



Appeal Decision

Site visit made on 8 November 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal Ref: APP/C1055/W/22/3303232

107 Darley Abbey Drive, Derby DE22 1EF

- 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 Simon Gratton (Blair Gratton Architects) against the decision of Derby City Council.
 - The application Ref 22/00679/FUL, dated 26 April 2022, was refused by notice dated 22 June 2022.
 - The development proposed is change of use from a dwelling (Use Class C3) to an architects' office (Use Class E(g)(i)).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the header above is taken from the introduction to the appellant's Design and Access Statement as well as the Council's decision notice. Also, it forms the basis of my assessment.

Main Issues

3. The main issues are (i) whether the development would be in a suitable location having regard to the relevant policies of the development plan and the National Planning Policy Framework (the Framework), and (ii) the effect on the character and appearance of the area.

Reasons

Suitability of location

4. Policy CP11 of the Derby City Local Plan Part 1 Core Strategy (CS) identifies the central business district (CBD) as the preferred location for new offices. The policy only allows offices in other areas subject to various provisos. These require a sequential approach to site selection which gives preference to sites in the CBD, allocated employment or regeneration areas and defined centres.
5. The justification to CS policy CP11 explains that focussing new development in the CBD and the city centre will support regeneration initiatives and raise its profile as a sustainable office location. In these regards, the policy accords with the Framework's aim to ensure the vitality of town centres. Offices fall within the definition of main town centre uses as set out in the Framework. As such, they are subject to the Framework's sequential approach with preference to town centre and then edge of centre locations. Only if no suitable sites are available should out of centre locations be considered for new offices.

6. When considering compliance with the sequential test, CS policy CP11 states that regard will be given to occupants' specific requirements. In these respects, the policy allows a degree of flexibility on the location of offices as advocated under paragraph 82 d) of the Framework. In light of its strong consistency with the Framework, CS policy CP11 attracts significant weight in my assessment.
7. The appeal property is a bungalow in a suburban part of Derby. It lies well outside the city centre and the CBD and it is not in an employment or regeneration area or a defined centre. The appellant is unable to demonstrate the proposed office would comply with the sequential test as set out in CS policy CP11 and the Framework. Moreover, there is no indication that the proposal would safeguard or enhance the vitality of the city centre. As such, it would go against the justification for CS policy CP11.
8. The appeal property is owned by the appellant and has been recently vacated by its residential occupiers. Also, I am advised the offices currently used by the appellant's company are too large and that planning permission has been granted for their conversion to residential use. Therefore, it is clear the proposal would be convenient for the appellant as the business needs new premises and the appeal site is vacant. However, there is no obvious practical reason for the proposed office to be located in a suburban area away from the CBD. As such, I am unconvinced that the specific accommodation requirements of the proposed occupiers justify allowing the development contrary to the preference for new offices to be located in the city centre.
9. The appellant would accept a planning condition that restricts occupancy of the offices to the appellant's company. If imposed, such a condition would mean the proposal would not generally compete with offices in the CBD for potential occupants. However, advice in the Planning Practice Guidance suggests that a condition limiting the benefit of a planning permission to a company would be inappropriate¹. In any event, even with restrictions on occupancy, the proposal would not support the vitality of the city centre.
10. The appellant suggests there has been a change in economic circumstances since the Covid pandemic, particularly with a growth of working from home. Even if this is accepted, this change has not prompted a review of CS policy CP11 nor an amendment to the Framework's aim to ensure town centres are at the heart of local communities. The sequential test for main town centre uses still applies. Moreover, the proposal seeks an office use with no residential element and so it does not seek to address any additional demand for flexible working practices such as home working.
11. Overall, I find insufficient justification for the proposal's location outside the CBD and the city centre. Therefore, I conclude the proposal would not be in a suitable location having regard to CS policy CP11 and the Framework.

Character and appearance

12. The appeal property lies in a mainly residential area although there is a church with car park and a primary school nearby. There is no obvious sign of any other offices close to the site and so the proposed development would be unusual to the locality. However, no significant external alterations are

¹ Planning practice guidance, Use of planning conditions, paragraph 015 Reference ID: 21a-015-20140306, revision date 6 March 2014.

proposed and so the development would not meaningfully affect the appearance of the property or the street scene.

13. Traffic movements and parking associated with the proposed offices would be noticeable, but it is unlikely that these would be excessive given the modest size of the office and proposed limitations on the number of people working at the property. Also, in the context of the nearby church car park and traffic associated with the school, parking linked with the office would not be inappropriate to the area.
14. Even if activities associated with the proposed office are noticed, it would replace only a single dwelling and the area would retain a strong residential nature. Therefore, the proposal would not undermine the sense of residential community. Furthermore, without evidence that shows a strong demand for office accommodation in the locality, it seems unlikely the proposed development would lead to other similar changes of use.
15. For these reasons, I conclude the development would not harm the character and appearance of the area. In these respects, it would accord with CS policy CP4. Amongst other things, this looks for development to respond to its context. Acceptability in these regards is a neutral factor rather than a benefit to which I attach positive weight in my assessment of the appeal.

Other Matters and Planning Balance

16. It is suggested the residential use of the property would not be permanently lost as it would revert back to a dwelling once the offices are no longer needed by the appellant. However, the Council does not object to the scheme on the grounds of the loss of a residence and I am referred to no planning policy that seeks the retention of dwellings. Therefore, this factor fails to influence my views on the proposal.
17. The appellant suggests the development would bring security benefits in terms of a greater daytime presence on the site. Even if I accept this contention, it is more likely the current residential use would lead to a greater night time presence at the property compared to offices. Overall, the proposal would not result in any meaningful security benefit.
18. The appeal property has previously been lived in by occupants that have run a business from their home. It is suggested that if planning permission is refused, a similar situation may result and so it represents a fallback position. However, a mixed residential and work use would be different from the appeal proposal, which includes just office space with no residential element. Even if it requires planning permission, the proposed fallback position of a mixed use would not necessarily conflict with CS policy CP11 and the Framework's provisions in respect of the preferred location for new offices. As such, the fallback position as described would not be as harmful as the appeal scheme and so it attracts little weight in my assessment.
19. The appellant suggests that the proposed development would improve the viability of their business, particularly in terms of providing office accommodation where there would be no risk of rent rises. It is indicated that this is important following the adverse effects on viability caused by the Covid pandemic and as the business currently employs a workforce. These benefits of the development attract positive weight, but the weight accorded is reduced as

there is no evidence to show that alternative options have been considered that may also support the business. For example, there is no information that demonstrates whether new office premises in a sequentially preferred location could be secured and be paid for through the sale or re-let of the appeal property as a residence.

20. I have found the proposal would be acceptable in terms of its effects on the character and appearance of the area. However, the identified conflict with CS policy CP11 means the development would not accord with the development plan when read as a whole. Other factors are of insufficient weight to justify granting planning permission contrary to the development plan.

Conclusion

21. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR