



Appeal Decision

Site visit made on 12 April 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022

Appeal Ref: APP/A0665/W/21/3287432

431 Overpool Road, Great Sutton, Ellesmere Port CH66 2JD

- 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 John Burns against the decision of Cheshire West and Chester Council.
 - The application Ref 21/00583/FUL, dated 8 February 2021, was refused by notice dated 10 September 2021.
 - The development for which planning permission is sought is a single storey detached building for use as an office.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit the replacement building had been erected and the development had therefore already taken place. I also note that the application has been made retrospectively. I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the development on the vitality and viability of existing designated retail centres; and
 - whether the development provides adequate levels of car and cycle parking within the site.

Reasons

Vitality and viability of existing retail centres

4. The appeal site is associated with 431 Overpool Road (No.431) which is situated on the corner of Overpool Road and Fairview Road. It is within a residential area with a school on the opposite side of Overpool Road. The development, subject to this appeal, is located at the rear of No.431 and is the site of its former garage which has been replaced by a single storey building now used as an office for a bricklaying business. The business is independent to the dwelling and a substantial fence separates the two. The new building is accessed via a drive leading off Fairview Road and the use of the drive is shared between the office and the dwelling.

5. The National Planning Policy Framework 2021 (the Framework) defines an office as a main town centre use within the Glossary (Annex 2). It advises that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date plan. It states that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Paragraph 91 clearly states that where an application fails to satisfy the sequential test it should be refused.
6. Policies ECON2 of the 2015 Cheshire West and Chester Local Plan (Part One) (CWCLP1) and policy DM14 of the 2019 Cheshire West and Chester Local Plan (Part Two) (CWCLP2) promote the long-term vitality and viability of the Borough's town centres and town centre uses will be supported within city and town centre boundaries, as identified on the policies map.
7. Whilst I do not have the details of the city and town centre boundaries, the site is in a residential area, well away from any concentrations of town centre uses and I therefore conclude that this is an out of centre site. There is no evidence before me that the appellant has looked for suitable town centre premises and followed the sequential test approach before constructing this office and using it for this purpose. Although the appeal building is small, there could be similar sized units available in a retail centre that would be sequentially more preferable than the appeal site. By allowing this appeal, a premises in a retail centre may remain vacant, thus harming the vitality and viability of the centre. The development is therefore unacceptable in principle.
8. I recognise that the appellant's offices closed during the pandemic and replacement office space was urgently sought, and continues to be sought, but nothing suitable has been found in the area. However, no detailed evidence of the office space looked at, and discounted as being unsuitable, was submitted to the Council during the initial planning application or during this appeal to demonstrate the compliance with the sequential test.
9. The appeal premises cannot be regarded as a home office as the use is entirely separate to the dwelling on the site, and despite the office not having a business appearance it has introduced a separate planning unit. It may be a more cost-effective solution for the running of a family business, and I note that there are no direct effects on the living conditions of the occupants of No.431 such as noise and overlooking, but this does not outweigh the need to comply with national and local planning policy intended to protect the vitality and viability of town centres. It may not be a retail, leisure or cultural facility which one might more typically associate with a town centre use but nevertheless a commercial office falls within this definition, and it does not need to have a public presence.
10. The appellant has failed to demonstrate that there would not be more sequentially preferable sites for this office, and it is therefore not possible to assess the effect of the development on the vitality and viability of existing designated retail centres. The development fails to satisfy the sequential test for town centre uses, set out in the Framework, and conflicts with Policies ECON2 of CWCLP1 and Policy DM14 of CWCLP2.

Parking provision

11. Whilst there is disagreement between both parties as to whether the parking area in front of the office is adequate for one or two cars, there is no drawn plan identifying the spaces. I noted on my visit that two cars parking in this area would be very tight and give limited manoeuvrability. In addition, double yellow lines extend from the front of the dwelling, around the corner along part of the frontage on Fairview Road and I recognise that at school pick-up and drop-off times the road may get heavily congested. During my visit there were some cars parked along Fairview Road but opportunities for parking were limited given the number of driveways and several cars were parked with two wheels partly on the pavement.
12. The Council's Parking Standards Supplementary Planning Document (2017) (SPD) suggests that a 2-3 bedroom house should have two spaces (guidelines for a new house) and a further parking space would be required for an office, based on floorspace. This would leave a shortfall of at least one parking space. To mitigate the potential lack of parking space, the appellant states that the parking area is used by employees during office hours, that there are no visitors and building materials are not stored on site. The occupants of the dwelling would park there at other times.
13. The construction of the office has considerably reduced parking for the occupants of the dwelling, completely removing it at times, as well as creating an additional demand to serve the office, which currently has two employees. Whilst it is possible that the appellant is currently successfully managing parking on site, circumstances change over time and it is unlikely that visitors to the office or dwelling could be controlled. It is inevitable that on some occasions street parking will result and I have already noted that this is limited, gives rise to some obstruction of the pavement, and congestion arises due to the nearby school.
14. Whilst there is the potential to use a driveway opposite and the existing tenant in the dwelling on the appeal site currently has no car, these temporary measures cannot be relied on in the long term. I also note that additional land could be made available to provide three parking spaces, but I have no drawn details of this, and it may well impact on the adequacy of the dwelling's garden size. Consequently, in the light of what I saw on site and have read, the on-site car parking provision arising from the development is inadequate.
15. The appellant has offered to provide a cycle rack. Although there is no plan, I am satisfied that this could be accommodated on site, but it would not outweigh the lack of car parking provision.
16. The development therefore provides an inadequate level of car parking within the site which is likely to result in further demand for parking on the road, potentially disrupting the free flow of traffic. This is contrary to policy STRAT10 of CWCLP1 and the SPD. These seek to ensure that new development provides adequate levels of parking provision in accordance with the Council's parking standards. The development also fails to meet Section 9 of the Framework which seeks to ensure that safe and suitable access to the site can be achieved for all users.

Other Matters

17. I note that reference is made to other businesses operating from garages in the area without planning permission, but no substantive details are before me. In any event, each case must be determined on its own merits, and I must focus on the circumstances of the appeal before me.
18. The appellant raises concerns over the conduct of the Council during the application process. Such concerns should normally be addressed through the Council's own complaints service in the first instance and ultimately this is of no significance to the planning merits of the appeal before me.
19. I have taken account of the other matters raised, including the suggested conditions from both parties which may have been appropriate had a grant of planning permission been forthcoming, but I do not find that they alter or are necessary to my conclusions on the main issues in this case.

Conclusion

20. For the reasons given above, the development conflicts with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should have been made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR