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# Appeal Decision

Site visit made on 7 February 2023

**by K Townend BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7<sup>th</sup> March 2023**

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**Appeal Ref: APP/F2415/W/22/3306255**

**46 Station Road, Broughton Astley, Leicestershire LE9 6PT**

- 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 J Barsby of G Seller against the decision of Harborough District Council.
  - The application Ref 22/00941/FUL, dated 25 April 2022, was refused by notice dated 19 July 2022.
  - The development proposed is the change of use of the ground floor from C3 Residential to Class E Funeral Directors, first floor to remain Class C3 Residential.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Notwithstanding the description of development set out above, it is clear from the plans submitted that the application also includes a single storey side and rear extension and a new access to the rear of the site. The Council dealt with the proposal on this basis and so shall I.

## Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of 44 and 48 Station Road, with particular regard to noise and disturbance.

## Reasons

4. The appeal property is a detached residential dwelling, with a converted garage previously used for a physiotherapy business ancillary to the dwelling. The appeal property and its immediate neighbours, 44 and 48 Station Road (No.44 and No.48), have gardens to the rear. These gardens are currently private and more quiet areas than the frontages of the properties and provide the residents with outdoor amenity space.
5. The proposal would provide a 3-bed flat at first floor and convert the whole of the ground floor to business use. The proposal includes creating a car park on the rear garden of the appeal property, with vehicular access between the appeal site and No.48. This would introduce vehicles into an area which is currently quiet residential gardens. Although the garden to No.44 is adjacent to the community hall car park, the proposal would enclose both sides of No.44 with parking areas and No.48 would have parking introduced to the side of its rear garden. Even with the retention of the existing boundary trees the addition

- of the parking area would result in additional noise and disturbance from vehicles and people in an area which is currently domestic gardens.
6. The appellant suggests that the rear garden could already be used for parking. However, I have no compelling evidence before me that the rear garden of the appeal property would be used for parking if it were to be retained as a dwellinghouse. Moreover, the introduction of parking and associated vehicle movements, even if limited to staff and company vehicles, would still introduce a greater number of vehicle movements into this area where there is currently none.
  7. There are other commercial, and community uses, in the wider area. However, these, and their parking areas and associated vehicle movements, are generally beyond the gardens of the neighbouring properties or to the front of the properties. The car parking for the community hall is not directly behind the appeal site and therefore these other uses do not have the same effect as the proposal on the occupiers of the neighbouring properties.
  8. Although it would be possible to limit the use of the property and to control the opening hours through conditions, it would not be possible to control the level of vehicle movements to the proposed use through a planning condition. Neither would it be possible to restrict the number of funerals per year. Even if I were to accept that the existing parking to the front of the property can accommodate 3 cars, the proposed parking area would more than double the amount of parking space available and lead to additional noise and disturbance and introduce it to the rear of the property.
  9. The development, therefore, would result in harm to the living conditions of the occupiers of the neighbouring properties at 44 and 48 Station Road, with regard to noise and disturbance. This is contrary to Policy GD8 of the Harborough Local Plan, 2019, which, amongst other matters, seeks to ensure that development does not generate a level of activity which would have an adverse effect on the living conditions of existing residents.

### **Other Matters**

10. The appellant asserts that the physiotherapy business, previously run from the site, was operating at full capacity within its opening hours; was unrestricted; and had the potential to result in a significant number of vehicle movements. Moreover, the evidence before me does not support these claims. Even if I were to accept that the proposed use would result in a lower number of vehicle movements than the physiotherapy business, and reduced operating hours, the current proposal introduces parking and vehicle movements to the rear of the building. As such, even if there was a realistic prospect of the physiotherapy business re-opening the appeal proposal would result in greater harm than the fallback position.
11. The locations of other funeral director businesses within Leicestershire have been submitted with the evidence. Although several of these are noted as being between residential properties some are also within commercial properties, or in commercial areas, and as such are not comparable with the appeal site. I also have no substantive evidence that any of these other locations have rear parking areas enclosed by gardens and are therefore have a similar situation to the appeal proposal. Furthermore, with the exception of 112 Aylestone Lane, I have no evidence as to how long any of these other

premises have been operating and therefore whether they were considered under the same planning policies as the current proposal. From the evidence before me 112 Aylestone Lane was previously a commercial premises and, as such, although it would have been considered under the same policies as the current proposal, the existing use would have been a relevant fallback in that case. Therefore, these other locations are materially different to the appeal scheme before me.

12. Even if I were to agree that there would be no harm to highway safety from the level of vehicle movements, and highway improvements from the changes to the access; no harm from the design changes or extensions to the building; and no harm to living conditions in relation to overlooking, overbearing or loss of light, these matters do not weigh in favour of the proposal. The benefits of providing additional facilities to the community of Broughton Astley and the provision of new jobs are also limited given the scale of the scheme.
13. The appellant also contends that the Council decision is based on concerns relating to psychological harm from the proposed use. However, there is no substantiated evidence before me. The submitted correspondence clearly indicates the Council raised concerns regarding the potential effect of the proposal on neighbours living conditions, with regard to noise and disturbance, and the Council made its decision against the development plan.

### **Conclusion**

14. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

*K Townsend*

INSPECTOR