning Act 1990 (as amended).

The application seeks to confirm the lawful use of the ground floor and basement of 78-88 High Street as a drinking establishment with ancillary food provision (sui generis) and night club (sui generis), on the basis that it has operated as such since June 2007.

As you will be aware, the only matters that can be considered during the determination of lawful development certificates are whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in the application process. Where a lawful development certificate is sought, the onus of proof is on the appellant and the standard of proof required is the balance of probabilities.

As detailed in the Planning Practice Guidance 'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'.

Site Context and background

The application relates to the ground and basement floors of a five-storey building located on High Street at the corner with Back Turner Street, within the Northern Quarter. The upper floors are used as offices.

Planning permission (application reference 077656/FU/2005/C1) was granted on 16th February 2006 for the 'change of use of ground floor and basement to restaurant (class A3) with ancillary bar at 78-88 High Street, Manchester, M4 1ES.

This approval was however never implemented and the ground floor and basement have been used as a drinking establishment (cocktail bar) with ancillary food and nightclub with DJ events since June 2007, firstly as 'Walrus' (2007 until June 2021) and since June 2021 as 'Man With the Fish'.

A search (78-88 High Street and M4 1ES) was undertaken on the Council's website in relation to any enforcement cases and no results were found.

Evidence

The applicant has put together a comprehensive document which provides evidence, from a variety of sources, demonstrating that the ground floor and basement have been used as a bar and nightclub continuously for over ten years.

The premises were closed, in line with Government guidance, during the Covid-19 pandemic however it was always the intention of the owner to re-open and the premises were not used for any other purpose during this enforced period of closure.

Whilst the evidence shows that food has been served, it demonstrates that it was only served until 7pm and that the food offer was ancillary to the drink offer, with the balance weighted very heavily towards drink.

Conclusion

It is considered that the the evidence provided by the applicant demonstrates that, on the balance of probability, the ground floor and basement have been used as a drinking establishment with ancillary food and nightclub for over ten years and as such a certificate should be granted confirming that these uses are lawful.

Yours sincerely,

Kate Grimshaw

kate@kgplanning.co.uk | www.kgplanning.co.uk | 07739825419
26 Andrew Lane, Bolton, BL1 7JQ, Bolton

