
Appeal Decision

Site visit made on 29 June 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Appeal Ref: APP/Q4245/W/21/3270939
554 Barton Road, Stretford M32 9TD

- 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 B Sekhon (Circle Dental Care Ltd) against the decision of Trafford Council.
 - The application Ref 99905/VAR/20, dated 29 January 2020, was refused by notice dated 9 October 2020.
 - The application sought planning permission for variation of conditions 2 and 7 on planning permission 95018/COU/18 (Change of use from office to D1 dental surgery.) to amend the approved plans to allow for an alteration to the proposed parking arrangements without complying with a condition attached to planning permission Ref 98532/VAR/19, dated 4 December 2019.
 - The condition in dispute is No 6 which states that: Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 or any equivalent Order following the amendment, revocation and re-enactment thereof, the premises shall only be used as a Dental Surgery with no more than 3 consulting rooms as shown on the approved layout plan, number 2427-002 REV. D, and for no other purposes within Class D1 of the above Order.
 - The reason given for the condition is: In the interests of highway safety and residential amenity having regard to Policies L4 and L7 of the Trafford Core Strategy and the National Planning Policy Framework.
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Decision

1. The appeal is allowed, and planning permission is granted for variation of conditions 2 and 7 on planning permission 95018/COU/18 (Change of use from office to D1 dental surgery) to amend the approved plans to allow for an alteration to the proposed parking arrangements at 554 Barton Road, Stretford M32 9TD in accordance with the application Ref 99905/VAR/20 dated 29 January 2020 without complying with condition 6 previously imposed on planning permission Ref 98532/VAR/19, dated 4 December 2019, and subject to the conditions set out in the schedule at the end of this decision.

Application for Costs

2. An application for costs was made by Mr B Sekhon (Circle Dental Care Ltd) against North West Leicestershire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. On 1 September 2020 the Town and Country Planning (Use Classes) Order 1987 was amended and as part of this a new Class E was created which incorporates former Use Classes A1, A2, A3, B1 and some uses that were formerly in Class D1 and D2. However, as the application was made before this date, I must determine the appeal on the basis of the Use Classes Order that existed at the time the application was made.
4. On 20 July 2021, the Government published a revised National Planning Policy Framework (the Framework). Both main parties have had the opportunity to submit comments on the relevance of the Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the Framework.

Background and Main Issue

5. Planning permission was granted for the use of the appeal site as a dental practice¹ with a further permission² granted for variation to conditions 2 and 7 of that originally approved scheme. The permissions included a condition which restricted the number of consulting rooms to 3. The appellant is seeking to vary condition No 6 of the later permission as set out in the banner heading to allow 5 consulting rooms to operate from the site.
6. The condition was imposed to accord with Policies L4 and L7 of the Trafford Core Strategy in the interests of highways safety and residential amenity. The Council's evidence confirms that the proposed variation would not be detrimental to the living conditions of adjacent residents and in this respect the proposal would accord with Policy L7.3 where it seeks to ensure that development does not prejudice the amenity of occupiers of adjacent properties. Following my site visit I see no reason to disagree, and I have considered the appeal accordingly.
7. Having regard to the above, the main issue is the effect that varying condition 6 would have on highway safety.

Reasons

8. No 554 Barton Road is accessed from a short service road on the north side of Barton Road. The dental practice comprises a two-storey building and a car park. The Circle Neighbourhood Shopping Area is located to the west beyond Lostock Court sheltered housing. Residential properties bound the site to the north and east and residential use is the predominant use of the wider area. A beautician business occupying a separate detached building is set back behind, and immediately adjacent to No 554. The evidence is that no parking spaces are available for this use. The approved parking layout for the development includes an in/out arrangement so that vehicles can leave the site in forward gear.
9. Barton Road is a busy through route with a 30mph speed limit. The road has streetlighting and footpaths to either side and a separate cycle lane. There is a bus route along the road providing a regular bus service with bus stops close to the appeal site. Most residential properties have driveways or car parking to

¹ 95018/COU/18

² 98532/VAR/19

front areas although it is notable that there is no dedicated car parking for a limited number of properties opposite No 554 or the adjacent sheltered housing.

