



Appeal Decision

Site visit made on 17 November 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 9th December 2020

Appeal Ref: APP/W4325/W/20/3258285
31 Forest Road, Heswall, Wirral CH60 5SR

- 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 Laura Weston against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/20/00203, dated 05 February 2020, was refused by notice dated 23 June 2020.
 - The development proposed is change of use of an outbuilding to a beauty salon.
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Decision

1. The appeal is allowed and permission is granted for change of use of an outbuilding to a beauty salon at 31 Forest Road, Heswall, Wirral CH60 5SR, in accordance with the terms of application ref: APP/20/00203, dated 05 February 2020, subject to the conditions set out in the attached Schedule.

Procedural Matter

2. The outbuilding the subject of the appeal benefits from permitted development rights. Therefore, the appeal relates only to the proposed change of use.

Main Issue

3. The main issue is the effect of the proposal on the character of the residential area and the living conditions of neighbouring residential occupiers.

Reasons

4. The appeal relates to an outbuilding in the rear garden of 31 Forest Road, which is a 2 storey semi-detached dwelling in a primary residential area. The rear garden lies between the rear gardens of Nos 29 and 33 Forest Road and it shares its rear boundary with the side boundary of 1 Epping Court. Access to the appeal building is via the side of the property. There is off street parking for 2 vehicles at the front of the property.
5. The proposal would be a small beauty treatment room to allow the appellant, who has a beauty salon in West Kirby, to work from home several days a week. The application form indicates the proposal would operate for 2-3 days per week between Monday to Friday and between the hours of 0900-1700. The applicant would treat a maximum of 5 clients per day, one at a time.
6. On this basis, the proposal would result in an additional 8-15 visitors to the property during the course of a week. While this would be an increase in the comings and goings in the area, it would be during the day. There would be no

business activity in the early mornings or evenings nor on Saturdays, Sundays or bank holidays, which are the times of the day and week when neighbouring occupiers could most reasonably expect to enjoy their properties free from disturbance.

7. Irrespective that Forest Road is a quiet residential street, taking account of the frequency and duration of beauty treatments, the arrival and departure of a small number of clients during the course of the day, and on only a few days of the week, would not be a particularly intensive or overtly commercial activity. Moreover, the appeal outbuilding is to the rear of the property such that its use would only be visible to a small number of neighbouring occupiers when looking from their upper floor windows into the appellant's garden.
8. While the proposal would result in additional vehicle movements, there is off street parking for 1 client vehicle. Even if there was an occasional overlap between clients, there is nothing before me to demonstrate that the street is under any significant parking pressure or that the occasional parking of 1 additional vehicle in the street would be significantly detrimental. Moreover, most clients would travel by private vehicles which would be indistinguishable from private visitors to the property.
9. Clients would be unlikely to loiter in the garden and any brief conversation between a client and the appellant during this time would not result in any significant level of noise or disturbance to neighbouring occupiers. Although clients could look up towards the neighbouring residential properties, Nos 29 and 33, they would be more likely to look downwards to where they were walking. In any case, from ground level it is not possible to look directly into first floor habitable room windows. The neighbouring gardens and ground floor windows, which would be more vulnerable to overlooking, are already screened by the close boarded boundary fences. There would be no different or greater opportunity for overlooking the neighbours than currently exists and the proposal would not result in a loss of privacy for the neighbours.
10. Therefore, the scheme that was considered by the Council would be a low intensity and low frequency use that would not significantly alter the residential character of the area and it would not cause nuisance to neighbouring occupiers. However, the appeal scheme has evolved and it is proposed to operate every day Monday to Friday. With 5 clients per day, this would result in 25 clients per week rather than the 8-15 originally proposed. In combination with a 5 day working week and the standard working hours, this would result in a steady and conspicuous stream of clients and a frequency and intensity of business use that would not be compatible with the character of the primary residential area.
11. My attention has been drawn to schemes in Milner Road and East O Hill Close, where the Council permitted similar proposals. These do demonstrate that small scale beauty treatment rooms can be acceptable in residential areas. However, it is notable that both schemes related to shorter hours of operation and a lower number of clients than the appeal proposal.
12. In this regard, the Council has suggested a condition to restrict the hours of operation to 1000-1630 Monday to Friday, with a maximum of 3 clients per day, in order to protect residential amenity. The appellant considers that this would not allow her to operate in the manner that she wishes. However, she has not specified the 3 days of the week that she wishes to operate nor has it

been demonstrated that allowing the use on any 3 days would meet the tests for conditions, with particular regard to being enforceable or precise.

13. The operation of the proposal on Monday-Friday and with a maximum of 3 clients per day would be precise and enforceable and it would result in certainty for the Council and the neighbouring occupiers. The appellant would still have flexibility to work from home on any day of the week and she would still be able to see up to 15 clients per week, which is the maximum number originally proposed. Subject to a limit of 3 clients per day over 5 working days, I consider that the scheme would be sufficiently low intensity that a further restriction on the hours of operation to 1000-1630 would not be necessary.
14. Therefore, subject to conditions, the proposal would not harm the character of the residential area or the living conditions of neighbouring residential occupiers. It would not conflict with Policies EM12 and HS15 of the Wirral Unitary Development Plan Adopted February 2000. These require, among other things, that development within primary residential areas should be appropriate to surrounding uses, it should avoid detrimental changes in the character of the area and it should avoid nuisance to neighbouring uses, particularly in respect of noise and disturbance, on-street parking and deliveries by vehicle.
15. The Council is concerned that the change of use would set a precedent for business uses in residential gardens, a proliferation of which would be detrimental to residential character and neighbours. However, I am not aware that any other residential occupiers in the area have applied for, or are considering, a similar proposal. In any case, the Council retains the right to assess future schemes on their own merits, taking account of the circumstances of the case and any cumulative adverse impacts.

Other Matters

16. There is a third party representation objecting to the proposal. The appellant's existing business is not directly relevant to the appeal. Irrespective of the large size of the outbuilding, the application was not refused on grounds relating to it. Subject to conditions, I have found that the proposal would not result in significant noise and disturbance.

Conditions

17. In the event that the appeal was allowed, the Council suggested planning conditions. I have assessed these against the tests set out in the National Planning Policy Framework.
18. Conditions specifying the approved plans and the timescale for implementation of the permission are necessary in the interests of certainty. A condition specifying the hours of opening and the maximum number of clients is necessary to protect the residential character of the area and the living conditions of the occupiers of neighbouring residential properties. I have not however restricted the hours of opening to the extent suggested by the Council but have used the hours suggested by the appellant. These already avoid early morning and evening opening and, in combination with a restriction on the maximum number of clients and staff per day, the evidence before me does not support a further reduction in opening hours.

19. The Planning Practice Guidance sets out that planning permission usually runs with the land, although exceptionally development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. Even if there were special circumstances relating to Mrs Weston that would justify allowing an otherwise unacceptable scheme, subject to restrictions on hours of opening and customer numbers, the proposal would not conflict with the development plan. Although I have not found it necessary to attach a condition to restrict the permission to Mr and Mrs Weston, a condition to ensure that the appeal building remains ancillary to the dwelling and does not operate as a separate planning unit is justified in the interests of the residential character of the area.

Conclusion

20. For the reasons set out above, the appeal is allowed.

Sarah Manchester

INSPECTOR

Schedule of conditions

- 1) The use hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The use hereby permitted shall be carried out in accordance with the following approved plans: Ref TQRQM20042151140133, location plan, dated 11 Feb 2020 and Ref 1366-01, Existing, dated Mar20.
- 3) The use hereby permitted shall only take place between the following hours: 1000-1630 Mondays – Fridays. The use is not permitted on Saturdays, Sundays and Bank Holidays.
- 4) There shall be no more than three clients sessions in any one day and there shall be no more than one member of staff (either full time or part time) and one client in the premises at any one time.
- 5) When the use hereby permitted ceases to exist, the outbuilding shall only be used in association with the existing dwelling house and it shall not be occupied or sold off separately as an independent unit.