



Appeal Decision

Site visit made on 24 June 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/T3725/W/19/3224012

Unit 1, Moss Street, Leamington Spa CV31 2DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Dickinson of Sureway Property Services Group against the decision of Warwick District Council.
 - The application Ref W/18/2212, dated 14 November 2018, was refused by notice dated 23 January 2019.
 - The application sought planning permission for 32 bed HMO (in association with 15 bed HMO previously approved under reference W/15/0994 dated 10 August 2015) following demolition of existing commercial buildings on land at the rear of 1-3 Althorpe Street at Unit 1, Moss Street, Leamington Spa, Warwickshire CV31 2DA, in accordance with the terms of the application, Ref W/15/2154, dated 23 December 2015, subject to the Schedule of conditions attached to this decision without complying with a condition attached to planning permission Ref W/15/2154, dated 30 December 2016.
 - The condition in dispute is No 15 which states that: *"The building hereby permitted shall be used solely as a student hall of residence and ancillary purposes thereto, being occupied solely by persons enrolled in a full time course of higher education."*
 - The reason given for the condition is: *"A condition (15) restricts the development to use as a students' residence to reflect the on-site parking provision made."*
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Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mr David Dickinson of Sureway Property Services Group against Warwick District Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission was granted on 30 December 2016 under appeal¹ for a 32 bedroom House in Multiple Occupation (HMO) following demolition of existing commercial buildings. Condition 15 of that planning permission states that, 'the building hereby permitted shall be used solely as a student hall of residence and ancillary purposes thereto, being occupied solely by persons enrolled in a full time course of higher education'.

¹ APP/T3725/W/16/3155217

4. The Inspector in that appeal, concluded that the condition was necessary and reasonable by reason of the level of car parking provision which was below the number of car spaces that were required under the relevant planning policies.
5. The appeal before me seeks to remove the said condition. The Council are concerned that by removing the condition, the proposed development would lead to additional demand for limited car parking spaces in the surrounding area and that this would be harmful to residents' amenity, the free flow of traffic and highway safety.
6. Taking the above into account, the main issue is whether or not the condition is necessary and reasonable, having particular regard to the living conditions of residents and highway safety.

Reasons

7. The appeal site is located on Moss Street, being a short street accessed off Althorpe Street serving just the site, which is situated immediately to the rear of development fronting onto Radford Road. The site is located close to the railway line, beyond which to the south is located a mixed commercial and industrial estate.
8. Policy TR3 of Warwick District Local Plan 2011-2029 (2017) (the Local Plan) provides that developments must not result in on-street parking which would be detrimental to highway safety. This Policy refers to the Council's Parking Standards Supplementary Planning Document (the SPD) which provides that whilst the adequacy of parking provision in relation to purpose built student accommodation will be considered on a case by case basis, HMOs would be required to provide a minimum of one car parking space for every two bedrooms.
9. Consequently, a 32 bedroom HMO would require 16 spaces under the standards set out in the SPD. In this instance 7 car parking spaces would be provided, leading to a shortfall of 9 spaces for this part of the development. In addition to this there is a shortfall of spaces in association with the 15 bedroom HMO previously approved, resulting in an overall shortfall of 15 parking spaces for the combined schemes.
10. The Inspector in the previous appeal decision considered that the proposed development would be for student accommodation and concluded that whilst the proposal would be likely to increase the pressure on parking spaces in the area, on the basis that car ownership would be likely to be lower amongst students and due to the location of the site with access to transport to higher education facilities, the demand for off-site car parking arising from the proposal would not be such as to have an unacceptable adverse impact on the amenity of nearby residents.
11. From observations made on my site visit and from the evidence before me, the surrounding area already suffers from a degree of parking stress. I noted that on street parking demands associated with the commercial and industrial units within Althorpe Street were high, with vehicles being parked on both sides of the street close to the appeal site.
12. It has been put to me that the condition is over restrictive and would discourage support of key local services which would be harmful to growth. In this regard, it is maintained that the condition is not reasonable as local

employers, such as Jaguar Land Rover, would provide incentives such as a dedicated bus service, which would reduce car usage associated with the proposal. Furthermore, the submissions indicate that, in the event that the condition was removed, prospective tenants would be required to enter an agreement not to bring cars with them to the site or the local area and that therefore there would be no additional impact on local parking.

13. However, it cannot be guaranteed that prospective tenants of the proposed development would be employed by any such private company or public organisation which would provide dedicated transport services. Nor could it be guaranteed, in the event such dedicated transport services were currently available, that circumstances may change in the future and that such services may become unavailable.
14. Furthermore, whilst I acknowledge the submissions made in support of this appeal with regards to control of parking through tenancy agreements and that parking at the appeal site could be adequately controlled by terms contained within tenancy agreements, it would not be possible to adequately assess whether occupants had brought cars with them to the wider local area without constant checks being made on the local road network.
15. In my view, the proposal would be likely to increase the pressure on parking spaces within the surrounding area, with the proportion of car ownership amongst private residents who were not students being likely to be higher than that of students. This would be consistent with the conclusions of the Inspector in the previous appeal decision.
16. As noted above, the evidence before me indicates that the area surrounding the appeal site currently suffers from a high level of parking stress. Therefore, in the absence of clear and substantive evidence which demonstrates that there is sufficient capacity within the surrounding area for on-street parking associated with the proposal, it is, in my view, likely that by removing the student occupancy condition, the existing on-street parking situation would be exacerbated, creating congestion and potentially encouraging inconsiderate or dangerous parking within the local area. Consequently, the potential congestion caused by inconsiderate or dangerous parking would be harmful on the free flow of traffic and would be detrimental to highway safety.
17. For the above reasons and in the absence of evidence which demonstrates that there is sufficient car parking capacity within the surrounding area, the proposed removal of the student occupancy condition would be harmful to highway safety. Consequently, by removing the condition there would be conflict with Policies TR1 and TR3 of the Local Plan which require that development is not detrimental to highway safety.
18. Furthermore, given that it would be likely that the removal of the condition would lead to increased demand for on-street parking within the local area, this would potentially add to the inconvenience of local residents in finding a parking space. I consider this would be a disturbance in the context of Policy BE3 of the Local Plan and, consequently there would be conflict with the aims and objectives of this Policy should the condition be removed.

Conclusion

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

A Spencer-Peet

INSPECTOR