
Appeal Decision

Site visit made on 10 November 2016

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/D1780/W/16/3157328
159 Shirley Road, Southampton, SO15 3FG.

- 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 Robinson against the decision of Southampton City Council.
 - The application Ref. 16/00637/FUL/978, dated 19 April 2016, was refused by notice dated 20 July 2016.
 - The development proposed is the change of use from dance studio (Use Class D2) to Car Sales (Sui-Generis).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed change of use would result in the loss of a recognised community facility;
 - The effect of the proposed use on highway safety and the free flow of traffic;
 - Whether there is sufficient information submitted to assess the effect of the proposal on the character and appearance of the area, and the disposal of surface water.

Reasons

3. The appeal site contains a detached two storey building set in enclosed grounds which has a frontage to Shirley Road which is a thoroughfare to a busy commercial and retail centre. It is apparent from the application details that the building was previously used as a dance studio with on-site parking. The surrounding area comprises a mixture of uses with a church adjacent to the site and shops and other business locally including one for display and sale of motorbikes.
 4. It is proposed to change the use of the premises to one for the sale of cars and the submitted site plan shows cars being displayed within the building and along part of the frontage as well as manoeuvring space leading to 6 spaces designated for staff and customer parking.
 5. At my site visit, I noted that the site is now used for the display of vehicles for sale. As far as I could see from the frontage there were about 15 cars parked
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around the site each with a sale price displayed on the windscreen. There were also wrought-iron metal gates across the frontage of the entranceway, and these were closed at the time of my visit.

Loss of a community facility

6. Policy CS3 of the Core Strategy (amended 2015) contains a presumption against the loss of a community facility if it is viable for a commercial, public or community use to operate it and there is no similar replacement facility in the neighbourhood. This policy reflects government policy as contained in paragraph 70 of the National Planning Policy Framework (the Framework) which indicates (in the second bullet point) that planning policies and decisions should “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.” I am satisfied that a dance studio is a community facility to which the policy relates.
7. In this case it appears from the evidence that the premises were used as a dance studio, initially as “Poveys Dance Hall” and then as “Dizzyfeet Dancing” until September 2015. It is apparent that the premises were sold at auction in February 2016. An objector to the proposal refers to the auction sale particulars describing the premises as “one of Southampton’s best known and established dance venues. Its long established history and use will serve a potential owner/ dance based operated well.....”.
8. The appellant’s agent says that prior to the sale the building was marketed for a substantial period but no details are given of the period and nature of the advertising process within a marketing campaign or the sale/rent price sought. Further, it is asserted that any other community group would have been able to bid at the auction for the premises, but this market mechanism is not a reasonable way to test the demand for use by community groups particularly where bids do not reflect the lawful use.
9. The appellant’s agent refers to other community halls within the Shirley and Freemantle wards which are said to be suitable for a dance studio/school use but this evidence does not show that these premises are reasonably accessible to the present site or the community, or available for use.
10. Overall, on this issue I do not consider that it has been demonstrated that the loss of this community asset is justified by a lack of demand for alternative and viable uses nor that there are adequate replacement facilities in the neighbourhood to accommodate the potential demand. I therefore find that the proposal conflicts with the provisions of Policy CS3 and the related policy in the Framework.

Effect on Highway safety

11. The Council’s concerns relate to the likely congestion within the site and the potential lack of turning facilities within the site so that vehicles may not be able to enter and exit in a forward gear. This could result in movements onto the A-class highway of Shirley Road to the detriment of road safety and user convenience. The appellant refers to the parking needs of the lawful use as a dance studio which could give rise to a need for 26 spaces based on adopted standards and says that this use already comprised 12 parking spaces.

12. To my mind it is reasonable to take into account the parking needs of the lawful use and the vehicle movements onto Shirley Road that could stem from this. Further, the submitted 'Site Layout and Car Parking Plan' shows a layout where vehicles could enter and leave the site in a forward gear. Therefore reasonable manoeuvring space can be achieved on site and such a layout can be conditioned and enforced. The layout of the cars displayed for sale that I noticed at my site visit was more intensive and did not appear to leave enough space for vehicles to be turned around and this is likely to result in 'shunting of vehicles' and reversing over the pavement onto the highway and this would not be in the interest of highway and pedestrian safety.
13. Nevertheless, I have to base my assessment on the formal submission and not what may be current on site on an unauthorised basis. I am satisfied that with a condition limiting the layout of the display of cars to that put forward in the application, and with a condition requiring that an adequate turning space be kept available within the site at all times, the use proposed would not be materially harmful to highway safety and would accord with policies in the development plan designed to protect such aspects.

Effect on character and appearance

14. The Council is concerned that there is inadequate information submitted to assess the visual impact particularly a lack of soft landscaping proposals. I have assessed this impact on the basis of no further landscaping within the proposal and I have had regard to the setting of the site in the street scene and that the use is likely to have some cars displayed close by the pavement, notwithstanding my comments about the present intensive use of the site. I have also taken into account that the lawful use of the site as a dance studio could have resulted in vehicles being parked in areas visible to the public realm.
15. Although the display of cars on the site is likely to be visually prominent, with or without further landscaping, this visual impact needs to be seen in the context that the street scene comprises a local commercial centre which was busy at the time of my visit. Locally there is a wide variety in buildings and uses that contribute to the public realm and with the parking of vehicles on the forecourt of the adjacent church and on other premises on the north-eastern side of Shirley Road where landscaping is not a characteristic. I find that the presence of parked cars for sale would not be materially visually harmful to the character or appearance of the area. I therefore find on this issue that the proposal accords with the general provisions of Policies SDP1, SDP7 and SDP12 and CS13 of the Core Strategy.

Other matters

16. The Council also raises concern about inadequate information about the disposal of surface water from the site. However, the proposal is only concerned about a change of use of the premises, as opposed to the laying of a hard surfaced forecourt, and I would not regard the display of cars for sale as a use where additional surface water would be envisaged to the degree that the issue could not reasonably be mitigated by a condition requiring the further submission and approval of details of a sustainable urban drainage scheme. I therefore do not regard this issue as a barrier to the proposed development.

Planning Balance

17. Bringing together the conclusions I have reached on the main issues, it has not been demonstrated that the loss of this community asset is justified by a lack of demand for alternative and viable uses nor that there are adequate replacement facilities in the neighbourhood. The proposal therefore conflicts with the stated policy of the development plan and the Framework. Nevertheless I have found that with the imposition of suitable conditions on the site layout and the provision of a turning area, the proposal would not be likely to be harmful to highway and pedestrian safety. Nor would the use be harmful to the character or appearance of the area.
18. This negative factor concerning the loss of the community facility has to be balanced with the economic benefit that is likely to arise from the further use of the site in a commercial area for another business use, but this benefit is not sufficient to over-ride the clear conflict with the development plan and national guidance. No other consideration justifies approval.

Conclusion

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

David Murray

INSPECTOR