The Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2023

by C Harding BA(Hons) PGDipTRP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/P3040/W/22/3306818
170 Radcliffe Road, West Bridgford NG2 5HF

- 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 CBT Wellbeing against the decision of Rushcliffe Borough Council.
- The application Ref 21/02887/FUL, dated 1 November 2021, was refused by notice dated 13 July 2022.
- The development proposed is single storey rear extension, change of use to and construction of two-storey therapy room clinic (Use Class E(e)) with associated access and parking.

Decision

1. The appeal is allowed and planning permission is granted for single storey rear extension, change of use to and construction of two-storey therapy room clinic (Use Class E(e)) with associated access and parking at 170 Radcliffe Road, West Bridgford NG2 5HF in accordance with the terms of the application, Ref 21/02887/FUL, dated 1 November 2021, and the plans submitted with it, subject to the conditions set out within the attached schedule.

Preliminary Matters

2. Although different from that on the application form, I have taken the description of development from the decision notice as a change was agreed.

3. Following the Council's decision, the appellant has provided further information including a detailed statement from the appellant, a Market Report, Site Specific Flood Risk Assessment, and an amended site layout (ref: 2116/07 Rev B).

4. The Council and interested parties have had opportunity to comment upon this additional information, which would not significantly change the nature of the proposals. Accordingly, and having regard to the Wheatcroft principles, I have considered the appeal on the basis of this information.

5. The Council included reasons for refusal relating to whether the proposed development would be appropriately located and its effect upon flood risk. In this regard, the content of the subsequently provided information and evidence in respect of these issues is not challenged by the Council, which having consulted the Environment Agency, has indicated that it is no longer seeking to defend these reasons for refusal. On this basis, I agree that the proposed development would be acceptable with regards to its effect upon flood risk. Accordingly, as this is issue is no longer in dispute, I have not considered it further in reaching my decision.

6. Although the Council has indicated that it is not defending the reason for refusal relating to whether the appeal site would represent an appropriate location for the appeal proposal, the introduction of a commercial use within the street has been raised by interested parties as a matter of concern.

Main Issues

7. The main issues are:

   - the effect of the proposed development upon on the living conditions of surrounding occupiers with regard to on-street parking provision;
   - whether the appeal site would be an appropriate location for the proposed development;
   - the effect of the proposed development upon highway safety, and;
   - whether adequate living conditions would be provided for occupiers of 170 Radcliffe Road with regard to access to outdoor space.

Reasons

Parking provision

8. Radcliffe Road is subject to a no-waiting restriction in the vicinity of the appeal site. Violet Road, which runs to the rear of the appeal site, is subject to a residents-only permit parking system, other than for a small number of visitor parking spaces.

9. The proposed development would provide off-street parking at the front of the appeal site for the use of residents of the property, whilst off-street parking would be provided at the rear of the appeal site for users and employees of the clinic. The provided amended plan indicates that up to four vehicles could be accommodated within the proposed parking area.

10. The proposed off-street parking spaces would meet the size indicated in the Nottinghamshire County Council Highway Design Guide ('the Highway Design Guide'). The provided plan shows that the space numbered '3' would be located close to the boundary fence with the neighbouring property. The site boundary runs at an oblique angle to space '3' and accordingly, although the marked space would not be of 3.3m in width as set out in the Highway Design Guide for spaces adjacent to a boundary, the space would nevertheless be accessible and adequately usable.

11. The Highway Design Guide states that clinics should provide one space for each member of staff and a further two spaces per consulting room, and the plans show that the proposed development would comprise two consulting rooms. As a result, the standards set out in the Highway Design Guide indicate that a total of six spaces would be required in order to provide sufficient off-street parking for the appeal proposal. The proposed development would fail to meet this requirement.

12. It is to be expected that a user would arrive in good time for an appointment, and therefore may overlap with a user currently undergoing treatment. As a result, the proposed development would lead to an increased on-street parking demand, and I am aware that only six visitor parking spaces are available on Violet Road as a whole.

13. However, the additional demand for off-street parking on both Violet Road and the surrounding area would not be significant, and a parking stress assessment[1] has been provided that indicates that demand for parking spaces on Violet Road is not high.

14. Even if the levels of parking demand within Violet Road are higher than indicated within the parking stress assessment, away from the restricted parking in Violet Road, there is additional unrestricted on-street parking available in the area, including on Abbey Road and within reasonable walking distance of the appeal site. The site is also accessible by means of public transport.

15. The proposed development would therefore not lead to harm to the living conditions of surrounding occupiers with regard to on-street parking provision. It would therefore accord with Rushcliffe LPP2 Policy 1 which requires, amongst other criteria, that new development provide adequate access and parking in accordance with advice provided by the Highway Authority.

Location of the development

16. Although a therapy clinic would not fall within the list of identified community facilities contained within Rushcliffe Local Plan Part 1: Core Strategy ('LLP1') Policy 12, this is not a closed list and I consider that the use proposed would closely align with those set out. Accordingly, LPP1 Policy 12 would be relevant in this instance.

17. LPP1 Policy 12 seeks to support new community facilities where they meet a local need. It also states that such facilities should be located within District Centres, Local Centres and Centres of Neighbourhood Importance wherever appropriate, be in locations accessible by a range of sustainable transport modes, and where possible, be located alongside other community facilities.

18. The appellant has identified that the existing business is unable to meet current demand, with referrals being turned away and that larger premises are therefore required. I have been provided with no substantive evidence to the contrary, and I therefore consider that the proposal would be meeting a local need.

19. The proposed use is not identified within Glossary at Annex 2 of the National Planning Policy Framework ('the Framework') as a Main Town Centre use. Furthermore, the evidence indicates that there is a lack of availability of premises of suitable size and configuration to meet the needs of the appellant within the local area, including in District Centres, Local Centres and Centres of Neighbourhood Importance. Therefore, it would not be appropriate to seek to restrict the proposed development to commercial centres, nor reasonable to require it to be co-located with other community facilities. In addition, the appeal site is located in close proximity to several bus stops and is located in an urban area where it could be accessed on foot and bicycle.

20. The local area is predominantly residential in character, although there are some commercial premises interspersed, particularly fronting onto Radcliffe Road. In this context, whilst there would be an increase in comings and goings from the site, having regard to the scale and nature of the proposal, it would be compatible with its surroundings.

[1] Parking Stress Assessment – Violet Road, West Bridgford; Oxalis Planning Nov/Dec 2021

21. The appeal site would represent an acceptable location for the proposed development. It would therefore accord with LPP1 Policy 12 which offers support to new community facilities where they would meet a local need, are located within District Centres, Local Centres or Centres of Neighbourhood Importance where appropriate, are accessible by a range of sustainable transport modes, and where possible, are located alongside or shared with other community facilities. It would also accord with Rushcliffe Local Plan Part 2 ('LPP2') Policy 2 which requires new development to have no significant adverse effect upon the amenity of adjoining properties or the surrounding area.

Highway safety

22. The rear boundary treatment to the rear of No 168 Radcliffe Road would limit views for vehicles leaving the site to a limited extent. However, Violet Road is narrow due to the levels of on-street parking, and as result, I observed that traffic travels at a relatively low speed. Furthermore, whilst only a snapshot in time, I encountered only a low level of both pedestrian and vehicular traffic on my site visit. In addition, Violet Road is a predominantly residential street with a variety of boundary treatment and driveway accesses, including some with restrictive visibility, and as a result, vehicles emerging from such accesses would not be unexpected in the context of the street.

23. I have been presented with no substantive evidence that indicates that conflicts between vehicles emerging onto Violet Road currently cause significant highway safety issues for either pedestrians or other vehicles, and I have no reason to conclude that the proposed development would operate any differently.

24. The proposed development would not lead to harm to highway safety. It would therefore accord with Rushcliffe LPP2 Policy 1 which requires, amongst other criteria that new development provide adequate access in accordance with advice provided by the Highway Authority.

Outdoor Space

25. The proposed development would include an extension which would occupy a large part of the garden of the appeal property. The remaining garden area would fail to meet the requirement to provide 110 square meters of outdoor space for a detached property set out within the Rushcliffe Residential Design Guide (RRDG). However, the level of shortfall in garden space would not be significant.

26. The RRDG does make allowance for gardens of a smaller size than the stated expected standard, where certain criteria are met. Considering the orientation of the property, the lack of windows in the side elevation of the proposed extension, and existing structures at the neighbouring property (No 168 Radcliffe Road), a large portion of the garden would benefit from a considerable degree of privacy, as well as afternoon and evening sunlight. Boundary treatments, secured by condition would prevent any significant noise and disturbance from the parking area. Overall, the proposed garden space would be of an acceptable quality.

27. Taking these factors into account, even if I took the Council's figure for the remaining garden area, given the individual circumstances of the proposal, I consider that the provided garden area would be sufficient in size.

28. The proposed development would therefore provide acceptable living conditions for occupiers of No 170 with regard to outdoor space. It would therefore be in accordance with CSP Policy 10 and LPP2 Policy 1 which together, and amongst other criteria require new development to provide sufficient space within the site to accommodate the proposal along with ancillary amenity space, ensure that it does not lead to an over-intensive form of development, and creates an attractive and healthy environment.

Other Matters

29. The appeal site is of sufficient size to accommodate the proposed built development, and as I have concluded above, sufficient outdoor space for the occupiers of no 170 would be retained and would not be harmful to the character and appearance of the area.

30. The proposed development is described as falling with Class E of Part A of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Given the size of the proposal and appeal site, there is no clear evidence before me that would indicate that any other Class E uses would be harmful.

31. The Framework, at Paragraph 54, advises that national permitted development rights should not be restricted unless there is clear justification for doing so. Any future proposals to change to uses outside of Class E would remain within the control of the Local Planning Authority. Accordingly, and with no substantive evidence having been provided in this respect, I consider that it would be unreasonable to further restrict the use of the site beyond the Class E(e) use applied for.

Conditions

32. I have made amendments to the Council's suggested conditions, where necessary, in order to ensure clarity and compliance with the tests set out in Planning Practice Guidance and the Framework. Where necessary I have received agreement from the appellant with regards to pre-commencement conditions in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990.

33. In addition to the standard time limit condition, I have attached a condition requiring adherence with the approved plans in the interests of clarity and securing a satisfactory form of development in the interests of the character and appearance of the area.

34. I have attached conditions requiring detail of flood risk mitigation and surface water drainage to ensure that adequate provision is made in the interests of flood risk management. These conditions are required to be pre-commencement in order to ensure that such measures can be designed and incorporated into the development from an early stage.

35. A condition requiring details of external materials to be agreed is required in the interests of the character and appearance of the area. I have also attached a condition relating to details of the parking areas, which is required in the

interests of highway safety, the character and appearance of the area, and in the interests of appropriate drainage and flood risk management. Details of proposed landscaping are required in the interests of the character and appearance of the area.

36. Conditions relating to details of bin storage arrangements and of any proposed plant and equipment, the operating hours of the clinic, and the hours of construction are attached in the interests of the living conditions of neighbouring occupiers.

37. I have not attached the Council's suggested condition limiting the number of clinics to be carried out at any one time, as the nature of the proposed use and the low level of activity associated with it means that such a condition would be both unnecessary and unreasonable. Additionally, I have not attached the Council's suggested condition in relation to restricting deliveries and waste collection at the appeal proposal. The control of such matters has not been shown to be necessary having regard to the nature and scale of the proposed use.

38. Therefore, I consider that these conditions would fail to meet the tests set out in the Framework, as they would be either unnecessary to make the development acceptable or unreasonable.

Conclusion

39. The proposed development would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be made other than in accordance with the development plan.

40. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

C Harding

INSPECTOR

****SCHEDULE OF CONDITIONS****

1. The development must be begun not later than the expiration of three years beginning with the date of this decision.

2. The development hereby permitted shall be carried out strictly in accordance with the following approved drawings:

   Site Location Plan
   Proposed Ground Floor Plan 2116/04 Rev A
   Proposed First Floor Plan 2116/05 Rev A
   Proposed Elevations 2116/06 Rev A
   Proposed Site Layout 2116/07 Rev B

3. Prior to the commencement of development, a scheme of flood resilience and mitigation measures, including details of finished floor levels and future maintenance shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be occupied or first brought into use until the flood resilience and mitigation measures have been implemented and completed in accordance with the approved details. The flood resilience and mitigation measures shall thereafter be retained and maintained in accordance with the approved details throughout the life of the development.

4. Prior to the commencement of development, a scheme of a surface water drainage scheme including details of future maintenance shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be brought into use until the drainage scheme has been implemented in accordance with the approved details, which shall be retained and maintained in accordance with the approved details throughout the life of the development.

5. The development shall not proceed beyond dampproof course level until details of the external materials to be used on all elevations, including any architectural details has been submitted to and agreed in writing by the local planning authority. The development shall thereafter only be constructed in accordance with the details approved.

6. The development hereby permitted shall not be occupied or first brought into use until details of the proposed vehicle parking areas to serve the development have been submitted to and approved in writing by the local planning authority. The submitted details shall include:

   - the proposed surface materials;

   - the detailed layout of the parking areas including means of access;

   - the finished levels, means of drainage, and any proposed lighting.

   - details of boundary treatments adjoining the rear garden of No 170 Radcliffe Road.

   The vehicle parking areas shall be constructed in accordance with the approved details prior to the first occupation or first use of the development hereby permitted. Thereafter the vehicle parking areas shall be retained in accordance with the approved details and kept permanently available for the parking of vehicles in connection with the development.

7. The development hereby permitted shall not be occupied or first brought into use until a scheme of hard and soft landscaping of the site, including the location, number, size and species of any new trees or shrubs to be planted, and a timetable for implementation has been submitted to and approved in writing by the local planning authority. Thereafter, the scheme must be carried out in accordance with the approved details.

   If, within a period of 5 years of the date of planting, any tree or shrub planted as part of the approved scheme is removed, uprooted, destroyed, dies or becomes diseased or damaged, then it shall be replaced with another

tree or shrub of the same species and size as that originally planting and in the same location, during the next planting season following its removal.

8. The development hereby permitted shall not be occupied or first brought into use until covered, secure bicycle storage and parking for bicycles has been provided in accordance with a scheme submitted to and approved in writing by the local planning authority prior to installation. Thereafter, the parking and storage area must be retained in accordance with the approved details and be kept available for use.

9. Prior to the occupation of the development hereby approved, bin storage shall be provided in accordance with details to be approved in writing by the local planning authority prior to installation. Thereafter, the bin storage must be retained in accordance with the approved details and be kept available for use.

10. No externally mounted plant or equipment, or any internally mounted equipment which vents externally shall be brought into use, until details of such plant or equipment has been submitted to and approved in writing by the local planning authority. The submitted details shall include details of the rated noise level of the relevant plant or equipment.

11. The Class E use hereby permitted shall only take place on an appointment-only basis between the hours of 0830 – 1800 Monday – Friday (inclusive), and at no time on Saturday, Sunday, Bank, or Public Holidays.

12. Demolition or construction works shall take place only between 0700 – 1900 on Monday – Friday, and 0800 – 1700 on Saturday, and shall not take place at any time of Sundays or on Bank, or Public Holidays.