



Appeal Decision

Site visit made on 20 December 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2020

Appeal Ref: APP/C4235/W/19/3238538

250 Wellington Road South, Heaviley, Stockport SK2 6NW

- 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 Scott Baker Properties Ltd against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/073501, dated 24 June 2019, was refused by notice dated 24 September 2019.
 - The development proposed is the change of use from 7 flats (implementation of prior approval DC/062964) to form 22 bedroom HMO.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the appellant's application form refers to the change of use from 7 flats and the implementation of prior approval DC/062964. I have also been provided a copy of the correspondence between the Council and the appellant agreeing to amend the description of development to the change of use from B1(a) offices to a 22 bed class C4 house in multiple occupation (HMO).
3. However, C4 use class relates to small HMOs which consists of shared houses occupied by between three and six occupants. The appellant seeks permission for a 22 bed HMO, which does not fall under C4 use class and is sui generis. The Council's statement acknowledges this, and reference to C4 has also been omitted from the description on the appellant's appeal form and statement of case. Therefore, accordingly I have dealt with the proposal as the change of use from B1(a) offices to a 22 bed house of multiple occupation (HMO).

Main Issues

4. The main issues are:
 - the effect of the development on the safe and efficient operation of the highway network in the vicinity of the appeal site with regard to parking; and
 - whether there is a fallback position that would justify the development proposed.

Reasons

The effect on the highway network

5. The appeal site is a period property, in a prominent location at the junction of Wellington Road South (the A6) and Wellington Grove. Wellington Road South consists of a variety of commercial properties, whilst Wellington Grove is a residential street. To the front of the appeal site Wellington Road South consists of a dual carriageway which is a main thoroughfare in and out of Stockport from the south for various modes of transport including private vehicles, buses, pedestrians and cyclists. Wellington Grove comprises mainly of terraced housing with on street parking.
6. The highway authority has objected to the proposal, raising concerns over the additional demand for kerbside parking which would exacerbate existing parking pressures within the vicinity of the site. The Council have provided evidence of the existing constraints, including the availability of kerbside parking and the various highway restrictions within the nearby streets (appendix 3 of the Council's Statement of Case), and they highlight the existing competition for parking space in the area.
7. From the evidence above, and noted on my site visit, parking is prohibited on Wellington Road South adjacent to the appeal site by white zigzag lines as the road approaches a pedestrian crossing to the north. Further north of this crossing are double yellow lines prohibiting parking, and to the south is a bus stop. During my site visit I also noted signage indicating that the pavement along Wellington Road South was shared by pedestrians and cyclists.
8. Along Wellington Grove adjacent to the appeal site, there are parking restrictions in the form of double yellow lines, prohibiting parking from the junction of Wellington Road South, to the gated access of a property known as Central House. Therefore, the site is constrained by parking restrictions on the sections of road directly adjacent to it. The nearest on street parking is between Central House and the junction of Wellington Grove and Osborne Road. However, the Council have submitted that this area is already in high demand, and at the time of my site visit there were no available spaces to park along this section of road, serving to support the Council's position.
9. Given the existing parking pressures identified above, the likely additional number of vehicles associated with the proposal would increase the prospect of indiscriminate parking in the prohibited areas, not least by others needing to visit the locality. Vehicles parked in this manner in the prohibited areas adjacent to the appeal site would narrow the carriageway and are likely to increase the risk of conflict between vehicles entering and leaving Wellington Grove. The proximity of the bus stop and the shared use of the footway by pedestrians and cyclists creates further potential conflict, if vehicles are forced to reverse or manoeuvre around parked vehicles. During my site visit I noted a vehicle was parked on the double yellow lines adjacent to the appeal site, reinforcing these concerns.
10. I have considered the evidence provided from both parties in relation to the Council's adopted car parking standards. Saved Policy CDH 1.4 of the Stockport Unitary Development Plan Review (May 2006) sets out the criteria for conversion of dwellings to HMOs within the Borough, and states that parking should be provided within the curtilage at the rate of 0.5 space per

letting. Whilst this proposal is the change of use from an office (not a dwelling), the policy is relevant insofar as it relates to the proposed use as an HMO.