10. Trafford Council's Supplementary Planning Document SPD3: Parking Standards and Design adopted in February 2012 (SPD) states that it will need to be demonstrated that the functional parking needs of development can be accommodated on or close to the site without prejudicing highway safety and sets out the steps to minimise the demand for parking. Where existing parking stock is relied on sufficient spare capacity should be demonstrated. One of the objectives of the SPD is to promote sustainable development. Through Policy L4 of the Core Strategy the Council seeks to prioritise development in the most sustainable areas, accessible by a choice of modes of transport.
11. The dentist practice operates weekdays and Saturday mornings with evening opening on a Wednesday and Thursday, a condition of the planning approvals restricts opening times accordingly. If 5 treatment rooms were in place the appellant advises that 13 staff would be employed at the dental practice. Using the Council's maximum parking standards this would equate to a requirement for 27 parking spaces. The Council considers that 27 parking spaces are required. However, the SPD states that the parking standards are maximum standards except in relation to disabled parking, motorcycle and cycles which are set out as minimum standards. The SPD confirms that maximum levels of car parking for broad classes of development will be used as part of a package of measures to promote sustainable transport choices.
12. The appellant has forecasted the demand for car parking using a car parking accumulation calculation based on TRICS trip rates. I note the Council's concerns that parking requirements should be based on an onsite survey. However, TRICS data is widely recognised as a suitable basis to analyse traffic generation and given the current effects of the covid pandemic on 'normal' patterns of travel it seems appropriate to rely on TRICS data to understand the parking requirements for the site. The appellant has gone to considerable lengths to ensure that the sites used for comparison are compatible and the TRICS information is supplemented by some survey work.
13. The appellant concludes that a combination of the 13 parking spaces within the site and on street parking within the service road would provide sufficient spaces to accommodate the need for parking associated with the operation of 5 consulting rooms. However, were there to be additional parking requirements, extensive on street parking is available close to the site. In addition, the appellant confirms that an estimated 43% of patients live within 1 mile of the practice.
14. The Council states that high levels of illegal footway parking were observed during their recent site visit and that customers favour on street parking rather than using the car park because of difficulties with its layout. Several residents have also raised concerns about parking at the site and the difficulties of parking within the area, but there is no substantive evidence that the witnessed illegal parking is associated with the dental practice or that customers are not using the car parking provided. Further, even if all the car parking adjacent to the site were in use those arriving by car could enter and leave the car park in forward gear and would emerge on to the service road where there is limited conflict with other traffic or road users. I am therefore

satisfied that the traffic manoeuvres associated with the additional consulting rooms would not lead to highway safety issues.

15. I agree with the Council that Parking at Lincoln Street and Norwich Street would be unlikely to be used because the driving route to these streets is not obvious when arriving at the appeal site, the parking within these cul-de-sacs is limited, the road widths are narrow and there are no close crossing points to the appeal site where the footpath links from these estates emerge on to Barton Road. Even so, I observed at my site visit that parking is not restricted at Old Hall Road and spaces were available to park and I also saw that the site is within a sustainable location with opportunities to use public transport, walking and cycling.
16. I am conscious that trips to the dentist are for the most part planned and those who work at the practice do not need to arrive by car. In addition, it is within the appellants control to organise the parking arrangements to prioritise customer parking and to promote the use of cycling, walking and public transport to access the site in accordance with the SPD. The Council's parking requirement for the proposal is a maximum standard. The appellant has demonstrated that the functional parking needs for the additional consulting rooms can be accommodated at the appeal site and close to it through a combination of patients arriving at the site by other means than the car, the use of the car park and some on street parking. With an appropriately worded condition which would seek to maximise the use of travel to the site by other means than the car I see no reason why the level of parking provided would not be adequate to support a total of 5 consulting rooms.
17. Consequently, I conclude that condition 6 should be deleted and replaced with a condition that allows 5 consulting rooms to operate from the site. In addition, I propose to attach a condition which requires the submission of a travel plan prior to the additional consulting rooms being brought into use. This is consistent with Policies L4 and L7 where these policies seek sustainable transport. It would also accord with the SPD and the Framework which seek to maximise the use of land, promote sustainable transport, and ensure safe and suitable access for all users and only prevent development on highway safety grounds where there would be significant impacts on the transport network.

