

Appeal Decision

Hearing held on 6 September 2016

Site visit made on 6 September 2016

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 November 2016

Appeal Ref: APP/U4610/W/15/3141010

The Welcome Suite Limited, 30 Cromwell Street, Coventry CV6 5EZ.

- 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 Umesh Panchal, The Welcome Suite Limited against the decision of Coventry City Council.
 - The application Ref FUL/2015/2850, dated 14 October 2015, was refused by notice dated 26 November 2015.
 - The development proposed is described as: 'The Welcome Suite Limited is the perfect venue for all occasions. The atmosphere is one of elegance and sophistication. We have considered the re-development proposal very carefully and believe it to be a sympathetic and well planned expansion. Acceptance of our proposal would result in the creation of a valuable City venue ready to serve the Community.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's first reason for refusal stated that the use was an unsustainable form of development. Prior to the hearing the Council accepted that there were no sequentially preferable sites available and therefore confirmed that it would not defend this reason for refusal.
3. Prior to the hearing the appellant submitted a series of draft private agreements with owners of neighbouring sites which would allow their use for parking during evenings and at weekends. Following the hearing further information was submitted by the appellant, which the Council commented on, regarding the means of securing parking beyond the appeal site. These matters are addressed below.

Main Issues

4. The main issues are:
 - a) The effect of the parking arrangements on highway safety in the vicinity of the site; and
 - b) The effect of the use on the living conditions of the occupiers of nearby residential premises with particular reference to noise and disturbance arising from parking.
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Reasons

Highway Safety

5. Planning permission is sought for the use of the premises as a banqueting and conference facility together with external alterations. The use commenced around 2010 but has now been suspended. Hours of operation were confirmed during the hearing as being 0800 until midnight Monday to Thursday, 1800 Friday until 0100 Saturday morning, 0800 Saturday until 0100 on Sunday morning and 1000 until 2200 on Sunday. The facility has the capacity to accommodate up to 600 guests but bookings are not accepted for more than 500.
6. The appeal site comprises four former industrial units, one of which remains in use by an engineering company owned by the appellant. Pedestrian and vehicular access to the site and servicing is provided from Cromwell Street. The site has a boundary on Mulliner Street with an emergency pedestrian access provided on this frontage.
7. The appeal site is located in an area which is in mixed use. Opposite the appeal site and to the south, Cromwell Street is generally in residential use as is Mulliner Street. To the north of the appeal site the uses are generally employment related although this is interspersed with residential uses in the wider area.
8. The parties accepted that the use would generate a volume of traffic which could not be entirely addressed through on-site parking and that without adequate off-street parking there could be an adverse effect upon nearby residents in terms of highway safety.
9. The Council does not have parking standards which cover the banqueting and conference use but on the basis of the number of guests and a significant proportion being dropped off and picked up it was agreed that the provision of 50 off-street spaces, three staff spaces, three disabled spaces and three coach spaces would be required. Nevertheless, the appellant would aim to provide additional parking spaces.
10. Approximately 19 car parking spaces are available on site for guests, including three disabled spaces and three staff spaces, together with 20 cycle spaces. This would rely upon the parking being effectively managed and no deliveries occurring when the car parking is operating at maximum capacity. The hours of servicing could be conditioned to avoid such parking conflict.
11. In terms of other sites nearby which can also contribute to the overall requirement of 50 spaces, the Coventry Tyres site 32-34 Cromwell Street has the capacity to provide approximately 30 spaces or 3 coach parking spaces and 8 car parking spaces whilst the Farland site and the Radhouse site also on Cromwell Street could provide 23 and 20 spaces respectively.
12. Further afield, parking for 12 cars at the surgery at 475 Stoney Stanton Road and 16 spaces at Dixon Grinding at 434 Stoney Stanton Road could also be provided. In spite of no evidence being provided to demonstrate how vehicles would manoeuvre on site, the Council accepted the capacity of each of these sites provided that the sites were appropriately managed and I have no reason to disagree with these numbers although I note that there are some discrepancies between the agreements and the details shown on the plans. All

of the sites are within 400m distance of the appeal site and therefore the appellant is able to demonstrate that the parking capacity can be met within a reasonable distance of the site.

13. In the case of Coventry Tyres the car park would be available on Mondays to Thursdays from 0800 until midnight whilst the other sites would be available at times corresponding with the hours of operation. The Council's position is that agreements with third party land owners to provide car parking, which would impose a limit on the time period within which it would operate, could be secured through a planning condition or unilateral undertaking.
14. As set out in paragraph 203 of the National Planning Policy Framework (the Framework) the use of conditions or planning obligations should be considered where otherwise unacceptable development could be made acceptable.
15. The parking agreements which the appellant has provided are private agreements between the owners of the car parks and the appellant. These are not agreements with the local planning authority or unilateral undertakings under section 106 of the Town and Country Planning Act 1990. However, on the basis that a planning obligation should only be used where it is not possible to address unacceptable impacts through a planning condition it is necessary to consider whether the unacceptable parking impacts could be addressed using conditions.
16. The appellant's agreement with Coventry Tyres would allow for 18 spaces to be provided. Together with the 13 spaces provided on the appeal site this would provide 31 car parking spaces which on the basis of a maximum of 250 guests on Monday to Thursday would proportionately address the Council's parking requirement. The appellant has indicated that a condition to limit the number of guests would be appropriate. The Council has not proposed a condition to limit the number of guests at the weekend but instead would seek to manage the impact through parking controls or other legislation. However, applying a restriction on the number of visitors based on the day of the week would not be enforceable because of the difficulty in detecting a contravention.
17. Moreover, although there are agreements between the appellant and the land owners the thirty-day break clause and time period restriction to two years would in my view render the condition unenforceable and unreasonable. While the majority of off-site parking spaces are only likely to be required on Friday, Saturday and Sunday evenings it would be necessary to have parking available at all times when the venue was open in order to accommodate potential demand for parking and address any potential harmful effects of the use.
18. The main parties agree that a condition to provide a car parking management plan (CPMP) specifying the location, layout, management and times of operation would be appropriate in the event that I were to allow the appeal. The appellant has suggested that the CPMP would provide for flexibility and the opportunity for the agreements to be extended or if parking were not available then the Council could take action against non-compliance with the condition. However, this degree of uncertainty about parking would mean that the condition failed to meet the test of precision.
19. I have taken account of the fact that the operation of the business means that events are booked more than two years ahead and that the imposition of a temporary planning permission for two years which matches the time period of

the existing agreements would be a restriction on the business. The appellant has also indicated that he would be willing to accept such a condition were I minded to allow the appeal having regard to other considerations. However, Planning Practice Guidance states that limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity. On this basis a trial period would not be appropriate.

20. Furthermore, it has not been demonstrated to me that there are no existing restrictions on the use of the proposed car parks which might limit their use associated with the appeal scheme and in addition I cannot be sure that extending the scope of the scheme's operation beyond the appeal site would not prejudice other parties who have not been consulted on this aspect of the scheme.
21. Consequently I find that by virtue of parking arrangements which are unsatisfactory the development would be contrary to Policy AM22 of the Coventry Development Plan, 2001 (CDP) which requires development to have safe and appropriate access to the highway system by means which avoid danger or inconvenience to road users.

Living Conditions

22. In the absence of appropriate off-street parking the proposed use would result in on-street parking in the vicinity of the site. Parking controls would not prevent users of the banqueting and conference facility from parking on the street in the same way that users of the public house neighbouring the appeal site or other people are not be restricted from parking on the street. I also recognise that because of the opening hours of the public house there could be late night disturbance to neighbouring residents arising from that use.
23. Nevertheless, the scale of the proposed use and the potential impact at weekends when larger events take place means that the impact on local residents from the noise and disturbance of guests leaving the appeal premises late at night would be likely to have an adverse impact on their living conditions. With off-street parking and an effective CPMP to deter guests from parking on-street I consider that it would be possible to reduce the impacts of the use but based on the number of guests I consider that there would be material harm to the living conditions of neighbours. Consequently there would be conflict with Policies SCL2, OS6 and EM5 of the CDP which collectively seek to ensure that large social and community facilities are not incompatible with nearby uses and do not result in noise adversely affecting neighbouring users.

Other Matters

24. I have taken account of the benefits to the community from the provision of the banqueting and conference facility together with the direct and indirect employment generated from the use. Whilst these factors weigh in favour of the scheme they do not outweigh the adverse effects I have identified.

Conclusion

25. For these reasons I conclude that the appeal should be dismissed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Greg Mitchell	Planning Director, Framptons
Umesh Panchal	Welcome Suites Limited
John Williams	Supporter of Mr Panchal

FOR THE LOCAL PLANNING AUTHORITY

Nigel Smith	Coventry City Council, Planning
Colin Whitehouse	Coventry City Council, Highways
Frances Taylor	Coventry City Council, Environmental Health

DOCUMENTS SUBMITTED AT THE HEARING

1. Copy of email from Mr Mitchell to Mr Smith dated 31 August 2016 and attached parking agreements.
2. Signed Statement of Common Ground dated 6 September 2016.

DOCUMENTS SUBMITTED AFTER THE HEARING CLOSED

3. Position Statement submitted by the Council dated 16 September 2016.
4. Position Statement submitted by the Appellant dated 16 September 2016.