
Appeal Decision

Site visit made on 26 January 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021

Appeal Ref: APP/R1038/W/20/3261828

11 Wellington Park, Shirland, Alferton, Derbyshire DE55 6EQ

- 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 Mr Glen Gent against the decision of North East Derbyshire District Council.
 - The application Ref 20/00500/FL, dated 30 May 2020, was refused by notice dated 28 September 2020.
 - The development proposed is described as follows: Converting the garage into a beauty salon. The garage door will be removed and replaced with 1 door same as the house, also 2 windows. The blockwork will be rendered and painted white to match the house.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use of double garage to beauty salon, at 11 Wellington Park, Shirland, Alferton, Derbyshire DE55 6EQ, subject to the Schedule of Conditions attached.

Procedural Matter

2. I note that when the Council's Planning Committee considered the proposal at the meeting of 22 September 2020, the Council Officer's Report and minutes of the meeting indicate that the external physical alterations to the garage had already been carried out, that they did not require planning permission (as the works were deemed to be permitted development), and therefore the proposal was for the change of use only. The description of proposed development on the Council's Decision Notice refers only to the change of use. Although I have not been provided with any evidence that the appellant agreed with the change in description, as he attended the Committee meeting he would have been well aware of the change; additionally, he has used the amended description on the appeal form. I have therefore made my decision on the basis that the proposal is for the change of use only and that the accurate description of development is: change of use of double garage to beauty salon.
3. The Council's Emerging Local Plan (ELP) is at an advanced stage. I understand that no modifications are required to policies SS7 and SDC12 (the 2 policies which the Council considers are most relevant to the appeal). These policies are deemed to be consistent with the National Planning Policy Framework (the Framework), and in accordance with paragraph 48 I attach significant weight to these policies.

Main Issues

4. The main issues are:

- the effect of the proposal on the character of the area, and
- the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, with regard to traffic, parking, noise and disturbance and privacy.

Reasons

5. The appeal site comprises a detached two-storey dwelling with detached double garage (the subject of this appeal) sited within a generous plot, with hardstanding to the front and gardens to the side and rear. I accept the Council's description of the site's location, ie within "*...a small residential cul-de-sac of modern detached dwellings...[which]...has a strong residential suburban character with a quiet and intimate ambience.*"
6. The building would remain within the curtilage of the dwelling. It would have the appearance of a domestic, ancillary outbuilding. The only employee would be the partner of the appellant. The building would only be used 3 days per week, on Thursdays, Fridays and Saturdays, and only between the hours of 10:00 to 16:00. Clients would be booked using an appointment system with 15 minutes between appointments. Bearing all these factors in mind, I consider the nature and extent of use of the building would not harm the character of the area.
7. I note that there is no property immediately west of the building; the host dwelling is located immediately to the east of the building; the rear garden of the dwelling is to the rear of the building and there is a generous distance between the front of the building and neighbouring properties opposite. The building is single-storey and only has 2 small windows, in its front elevation. A condition will be attached to the permission to ensure that a parking space designated for users of the facility is provided on site.
8. In addition to the physical circumstances described above, given the limited extent of use, even if all the clients arrived by motor car, I disagree with the Council's conclusion that the living conditions, including privacy levels, of occupiers of existing properties would be harmed due to visitors, traffic and noise and disturbance.
9. I therefore conclude that the proposed change of use would not harm the character of the area or the living conditions of occupiers of existing neighbouring residential properties. As such, the proposal would accord with saved policies GS5, GS7 and E8 of the North East Derbyshire District Local Plan (2005), policies SS7 and SDC12 of the ELP and paragraph 127 of the Framework. Collectively, and among other things, these policies support development that is sympathetic to, and does not have a detrimental effect on, the character of an area, and creates places that provide high-quality living conditions for, and/or protect the living conditions of, occupiers of existing neighbouring properties.

Other Matters

10. During the planning application and the appeal, several concerns have been raised by residents. With regards to any requirements of deeds of covenant, these are separate to the planning system. I acknowledge that it may be possible to find commercial premises elsewhere and that efforts to promote and encourage businesses to return to the high street should generally be supported. However, I must deal with the proposal as it is before me and determine it against development plan policies. I have done this, and as I have found that it accords with development plan policies the Framework requires me to approve the proposal. Concerns have been raised about the proposal setting a dangerous precedent. However, each application must be assessed on its own merits. Although it has been noted that the appellant's partner currently owns a salon, this matter does not have any bearing on assessing the proposal before me. With regard to concerns raised about future occupiers of the dwelling either not wanting to run a beauty salon, wishing to operate another type of business from the premises, or letting the premises to someone else, I have sought to control these matters by attaching suitable conditions. I note the concerns raised about highway safety. However, given the limited extent of proposed use and the physical circumstances of the site and street, I am satisfied that the proposal would not raise any highway safety concerns.
11. Additionally, due to the limited extent of use, any increase in pollution from additional cars visiting the street would be of a limited and acceptable degree. With regards to health and safety, any salon must comply with relevant legislation, including the Health and Safety at Work Act 1974 and Control of Substances Hazardous to Health Regulations (COSHH) 2002; a condition will also be attached to secure suitable management of waste. To prevent a situation where the premises are regularly used by parties, a condition will be attached to limit such activities.
12. I also note that in general the courts have concluded that planning is concerned with land use in the public interest, rather than the protection of purely private interests (eg property values). I have reached my decision based on this principle. Additionally, I have had due regard to the Human Rights Act 1998 as concerns have been raised regarding the right for respect of private and family life.

Conditions

13. I note that the appellant has agreed to the conditions suggested by the Council, including any that are pre-commencement.
14. I have attached a condition specifying the approved plans for the avoidance of doubt. I have attached conditions requiring the approved beauty salon use to be confined to the designated building, to only be operated by a resident of the associated dwelling, to only operate on specified days and between specified hours and to operate using a booking system; these conditions are required to limit the extent of use in order to protect the character of the area and living conditions of occupiers of existing neighbouring properties. I have attached conditions requiring the provision of on-site parking for both the salon and residential uses, in the interests of highway safety and the living conditions of occupiers of existing neighbouring properties. I have attached a condition requiring details of waste management to be submitted and approved in the

interests of public health and safety and the living conditions of occupiers of existing neighbouring properties. A condition has been attached preventing any advertisements without obtaining consent, to protect the character of the area. Finally, a condition has been attached to restrict any change of use of the approved building without obtaining planning permission, in order to protect the character and appearance of the area and the living conditions of occupiers of existing neighbouring properties.

Conclusion

15. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans: Location Plan dated 29 June 2020, Outline Plan (Site Plan) dated 8 June 2020, Proposed Elevations dated 8 June 2020, Proposed Floor Plan dated 8 June 2020.
- 3) The approved beauty salon use shall only take place in the converted garage building.
- 4) Before the beauty salon is first brought into use a parking space shall be provided to the front of the building as shown on the Outline Plan dated 8 June 2020 and made available for use by visiting customers. The parking space shall thereafter be retained without impediment to its designated purpose.
- 5) In addition, prior to the use of the salon commencing three car parking spaces shall be provided within the site for the occupiers of, and visitors to, the dwelling house 11 Wellington Park. These car parking spaces shall thereafter be retained without impediment to their designated purpose.
- 6) The beauty salon shall only operate between the hours of 10:00 to 16:00 on Thursdays, Fridays and Saturdays.
- 7) The beauty salon shall be operated only by a person who is resident at the associated dwellinghouse 11 Wellington Park and no other person(s) shall be employed at the premises in connection with the beauty salon business. The building shall not be sub-let at any time.
- 8) The beauty salon business shall operate on an appointment only basis with a minimum of 15 minutes between appointment times. A record shall be kept of the appointments and shall be made available to view by Council staff if required. There shall be no 'drop-in' service and group bookings, such as children's make up parties, shall be limited to one booking per week.
- 9) Before the beauty salon is brought into use a scheme for the on-site management, storage and collection of waste and recycling associated with the business (including implementation timescales) shall be submitted to and approved in writing by the local planning authority. The approved beauty salon shall thereafter be operated in accordance with the approved details.
- 10) No advertisements shall be installed at the site, including any that would satisfy 'deemed consent' as outlined in The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, or any modification to these Regulations, or in any equivalent regulations should they be replaced.
- 11) The building approved as a beauty salon shall be used for that purpose only and for no other purpose, including any other purpose in Schedule 2 Part A Commercial, Business and Service Use Class of the Town

and Country Planning (Use Classes) Order 1987 (as amended) or any use that might ordinarily be permitted under Schedule 2 Part 3 Changes of Use of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or in any equivalent provision in any statutory instrument revoking and re-enacting those Orders with or without modification.

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