
Appeal Decision

Site visit made on 23 May 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/R0660/W/17/3169817

Grove Inn, Manchester Road, Congleton, Cheshire East CW12 1NP

- 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 J Yu (Yu Developments) against the decision of Cheshire East Council.
 - The application Ref 16/5788C, dated 29 November 2016, was refused by notice dated 9 February 2017.
 - The development proposed is the conversion of the existing public house and extensions and additions to form new retail premises, café, pharmacy and managers flat.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing public house and extensions and additions to form new retail premises, café, pharmacy and managers flat at Grove Inn, Manchester Road, Congleton, Cheshire East CW12 1NP in accordance with the terms of application Ref 16/5788C, dated 29 November 2016, subject to the attached schedule of conditions.

Procedural Matter

2. The original building on the site has been demolished and a new building has been erected on the site. The Council have highlighted that the building on the site does not fully reflect the proposals as shown on appeal drawings. For the avoidance of doubt, I have determined this appeal on the basis of the plans submitted as part of the planning application submission. Any further alterations to the building would need to be the subject of further public consultation. For this reason, I have not determined the appeal against the amended plans ("as built") submitted with the appeal by the appellant and dated April 2017. The existence or otherwise of any further unauthorised development on the site is a matter to be separately investigated by the Council's planning enforcement service including further discussions with the appellant.

Main Issues

3. The main issues are the effect of the proposal upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of neighbouring properties and the proposed flat in respect of outlook.
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Reasons

Site and proposal

4. The appeal site comprises the former Grove Inn Public House which is positioned on a traffic island shared with an ambulance station. The surrounding area is mainly residential with two storey semi-detached and detached dwellings on Macclesfield Road and Manchester Road.
5. It is proposed to erect side and rear extensions to the building and to raise the eaves and ridge height of the original building. The building would be used for retail purposes on the ground floor, a café and a pharmacy on the first floor and a residential flat on the second floor within the roof space. The proposal includes a total of 29 car parking spaces, bicycle and motorcycle parking and landscaping.

Relevant planning history

6. The Council has already approved planning permission for the conversion, alteration and extension of the appeal building including use as a shop and a café (Ref 15/3850C): the Council has provided me with copies of the approved plans. Whilst work has progressed on site, which is not in accordance with the approved planning permission, such a planning permission nonetheless remains extant and so is a weighty material planning consideration.
7. I agree with the Council that the proposed mix of uses would not be unacceptable and that they would be appropriate in scale and intended to serve the needs of the locality. In this respect, I have no reason to disagree with the Council that in respect of the proposed uses they would accord with the relevant development plan policies for the area.
8. In essence, and given the above, this proposal differs from planning permission Ref 15/03850C in so far that (i) the ridge and eaves height of the roof of the existing building would be increased to create a third floor flat (with office) for the appellant and his partner; (ii) there would no longer be a dentist, but instead an enlarged pharmacy; (iii) it would include the provision of 29 car parking spaces rather than 23 car parking spaces and (iv) there are changes to the windows at ground floor level, first floor level and a new window and roof lights within the roof for the proposed flat.

Character and appearance

9. The proposal would result in a building which is higher than others in the surrounding area. However, in considering the proposal against planning permission 15/03850C the overall height increase would be about 0.72 of a metre. In itself, this is not a significant increase in height.
10. Notwithstanding the above, I do acknowledge that the surrounding dwellings are two storeys and that the appeal building would be higher than these properties. The appeal property is positioned on a traffic island, and therefore I consider that such a location allows for a building which is perhaps slightly more imposing than the mainly two storey residential dwellings which line Manchester Road and Macclesfield Road. I am satisfied that this has been achieved without the building appearing materially out of scale with surrounding built development or unacceptably dominant or bulky within the street-scene. Taking into account the position of the building, including its

distance from surrounding properties, I do not consider that its height causes material harm to the character and appearance of the area.

11. Whilst the proposal does include some other design changes to the building, these are not significant in the context of extant planning permission 15/03850C. In design terms, I am satisfied that the appeal building assimilates well into the predominantly urban landscape.
12. For the above reasons, I conclude that the proposal would not have an adverse impact upon the character and appearance of the area. Therefore, the proposal would accord with the design aims of saved Policies PS4, GR1 and GR2 of the Congleton Borough Local Plan 2005; Policies SD1, SD2 and SE1 of emerging Cheshire East Local Plan Strategy and the National Planning Policy Framework.

Living conditions

13. The appeal building is positioned about 31 metres from properties on Macclesfield Road and about 22 metres from properties on Manchester Road. Taking into account these separation distances, the height of the building, planning permission 15/03850C and the intervening highways, I do not consider that the development has a dominating or enclosing impact when viewed from these dwellings.
14. In respect of the proposed flat, the bedroom and bathroom have only velux roof lights. Whilst there would be a reasonable level of natural light penetration into these rooms, the occupiers of the flat would have limited outlook when using these areas. However, bathrooms tend not to be used for long periods of time and bedrooms are mainly used for the purposes of sleeping. Consequently, I do not consider that it is imperative that these rooms have windows which afford the occupiers a horizontal outlook.
15. The kitchen and the office areas of the flat include windows which allow for a horizontal outlook. These parts of the flat would be afforded an acceptable level of outlook and light penetration would be acceptable. An open plan living space is proposed which would be shared with the kitchen area. Consequently, there would be some outlook afforded to users of the open plan living space through the kitchen window. In addition, I consider that there would be a reasonable amount of borrowed light from the kitchen window which would penetrate into the open plan living space. On balance, and taking into account all of the above factors, I do not therefore consider that future occupiers of the flat would have substandard outlook.
16. The appellant has confirmed that a glass screen/wall could be erected between the office and the living space and that they would accept the imposition of a planning condition relating to this matter. This would make the aforementioned acceptable situation even better in terms of outlook from the living space. However, the Council does not consider that the condition is enforceable or necessary particularly as the appellant could reconfigure the internal arrangement of the flat in the future and hence either remove or block off the glass wall. I agree that this could hypothetically happen. Indeed, this would be the case for any development so far as any internal changes are concerned. Given the Council's clear concerns, I have not imposed a planning condition relating to the provision of a clear glass wall to the office. However, it would be open to the appellant to consider whether or not they would wish to

still erect such a glass wall in the future as the Council has indicated that such a proposal would not amount to development requiring planning permission. However, for the purposes of determining this appeal, the development is acceptable without a clear glass wall to the office.

17. For the reasons outlined above, I conclude that in terms of outlook the development would not/does not cause significant harm to the living conditions of the occupiers of surrounding properties and the proposed flat. Therefore, the proposal accords with the amenity aims of saved Policy GR1 of the Congleton Borough Local Plan 2005 and the National Planning Policy Framework.

Other Matters

18. I have taken into account representations made by other interested parties (including some supportive comments). Some of the objections made have already been addressed in the reasoning above.
19. Taking into account the extent and position of windows and the separation distances involved with surrounding properties, I do not consider that the proposal would result in a material loss of privacy for existing residents.
20. I note the concerns raised about the provision of the two puffin crossings, but I am satisfied that this would make the site more accessible for pedestrians. I have no reason to disagree with the Highway Authority who raised no objection to the proposal on highway safety grounds. Whilst the proposed uses would generate traffic in the area, I have not been provided with any objective evidence to indicate that the proposal would result in unacceptable levels of traffic congestion in the locality.
21. I note that works have already taken place at the site and that the proposal is partly retrospective. However, I am required to determine this appeal on its individual planning merits. It would not be reasonable to refuse planning permission simply because the proposal is partly retrospective.
22. Whilst there would be a marginal shortfall in car parking provision (three car parking spaces), I do not consider that this would lead to significant on-street car parking issues. Furthermore, it is proposed that there would be bicycle and motorcycle parking on the site which would help to discourage some journeys being made by private motor vehicle. In any event, I note the comment made in the Council's planning committee report which is that *"it is also worthy of noting that there was an under provision of car parking of 13 spaces on the previously approved scheme which was considered to be acceptable in this sustainable location"*.
23. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions

24. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

25. Planning permission is granted subject to the standard three year time limit condition.
26. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
27. The Council has suggested a planning condition whereby occupation of the residential flat is restricted to a manager or employee of the commercial operations at the site. Whilst this may be the intention of the appellant, I do not consider that such a planning condition meets the test of necessity. The Council has suggested a separate planning condition relating to controlling noise from plant/equipment associated with non-residential uses, and I have no reason to doubt that subject to such controls the residential and non-residential uses could co-exist without material harm being caused to the living conditions of the occupiers of such a flat. Therefore, I have not imposed a planning condition which restricts occupation of the flat.
28. In the interests of highway safety, planning conditions are necessary relating to the weight of delivery vehicles, the formation of the proposed access and the provision of puffin crossings.
29. In the interests of the living conditions of the occupiers of surrounding properties, planning conditions are necessary in respect of hours of use, delivery hours, the filtration and extraction system for the café, and noise controls for plant/equipment on the site.

Conclusion

30. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would accord with the development plan for the area. Therefore, the appeal is allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: GIC/2015/1(amendments A); GIC/2015/2 (amendments A); GIC/2015/3 (amendments A); GIC/2015/5 (amendments A); GIC/2016/1/WDBG FINAL; GIC/2016/2/FFWD FINAL; GIC/2016/3/RSWD APARTMENT FINAL; GIC/2016/5/WSE FINAL; GIC/2016/6/WDBP200 amended parking FINAL.
- 3) The materials used in the development hereby approved shall be as set out in the application, unless otherwise agreed in writing by the Local Planning Authority.
- 4) The maximum weight of vehicles delivering to the site shall be restricted to a maximum weight of 7.5 tonnes.
- 5) Prior to any use of the development hereby approved, the approved access shall be completed and made available. The access shall thereafter be retained for the lifetime of the development.
- 6) Prior to any commercial use of the development hereby approved, the developer shall provide and install both Puffin crossings (as detailed in the SCP Technical Note 03 dated 11th November 2016) which will serve the site in order that safe access is provided to and from the site at the time of first operation.
- 7) The hours of deliveries to the development hereby approved shall be limited to 0630 to 1900 hours on all days including public holidays.
- 8) The hours of operation of the business activity/use hereby approved shall be limited to 0700 to 2100 hours on all days.
- 9) Insofar as the development relates to the shop and café uses only, neither of the approved uses shall commence until a noise impact assessment report detailing operational noise from any external plant and equipment associated with the specific use has been submitted to and approved by the local planning authority. The report(s) should identify existing day time and night time background noise levels and the impact of the noise on the nearest noise sensitive dwellings. The report(s) should have reference to BS 4142, BS8233 and the WHO Guidelines for Community Noise. If necessary, the report(s) should also outline any necessary mitigation measures to ensure that noise levels from any external plant and equipment are at an acceptable level. Each use shall commence in strict accordance with their approved noise impact assessment report and any mitigation that may be required shall be implemented in full, prior to first use, and thereafter be retained.
- 10) Prior to first use of the café, a scheme of odour / noise control should be submitted to and approved in writing by the local planning authority detailing the filtration and extraction system to control the discharge of odours and fumes arising from food handling; preparation and cooking. The scheme shall be installed in strict accordance with the approved details prior to first use of the café and thereafter retained.