
Appeal Decision

Site visit made on 31 May 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 23 June 2017

Appeal Ref: APP/A0665/W/16/3165459

48A High Street, Frodsham WA6 7HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Rory Woodhouse against the decision of Cheshire West & Chester Council.
 - The application Ref 16/02116/S73, dated 16 May 2016, was refused by notice dated 23 September 2016.
 - The application sought planning permission for the change of use from ground floor dispensary only, to A1 retail unit without complying with a condition attached to planning permission Ref 15/04477/COU, dated 15 March 2016.
 - The condition in dispute is No 3 which states that: *"The car parking spaces and cycle park as shown on plan reference P003 shall be laid out and available for use within 2 months of the date of this permission. The spaces shall be retained in full at all times and used solely in conjunction with the use of the A1 use and for no other use."*
 - The reason given for the condition is: *"In the interests of highway safety and operations in accordance with Policy STRAT10 of the Local Plan."*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from ground floor dispensary only, to A1 retail unit at 48A High Street, Frodsham WA6 7HE in accordance with the application Ref 16/02116/S73 made on the 16 May 2016 without complying with condition No 3 set out in planning permission No 15/04477/COU granted on 15 March 2016 by the Cheshire West & Chester Council, but otherwise subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan and Proposed ground floor plan (Drawing No P003).
 - 2) The car parking spaces and cycle parking as shown on plan reference P003 shall be laid out and available for use within 2 months of the date of this permission. The spaces shall be retained in full at all times and used solely in conjunction with the use of the A1 use and for no other use.
 - 3) The use hereby permitted shall not be open to customers other than between the hours of 10am to 6pm hours Monday to Saturday and at no time on Sundays or Bank holidays.
 - 4) The boundary wall as shown on plan reference P003 shall be retained in full at all times, and any damage made good within 28 days of this permission.
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Preliminary Matters

2. The appellant is proposing an alternative car parking layout consisting of three spaces instead of approved plan ref: P003 which shows four car parking spaces and cycle parking provision in the raised garden area to the rear of the appeal site. The Council approved this layout in two separate planning applications¹. However, the appellant suggests there is significant doubt that this layout could be achieved due to engineering works involved and the disproportionate financial cost of carrying out this scheme.
3. Given the site's location in the Frodsham Town Conservation Area (FTCA), I wrote to the parties inviting their views on the proposal's effect on the heritage asset. I have had regard to the parties' responses in my findings.

Main Issue

4. The main issue is the effect of the proposed parking arrangement on the safety of vehicular and pedestrian traffic on High Street, The Rock and the private access road.

Reasons

Vehicular and pedestrian traffic

5. The appeal site is outside the town centre of Frodsham which is to the west. The property fronts the very busy and well trafficked High Street, although it is elevated above and set back from the main carriageway on The Rock. Facing the site on the northern side of High Street is a pedestrian footway that is sometimes used for car parking. The Rock allows access and egress from High Street. It gradually rises from the east, extends in front of the appeal site, before re-joining High Street to the west of the site. In-between 48a and 50 High Street is a private access road which rises to the two dwellings at the rear of the site. A gated entrance is in a brick wall to the side and rear of the appeal site. This provides access to an area of hard standing and an open fronted garage.
6. The ground floor of the property is used as a hair and beauty salon while above is a residential flat. Access is in the flank elevation. I gather complaints have been made in the past concerning parking of vehicles near the site.
7. I understand appointments are pre-booked and I note the appellant's survey which indicates a number of clients walk to the premises. However similar results would not be likely during the winter months or during inclement weather. While there are no controls or restrictions stopping vehicles from parking on The Rock or the private access road, space is relatively tight and they are shared surfaces. Thus, given the potential number of staff and clients who can be at the site especially on a Friday or Saturday, vehicles parked on either road would not be a satisfactory arrangement.
8. The appellant also points to the use of uncontrolled on-street car parking opposite the site. Even with no double yellow lines, despite the lack of recorded accidents, any vehicle parked here would significantly affect the free flow of traffic on High Street in either direction. This would not be safe for staff or clients entering or leaving the salon or for other road users whom would

¹ Council Application Refs: 15/00030/FUL and 15/04477/COU

need to manoeuvre around a parked vehicle(s) into oncoming traffic. While vehicles appear to use the pedestrian footway, they do obstruct a large part of the footway and despite its width, it is not an acceptable solution as it would prevent the safe movement of pedestrians. High Street is not therefore capable of absorbing additional demand opposite the site. Vehicles parked here would lead to severe residual impacts that would arise from the proposal's inability to provide a suitable on-site solution.

9. While formal car parking provision in the town centre is relatively accessible to the appeal site, it is still a reasonable walk away and it would not be suitable for everyone. Furthermore, even though the site may have been used as a pharmacy² and there may not have been off-street parking provision, I do not have any precise details of any vehicle and or pedestrian movements to suggest that the two uses are similar. Thus, I attach this little weight.
10. Given these conditions, I consider that a condition that secures car and cycle parking provision at the site is necessary and reasonable in the interests of highway safety. To address matters, the appellant proposes an alternative layout consisting of three parking spaces. It is suggested that the scheme accords with the Council's adopted parking standards. However these standards are from the North West Regional Spatial Strategy which has been revoked. Thus, I attach them no weight. Moreover, saved Policy T13 of the Vale Royal Borough Council Local Plan (Vale Royal Local Plan) relies on these standards. Still, I note the objectives of this policy.
11. The Council's draft Parking Standards Supplementary Planning Document (PSSPD) outlines the maximum parking standards for non-food retail uses. Even though the site is accessible to Frodsham Town Centre, according to the draft PSSPD, Frodsham Town Centre and the site fall under the 'rest of borough'. Consequently, the proposal, using these standards attracts a maximum provision of four spaces, aside to the first floor flat, once the number of spaces is rounded up to the nearest whole space³. Given the worst case scenario of staff and clients and the conditions that I have set out above, I consider that this level of provision is a reasonable approach. The appeal scheme would not in numeric terms meet the draft PSSPD. Still, I shall examine the proposed parking arrangements.
12. In terms of spaces at the rear of the site, vehicles would need to either enter those spaces in forward gear and reverse out or reverse in and leave in forward gear. The former of the two would mean drivers and pedestrians would not be able to adequately see any oncoming vehicles or pedestrians in the private access road. This would be due to a high brick wall on both sides and the likely presence of another parked vehicle. While drivers may reverse in, it is doubtful this would always happen. So, despite the use of the private access road and the ability of vehicles to manoeuvre on this road, I am not satisfied that the visibility from the proposed spaces would lead to a safe arrangement.
13. Vehicles could manoeuvre in and out of the space to the front successfully and drivers could choose to either enter in forward gear or reverse in. However, visibility issues would arise with vehicles reversing out of the space, as drivers would be hampered by the building's front elevation and the access ramp to the side. Consequently oncoming vehicles and or pedestrians using the private

² Council Application Ref: 4/15491

³ Draft PSSPD paragraph 3.7

access road would not be seen until well into the manoeuvre. I acknowledge that, if vehicles reversed in, then it would alleviate the issue, but this would not be probable as vehicles would be more likely to approach the site using the east-bound carriageway of High Street that directly feeds The Rock.

14. So, even if three car parking spaces is a suitable level of car parking provision for the site, the proposed spaces would not ensure the safety of all road users, despite the relatively low speed and frequency of movements. Thus, aside to the appellant's efforts to find a solution that the proposal would not provide an adequate level of car parking. Also, as no cycle parking provision is provided, it would not encourage the use of alternative modes of transport, especially in this accessible location. Cumulatively, there would be a greater demand for on-street or other sources of parking than the appellant suggests, given clients mode of travel to and from the site. I do not consider that the provision of formal car parking or public transport in the wider area would address the concerns that I have expressed. Furthermore, given the lack of substantive evidence, I do not consider that the proposed parking arrangement outweighs points relating to engineering works or the financial outlay.
15. Despite the suggested use of a Grampian planning condition to secure the delivery of the parking space at the front, given my findings, I do not consider that this otherwise unacceptable development would be made acceptable through the use of such a condition.
16. For these reasons, I conclude that the proposed parking arrangement would lead to a significant harm on the safety of vehicular and pedestrian traffic on High Street and the private access road. This would be contrary to Policy STRAT10 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies, saved Policies BE1 and T13 of the Vale Royal Local Plan, the draft PSSPD and paragraphs 17 and 32 of the National Planning Policy Framework. Together these seek, among other things, developments to provide adequate levels of car and cycle parking provision, taking account of the accessibility, type, mix and use of the development; the availability of, and opportunities for public transport; and the safety of all road users in the design and layout of new developments, so that safe and suitable access to the site can be achieved for all people.

Other Matters

17. The FTCA extends either side of High Street. The site is part of The Rock which was the original highway until a road improvement. A low sandstone wall and a raised bed are in front of the site. These would be removed to form a car parking space. Despite the appellant's view that these works fall outside the definition of development, even though they are visible from High Street, I agree that the boundary wall and raised bed do not form an integral part of the FTCA. Hence the change would be modest and there would be a neutral effect on the FTCA, given the large areas of hard standing next to the site. As such, the FTCA would be preserved.
18. Despite the civil issues raised, reference to complaints along with current and potential alternative parking arrangements, I have considered this appeal on its planning merits with regards to the proposal at hand, the development plan and the site's specific circumstances. While the appellant has expressed their opinion on the Council's approach to the application and this appeal, this is not a view that I share, given the evidence before me.

Conclusion and Conditions

19. I am dismissing the appeal on the substantive matter relating to the alternative car parking layout, but despite my findings, the time period requiring the car parking spaces and cycle parking shown on approved plan ref: P003 to be laid out and available for use elapsed some time ago. Thus, I have updated the disputed condition to allow the appellant to comply with the condition using the same period. The appellant has not raised objection to this time period in evidence. The effect of the change to condition No 3 is to allow the appeal.
20. For these reasons, I conclude that the appeal should be allowed insofar as it is necessary to the disputed condition in the manner set out above. I will grant a new planning permission with this condition, but retaining those non-disputed conditions from the previous permission that appear still to be relevant, having regard to those suggested by the Council. Given the use has already started a condition relating to the commencement of development is not needed.

Andrew McGlone

INSPECTOR