Other Matters

18. The Council raises several concerns about the car park layout in their statement of case. However, the Council has approved a layout for the car park showing 13 parking spaces and cycle parking. If this layout has not been fully implemented or not implemented in accordance with the plans, then the Council has the necessary powers to ensure compliance.

Conditions

19. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I have provided the parties with the opportunity to comment on the proposed conditions, but I have not been provided with information about the status of the other conditions imposed on the original planning permission. Therefore, I shall impose all those that I consider remain relevant. If some have in fact been discharged, that is a matter which can be addressed by the parties.

20. As the development has been commenced a condition setting out a timescale for implementation of the development is not required. I have imposed a condition specifying the relevant drawings to which this approval relates as this provides certainty. The Council indicates that no plan has been provided for the internal arrangement of the building, but I am satisfied that the existing internal layout plan illustrates that there is sufficient space on the first floor of the building to provide the additional consulting rooms and no further plan is needed to indicate the specific location of consulting rooms within the building.
21. A restriction on the hours of opening is necessary to protect the living conditions of occupiers of the adjacent residential dwellings. Conditions are required to ensure the implementation of the car and cycle parking arrangements and a travel plan is required to ensure satisfactory parking arrangements at the site, to promote sustainable and non-motorised travel and to safeguard the living conditions of neighbouring occupiers.
22. A restriction of the use to a dentist practice and number of consulting rooms is necessary to safeguard the living conditions of neighbouring occupiers near the site and to ensure that the car parking would be sufficient.
23. At my site visit it appeared to me that the H bar road marking has been implemented, even so, I have reimposed this condition as I have no information that it has been discharged and the condition is necessary for highway safety and to safeguard the living conditions of the neighbouring occupier.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed, as set out in the formal decision.

Diane Cragg

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, location plan Drawing no 10 dated Feb 2018, drawing no 2677-01-D04C received by the Local Planning Authority on 28th November 2019.
- 2) The landscaping works shall be carried out in accordance with the approved scheme (Drawing No. 2677-01-D04C) for timing / phasing of implementation or within the next planting season following final occupation of the development hereby permitted, whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting

season by trees or shrubs of similar size and species to those originally required to be planted.

- 3) The premises shall not be open for business outside the hours of: 08:00-19:00 Monday to Friday and 09:00-13:00 Saturday, and shall not be open for business on Sundays and Bank Holidays.
- 4) The approved cycle storage scheme (as shown on Drawing No. 2677-01-D04C) shall be implemented before the development is brought into use and shall be retained at all times thereafter.
- 5) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 or any equivalent Order following the amendment, revocation and re-enactment thereof, the premises shall only be used as a Dental Surgery with no more than 5 consulting rooms, and for no other purposes within Class D1 of the above Order.
- 6) Before the premises are first brought into use as a dental surgery, the car parking bays shown on the submitted plan reference 2677-01-D02C shall be marked out on site with white lines, made fully available prior to the development being first brought into use and shall be retained thereafter for their intended purpose.
- 7) A "H" bar road marking shall be installed across the driveway of 550 Barton Road within 1 month of the premises first being brought into use.
- 8) Prior to the additional two consulting rooms hereby approved being provided, a Travel Plan must be submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall at least include:
 - targets for the travel of staff and visitors to and from the site by other means than the car;
 - effective measures for the on-going monitoring of the Travel Plan;
 - a commitment to delivering the objectives of the Travel Plan for a period of at least five years from implementation of the additional consulting rooms;
 - effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the property.

The development hereby permitted shall be implemented in accordance with the agreed Travel Plan and in accordance with the timescales set out within it.