11. The appellant has advanced a comparison of the parking standards for offices, flats and those for HMO's. Whilst I understand that the parking standards for offices are a maximum, whereas those for HMO's in saved Policy CDH 1.4 are a minimum, I have no evidence regarding the type of business that previously operated from the building, whether it would have justified the maximum standard for parking, or indeed whether any off street parking was provided. Whereas, based on the evidence provided the proposed HMO would exacerbate the existing parking pressures in the area, to the detriment of highway safety. Given my findings below regarding fallback, the comparisons provided with the previous flat scheme do not affect my findings.
12. I have considered uses of public transport, the proximity of the nearest bus stop, and the sites proximity to the town centre and local services. Whilst this would reduce the future occupiers' reliance on the car, given the number of beds proposed I am not satisfied that this would necessarily deter occupiers from car ownership, and the need for them to park within the vicinity of the site, where there is an established parking capacity issue. The number of occupants and associated vehicles would harm the effective operation of the highway and the safety and convenience of users.
13. Therefore, I conclude that the proposed HMO would exacerbate existing parking issues, having an unacceptable effect on the safe and efficient operation of the highway network within the vicinity of the site. It does not accord with Policies CS9, T1, T2 and T3 of the Stockport Metropolitan Borough Council Local Development Framework Core Strategy DPD (2011), and paragraph 109 of the National Planning Policy Framework, which collectively seek to ensure that development provides adequate levels of car parking and does not have an unacceptable impact on highway safety.

Whether there is a fallback position

14. The appellant contends that the prior approval (DC/062964) for 7 flats is extant, and that further changes of use could be made to small HMOs (C4 use class) under Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), and that this provides a fallback position. However, Development under Class O is permitted subject to the condition in paragraph O.2(2)¹ that it must be completed within a period of 3 years starting with the prior approval date. The evidence indicates that the prior approval was determined on 11 October 2016, thereby should have been completed by 11 October 2019. Pictures provided by the Council show that the development had not been completed on 24 October 2019, thereby the prior approval is not extant, and does not provide a fallback position.
15. I have considered the pictures and correspondence provided in appendix 1 of the appellant's rebuttal. Whilst these pictures (dated the 10 and 24 September) indicate progress, they are limited to kitchen areas and a shower, they also show exposed wiring, unfinished floors and walls. The appended correspondence also lists a significant amount work outstanding and

¹ SI 332 The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

acknowledges that they would not be completed by 29 September 2019. In light of the outstanding work required, and the evidence provided by the Council, in my view the prior approval has not been completed within the specified timescales.

16. Furthermore, there is no provision for a retrospective grant of prior approval or to grant a Lawful Development Certificate (LDC) for existing development under s191 of the Town and Country Planning Act 1990 (TCPA) where the prior approval procedure has not been followed, and a LDC could not be granted for proposed development under s192 of the TCPA if a prior approval condition has not been complied with by the date of the application. Whilst a planning application could be made to the local planning authority, based on the evidence I cannot be certain that such a permission would be forthcoming.
17. I note the correspondence from the Local Taxation Team regarding the likelihood of completion and billing for flat 4, and have considered the various case law referred to regarding material change of use, and the copy of the Court of Appeal Case² advanced by the appellant, however given the evidence above, and that there is no extant consent to fall back on, this does not alter my findings above.

Other Matters

18. The appeal site is located within the St George's Conservation Area (the CA). The CA lies immediately south of Stockport town centre and is focused around the St. George's Church and the cemetery opposite, both are located to the south east of the appeal site. The area comprises of a mixture of commercial, industrial, residential and ecclesiastical character. Within the vicinity of the site buildings are Victorian and Edwardian in appearance, with terraced streets to the west of the site. I note that the Council's Conservation Officer does not object to the proposals, and I am satisfied that the development would not harm the special character of the CA. The proposal is consistent with paragraph 193 of the Framework, which seeks to ensure that new developments preserve and enhance Conservation Areas and prevent harm to designated heritage assets.
19. I note that the application site lies within an Air Quality Management Area (AQMA) and no Air Quality Assessment (AQA) or mitigation measures have been received. However, this does not alter my findings on the main issues.

Conclusion

20. For the reasons given above, the appeal is dismissed.

R Cooper

INSPECTOR

² Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314