



Appeal Decision

Site visit made on 4 March 2019

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 26th March 2019

Appeal Ref: APP/B1415/W/18/3216091

9 Wesley Salmon Close, St Leonards-on-Sea, East Sussex, TN38 0GE.

- 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 Ms Donna Burford against the decision of Hastings Borough Council.
 - The application Ref HS/FA/18/00684, dated 30 July 2018, was refused by notice dated 11 October 2018.
 - The development proposed is for the change of use from a dwelling house (Class C3) to a mixed use comprising dwelling house (Class C3) and hairdressing salon (Class A1).
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the proposed development on the character of the area by reason of the potential increase in traffic and visitors to the property.

Reasons

3. The appeal property, 9 Wesley Salmon Close, is a detached three-storey, four/five bedroom dwelling. It is located in a quiet residential close, which is in turn part of a large residential area.
4. The appellant proposes the change of use of the dwelling house to comprise a dwelling house class C3 and hairdressing salon class A1. From the drawings I understand that the salon would be located in the orangery extension as well as a small part of the original property to the rear.
5. The proposal would result in activity that would be likely to lead to the comings and goings of customers on foot and by car. The appellant is presently operating the salon and I understand that typically the hours of operation are 3 hours on Monday afternoon, 6 hours on Wednesday, 2 hours on Thursday afternoon, 6 hours on Friday and 4 hours on Saturday, currently therefore some 21 hours in total, with a maximum of two customers at any one time.
6. The appellant has indicated that, in addition to set opening hours, she would be prepared to accept conditions limiting the number of hours to a maximum of 25 per week while allowing only two customers to be present at any one time and restricting the A1 use to a hairdressing salon only. The use, operating hours

and opening times could be controlled by a planning condition if I were minded to allow the appeal. However, conditioning the number of customers at the premises would be difficult to both monitor and enforce.

7. Wesley Salmon Close is a quiet residential cul-de-sac which is subject to limited existing pedestrian and vehicular activity. There is a disagreement between the appellant and the Council as to the number of vehicle trips to the premises each week. The appellant calculates, based on her records, that at the current level of activity, the proposal leads to some 23.3 visits to the premises by car each week. The Council, however, suggests it would be more like 41 visits. Nevertheless, based on the appellant's figures there would still be an average of some 8.3 vehicular movements at the property a day in respect of the business use.
8. The appellant has, in addition, commissioned a limited traffic survey with a view to trying to assess 'the impact of traffic on the local area'. The survey was undertaken at the junction of Celandine Drive and Wesley Salmon Close. Celandine Drive is identified in the survey as a distributor road that serves the entire estate comprising several hundred houses. Given the limited scope of the survey it is difficult to draw any meaningful conclusion from it.
9. Nevertheless, as I observed, currently there are low existing levels of activity in the close itself. The comings and goings associated with the business, identified as an average of 8 or so vehicles a day, would be in addition to the potential movement of vehicles in connection with the occupation of the property as a dwelling house. Further, the business movements would be likely to be consistent and sustained throughout the hours of operation. In my view the increase in traffic movements to the appeal property would therefore be readily discernable and, in this case, not insignificant.
10. The appellant states that there are three parking spaces available on site. However, as the C3 use would be retained alongside the business use, those spaces, in the event that the change of use were granted, would still be required to serve this large family dwelling.
11. For these reasons I conclude, in respect of the main issue, that the proposal would lead to an unacceptable increase in traffic movements and parking that would be out of keeping with and thereby cause significant harm to the character of the residential nature of the area. This would be contrary to Policy DM1 of the Hastings Local Plan – *Shaping Hastings* - Development Management Plan (Adopted 23 September 2015) (DMP) and paragraph 127 of the National Planning Policy Framework (the Framework) which seeks to, amongst other things, protect and enhance local character.

Other matters

12. The appellant has set out the particular circumstances that justify her need to work from home. I acknowledge the health condition as outlined in the appellant's statement (including the letter from the doctor in Annex E and from various consultant letters provided). Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health condition of the individual concerned. However, on the evidence that is before me, I have no doubt that the proposal would be of benefit for the appellant. This is a personal circumstance to which

I afford weight in favour of the appeal. However, this must still be balanced against other material considerations.

13. The appellant suggests, given amongst other things the scale of the proposal, that a material change of use may not have occurred and an application for a certificate of lawfulness represents a creditable fallback position. However, a formal application for change of use has been submitted and is before me at appeal. It would therefore be for the Council to consider the merits of an application of a certificate of lawfulness in the first instance.
14. The appellant refers to other examples of commercial uses within the wider residential area. Since I have not been provided with full details of the circumstances surrounding those uses, I cannot be sure that they are directly comparable with the appeal proposal. I confirm in any case that I have considered this appeal on its individual merits.

Planning balance and conclusion

15. I acknowledge the health issues identified. These are matters which weigh in favour of allowing the proposed development. In considering this matter, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and due to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
16. In respect of the above, these matters have to be weighed against my conclusion on the main issue which is that the proposal would have a significantly adverse impact upon the character of the area. In this case, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that significant harm is not caused to the character of the area. Indeed, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the family member.
17. Consequently, whilst I acknowledge the personal circumstances advanced in this case, I conclude that this is not a matter which outweighs the significant harm that would be caused by the proposal in respect of my aforementioned conclusion on the main issue. Therefore, and taking into account all other matters raised, including the lack of any objection to it from neighbours, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR