



Appeal Decision

Site visit made on 25 April 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Appeal Ref: APP/W3005/W/22/3314611

149 Annesley Road, Hucknall, Nottinghamshire, NG15 7DA

- 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 Behrouz Sabzevari against the decision of Ashfield District Council.
 - The application Ref V/2022/0665, received by the Local Planning Authority on 30 August 2022, was refused by notice dated 11 November 2022.
 - The development proposed is change of use dwelling to dental surgery. Single storey rear extension and side extension. Alterations to front garden to provide disabled access path and lift, enlarged front steps, enlarged parking area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are:
 - whether increased activity arising from the proposed development would harm the residential character of the area; and
 - whether the proposal would result in harm to highway safety with particular regards to car parking.

Reasons

Residential character

4. The appeal site comprises a detached two storey residential property. It is positioned between similar detached dwellings which are set back from the road frontage, with off-street parking. It is located on Annesley Road which leads from Hucknall local shopping centre. The character of the area is predominantly residential with dwellings set in pleasant spacious plots. The absence of commercial development and associated activity in the immediate

- location is a further important noticeable characteristic which adds to the generally overall ambient residential and suburban quality of the area.
5. The officer report evidenced highlights concerns that the proposal would be an inappropriate form of development at odds with the surrounding residential character. It is noted that many dental practices operate within residential areas and the Council's Environmental Protection Officer does not object to the proposed development in terms of noise. Notwithstanding this, such uses have the potential to increase activity.
 6. This proposal seeks to install 3 treatment rooms and would provide up to 6 full time equivalent employees, the appellant contends there would be an average 7 to 8 patients per day. During the operating hours of the business, individual movements of staff arriving, leaving and taking breaks alongside the proposed number of patients attending appointments, deliveries would be of a notably different type of activity and lead to an intensification in the use compared to that of the existing modest 3 bedroom dwelling.
 7. I note that the Council did not find harm in respect of privacy. However, neighbouring properties have large windows, which overlook the front of properties, driveways and access to the front door of the appeal property. It is therefore likely occupants would be very aware of the above activity given the open site boundaries and frontage. Given the open frontage the activity would also be noticeable from Annesley Road, and the activity referred to above would mark it out as different to the more domestic activities which would arise in this suburban location. The change would therefore erode from the low-key residential character of the locality where far less comings and goings are an existing positive element of its overall function and most positive qualities.
 8. The Council has identified it would not be able to control the number of future patients. Given that there are 3 treatment rooms, which could be used to see a patient every hour, circumstances could change, and the number of patients could increase from the average of 7 to 8 per day in the future. No mechanism has been put forward that would restrict the number of patients; or restrict the layout of the areas of the property that could be used for medical consulting. Had the proposal been acceptable in all other respects I would have requested additional information about these matters. However, on the basis of the information that is before me, I cannot confidently conclude that there would be no further intensification of the use which would further exacerbate the harm I have identified.
 9. Furthermore, the Council advises that the defined Hucknall local shopping centre, approximately 150m from the site, is an appropriate location for a mix of different uses. As such, I agree with the Council that in this instance such a use would be more suited to a less sensitive residential environment such as the local centre, which to my mind would also be conveniently located for patients.
 10. Paragraph 124 of the Framework envisages that decision take into account the prevailing character of the area. The regular comings and goings associated with the commercial activities that would arise from the proposed development would be harmful. They would be detrimental to the most positive aspects of the areas character.

11. The development would run counter to the aims and objectives of the Framework set by Paragraph 130 within chapter 12 which seeks to ensure that developments function well within an area of which residential character is a strong attribute. Development should complement rather than conflict with neighbouring uses.
12. Accordingly, the proposal would conflict with Chapters 11 and 12 of the Framework which, amongst other aspects, seek to ensure commercial development is appropriately placed relative to the character and function of residential locations.

Highway Safety

13. Annesley Road is a wide road with a 30-mph speed limit. The road has streetlighting and footpaths to either side and a separate advisory on road cycle lane. There is a bus route along the road with bus stops close to the appeal site.
14. Notwithstanding the concerns about the increased size of the disabled parking space from the Highways Development Control Consultant (the HDCC), the appeal site could accommodate 3 parking spaces, including tandem parking and 1 disabled bay. It is accepted that a number of patients, as well as staff may choose to travel to the surgery by non-car modes. This would reduce the likelihood of those travelling by car and thus the parking requirement. However, the overall catchment of patients is not clear, and patients and staff using public transport could not be controlled.
15. On-street parking was not restricted in the immediate vicinity of Annesley Road. Nor did I observe restrictions on nearby Washdyke Lane, St Mary's Way and Spring Street. At the time of my site visit, which was early to mid-morning on a weekday, there were on-street parking spaces available. However, the surrounding roads are further away and not as convenient as parking close to the appeal site. I also find that the absence of parking restrictions on Annesley Road would result in an increased likelihood of vehicles being parked on the public highway rather than less convenient nearby streets.
16. Parking on Annesley Road would also result in parking across the advisory cycle lane. The Council also contends there is a likelihood of danger to other road users due to vehicles being parked on the public highway. This would increase the risk of conflict as parked vehicles could interfere with intervisibility between road users. I observed that parked vehicles resulted in vehicles crossing the central line into the opposing carriageway, which also slowed traffic. I also note the safety record which has also been referred to by the HDCC and interested parties, including a fatality. The HDCC advised that the accidents have involved parked or waiting vehicles, and there is no evidence to the contrary to address this safety record.
17. Furthermore, the HDCC has advised that the lengths between dropped kerbs of adjacent houses are shorter than 6m. This is an existing situation, but parking along this road could block the entrance gates to the residential development served by Annesley Road. This would both inconvenience nearby residents and further give rise to safety issues through potential with vehicle, pedestrian and cycling conflicts which could occur with additional on-street parking.

18. I acknowledge that the appellant has sought to reduce the parking requirement. The appellant has proposed that members of staff would park in a nearby restaurant car park in the same ownership. At my site visit I walked to the appeal site from the restaurant car park. The route between the car park and appeal site is served by a pedestrian footway alongside Annesley Road, which also has streetlights. It was not difficult to walk, with dropped and tactile kerbs at Washdyke Lane. However, it would not be as convenient as parking near the site, and in my view the slight incline and distance could be problematic to those who are less mobile.
19. Notwithstanding the above, although the restaurant land is shown edged in blue on the proposed plans, I have concerns that this mitigation relies on both addresses remaining in the same ownership. It is also dependant on the restaurant remaining closed during the day and another use not becoming establishing which may have a requirement for higher parking.
20. Although I saw parking space laid out, they are not shown on the plans, and it has not clearly been shown that the use of this car park could be secured in perpetuity. Furthermore, these measures could not be effectively secured via an enforceable planning condition that would meet the six tests set out in the Planning Practice Guidance¹ (PPG) because any such condition requiring ongoing action by a business would place undue burden on the Council to monitor and pose an issue around detecting a contravention. In any event it would not overcome the harm to highway safety that I have identified that would arise from patient parking.
21. The Council's policies do not include a specific parking standard for dental surgeries or require it all within its site boundaries. I note the comments from the HDCC that there is an expectation set out in the Nottinghamshire Highway Design Guide 2021 (HDG) that development would not impair road safety, obstruct access or be a hazard to cyclists. In this regard the proposed development would not provide an adequate level of car parking, which would harm highway safety in the manner which the HDG seeks to resist.
22. The on-site car parking arrangement would not be adequate for the proposed use and would therefore result in harm to highway safety. Consequently, the proposal would be contrary to Policy ST1 of the Ashfield Local Plan Review 2002 (the Local Plan Review) which permits development where it does not adversely affect highway safety. The proposal would also conflict with Paragraph 110 and 111 contained in Chapter 9 of the Framework, which seek to ensure safe and suitable access can be achieved for all users and highway safety. For the same reasons, the proposal also conflicts with the requirements of the HDG.

Other Matters

23. The Council has advised that the proposed external alterations and proposals would be unlikely to cause significant harm to the appearance of the area. I therefore concur with this view given the overall scale, design and materials. It is also noted that the proposal would provide suitable access to the building for staff, deliveries, cycle parking and can accommodate bins. These aspects are a neutral benefit.

¹ Paragraph: 003 Reference ID: 21a-003-20190723

24. The proposal as a small independent family run business would also provide employment opportunities and a number of community benefits in providing health services to the community and address the backlog of dentistry care providing more affordable provision. I do not doubt it would be welcomed by those who require such services. All of these are benefits of the scheme that weigh in its favour. However, they do not outweigh the harm that would arise.
25. The proposal would also incorporate a disabled parking space and lift. Disability is a protected characteristic and therefore I have had due regard to the three aims of the Public Sector Equality Duty set out in the Equality Act. 2010, including removing or minimising disadvantages that may be suffered by this group. However, whilst I note the shortfall in dentistry services it has not been shown that the appeal scheme is the only option available in this respect. I conclude that the weight that I attach to this matter is limited in this case.
26. The appellant has drawn my attention to other dental practices in residential areas, with limited staff and patient parking and cycle paths. However, I do not have the full details of these schemes and whether they are similar in terms of their location, capacity, accident records or streets can accommodate on-street parking. Nor can I be sure that they do not have adverse effects. Although existing businesses may not have parking, this does not negate the requirement for new development. Thus, such parking requirements are incumbent on any applicant seeking planning permission and the above factors therefore do not alter my findings.
27. The appellant has drawn my attention to the pre-application advice given by the Council. The appellant contends that concerns were not raised. However, I have not been provided with that advice, and in any event, pre-application advice cannot prejudice a Council's determination of a formal planning application. As such I give this matter little weight.
28. I note the appellant has raised concerns about interested party comments. The appeal process is subject to procedures², even if interested parties may not have been aware of the planning application. Ultimately the appellant has had the opportunity to make observations on interested party comments submitted as part of the appeal process.
29. I note local concerns including matters relating to overlooking, lights, noise from air condition and general noise, the adequacy of drainage, smoking from patients affecting children. Children also share a protected characteristic covered by the Public Sector Equality Duty set out in the Equality Act 2010 and I have also had due regard to the three aims of that Act, including removing or minimising disadvantages that may be suffered by this group. Whilst there is no substantive evidence before me that the above matters would result in harm as I am dismissing the appeal for other reasons, I have not considered these matters any further.

Conclusion

30. For the reasons set out above the proposal does therefore not accord with the development plan when read as a whole nor the aims and objectives of the Framework.

² Procedural Guide: Planning appeals – England Updated April 2023

31. I therefore conclude the appeal should be dismissed.

K Williams

INSPECTOR