



Appeal Decision

Site visit made on 19 May 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/A0665/W/25/3360109

The Surgery, Russet Road, Weaverham, Northwich, Cheshire West and Chester CW8 3HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shaun Constable against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/03468/FUL.
 - The appeal development is described as: 'Change of use from art studio to art studio with living accommodation.'
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from medical centre to art studio with living accommodation at The Surgery, Weaverham, Northwich CW8 3HY in accordance with the terms of the application, Ref 23/03468/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing no's: 'location plan' and 'block plan' (E-LP001 Rev B); 'proposed plans and elevations' (SK001 Rev A).

Preliminary Matters

2. The appellant has described the proposal as "Change of use from art studio to art studio with living accommodation." However, the Council advises that there is no planning history confirming its use as an art studio. The appellant advised that artwork was displayed in the foyer during Covid-19 lockdown, however I have no further evidence of the extent and duration of this use. In the absence of evidence to the contrary, I have assessed the proposal on the basis that the current use of the building is a medical centre. It is open to the appellant to apply to have the lawful use of land or buildings determined under sections 191 or 192 of the Town and Country Planning Act. Any such matter would be unaffected by my determination of this appeal. For these reasons, in my decision the description of development is Change of use from medical centre to art studio with living accommodation.
3. As part of the appeal submission, the appellant has submitted a revised drawing, amending the proposed internal layout. Whilst I note that the Council has commented, I am mindful that the appeal process should not be used to evolve a scheme. In this case, I have decided that the appeal must be determined on the

basis of the plans that formed the basis of the Council's reasons for refusal. To do otherwise would prejudice the interests of third parties and consultees, who have not been consulted on the revision, and who may have observations to make. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

Main Issues

4. The main issues are:

- the effect of the development on the living conditions of future occupiers in respect of outlook, privacy and light in relation to the lounge, and provision of external space; and
- whether the proposal amounts to the loss of a community facility having regard to relevant policies in the development plan; and
- whether the proposal makes suitable provision for car parking.

Reasons

Living Conditions

5. The proposed living accommodation would comprise a kitchen, bedroom, lounge and shower room. All would be served by at least one window. The window that would serve the lounge is large and faces directly towards the adjacent library's side window. These windows are in close proximity to one another, separated by side yards and low railings.
6. Whilst I recognise that the relationship between these ground floor windows could lead to the potential for direct overlooking of the lounge, this matter could be simply overcome in a manner to suit the occupant. For example, installing blinds or net curtains is not unusual in the context of an urban environment. In addition, it would be open to the appellant to install a taller, solid boundary treatment between the two buildings in order to afford even greater privacy. Accordingly, even in the absence of details of a "screen" between windows, I do not consider that the proposal would lead to harmful overlooking of the lounge window. I acknowledge the separation distances cited by the Council in terms of space between windows; however, I have also given weight to the fact that the library window does not serve a habitable residential room, and that this building has hours in which it would not be open. Additionally, I am mindful that the use of the building has been as a medical centre, where the need for privacy would be broadly equivalent to that of a bedroom. In this respect, I have no evidence before me to suggest that there had been a privacy concern.
7. The window that would serve the lounge is large, in an elevated position and east facing. The side wall of the building is also set back from the boundary. As such I do not consider that there would be a harmful loss of light, or that outlook would be so eroded that it would lead to harmful living conditions for the occupier, even if a solid boundary treatment were to be erected.
8. The side and rear yards are relatively modest and linear in form. However, they are of a reasonable width and can provide private space for the future occupant, including opportunities for sitting out and to dry washing. This is regardless of the fact that the site fronts a car park outside of the appellant's ownership. The

Council's guidance in respect of external space suggests the size and shape of outside amenity space should be carefully considered, and that rear gardens should be at least equal to the ground floor footprint of a dwelling. However, there is little within this guidance or the Council's arguments, for example, in the form of a minimum size requirement, to persuade me that the extent, shape and quality of the proposed outside space would be unduly harmful to the living conditions of the future occupant. Nor is it explained why the Council does not consider rear garden areas to include areas covered by vegetation, since such areas can be cleared in order to make better use of the space.

9. For the above reasons, I conclude that the proposal would avoid having an unacceptable harmful effect on the living conditions of future occupiers in respect of outlook, privacy and light in relation to the lounge, and external space, or in any other respect. Accordingly, I find no conflict with policy SOC 5, of the Cheshire West & Chester Council Local Plan Part One: Strategic Policies (Local Plan, Part One), and policies DM 2 and DM 3 of the Local Plan Part Two: Land Allocations and Detailed Policies (Local Plan, Part Two). Amongst other things these policies seek adequate amenity space in new development and to prevent development that gives rise to significant adverse effects on health and quality of life, including impacts to residential amenity.

Community Use

10. Policy DM 39 of the Local Plan Part Two, supports new or improved community facilities where they are of an appropriate scale to serve the local community. The policy also supports cultural attractions and supporting facilities, particularly where they contribute to regeneration activities.
11. The policy's explanatory text, advises that for the purposes of the policy, community facilities and services could include education, libraries, social services, health and community centres, amongst other services. Whilst this is not an exhaustive list, it is a clear direction towards uses that provide functional services for local communities.
12. The appeal proposal is a change of use to an art studio with living accommodation. Two small rooms would be the occupant's art studios, with the larger portion of the internal space used as living accommodation. Therefore, the proposal is closer in nature to a live-work unit rather than a community facility. The evidence proposed does not show that the building would provide a functional community service, nor would it provide a cultural attraction contributing to regeneration activities.
13. The appellant states that there is an intention to develop a gallery, following local interest and positive responses to previous art displays in the entrance. This includes exhibitions, talks, screen printing workshops and open calls for artists. However, the details of this are very limited, and any such use within the building would be significantly restricted due to the small amount of space available. In any case these proposals go beyond the scope of the change of use proposal that is before me. Therefore, I conclude that the proposal amounts to the loss of a community facility.
14. Policy DM 39 supports development involving the loss of existing community facilities, subject to a range of criteria. The point of dispute in this respect, lies in criterion 2, which requires demonstration that the facility is not capable of

continued use for the existing purpose and cannot be used for other community uses in an economic and sensitive manner.

15. The building was sold following the surgery closure in 2013, when the medical centre merged with Weaverham Surgery. Following that, it has been empty for a considerable period, with no evidence presented of any intervening health centre uses. The building is also small, with access only available on foot across another parties land and it is within a short walking distance of the newer medical facility. Taken as a whole, I am satisfied on the strength of these indicators, that the facility is not capable of continued use for the existing purpose.
16. In relation to other alternative community uses, the site is adjacent to an established community centre and a library, both of which serve the local community. These facilities are well used and host regular activities, and I am told that the community centre is frequently fully booked. I also note that there are other community use facilities within Weaverham that are available to hire. By comparison to the established nearby facilities, the scale of the building, cellular configuration of internal space, and limited grounds associated with the appeal building would inhibit many community uses. These factors, in combination with the length of time the building has been empty, and the absence of any evidence to suggest there is any interest in using the building for community use, are sufficient to fulfil criterion 2 of policy DM39.
17. Whilst there is no marketing information, I am not persuaded that such evidence is required in order to satisfy the relevant criteria of Policy DM 39. Such requirements are only expressly referenced in regard to the loss of a local shop, which is not the case in this instance.
18. Taking these factors together, I conclude that even though the proposal would amount to the loss of a community facility it would accord with the provisions of development plan policy in all other respects. Accordingly, I find no conflict with the relevant provisions of Policy DM 39 of the Local Plan, Part Two. Amongst other things the policy seeks demonstration that facilities that are not capable of continued use, cannot be used for other community uses in an economic and sensitive manner. In coming to my findings, I have taken account of the Council's stance in respect of Policy DM 39 and its reference to public art. However, this is not relevant to the appeal proposal as it is concerned with art in the public realm.

Car Parking

19. The appeal site has no direct access to the highway via private vehicle, and access is on foot across land in private ownership. The site is close to a group of community facilities including the library, a community centre, swimming pool, open space, and play area. Of these, only the community centre and library has on-site car parking available.
20. The Cheshire West and Chester Council, Local Plan, Supplementary Planning Document: Parking Standards (the SPD), requires 1 car parking space per 1 bedroomed house or flat. Despite the car parking space indicated on the site plan, the evidence indicates that the parking standard cannot be met. However, the SPD also states that the standards are the minimum unless it can be demonstrated that a reduced amount of car parking is acceptable.

21. The appeal site is in an accessible location, close to several local services including shops and community facilities. I am also advised that the nearby bus service operates six days each week, and whilst this does not operate into the late evening, there is a daytime service.
22. I observed during my site visit that whilst the road in the vicinity of the appeal site and community facilities was heavily parked, this was not the case a short walk beyond this point. There were also few parking restrictions in the wider area that might have indicated long term parking pressures. Whilst my observations are only a snapshot in time, my findings, together with the nearby facilities, indicate to me that capacity for on-road parking is available, and that journeys on foot would be achievable.
23. I acknowledge the concerns of the Parish Council and the Highway Officer in respect of a lack of onsite car parking. However, there is little evidence presented to me to demonstrate that the increase in car parking associated with the development, would increase the severity of local parking pressure to a harmful extent.
24. For these reasons, I conclude that the proposal would not have a harmful impact on highway safety having regard to car parking. Accordingly, I find no conflict with Policy STRAT 10 of the Local Plan, Part One. Amongst other things the policy requires adequate levels of car parking taking account of such parameters as the accessibility of the development and availability of public transport.

Conditions

25. I have imposed the standard time limit and list of approved plans conditions in the interests of certainty.

Conclusion

26. For the reasons set out above, I conclude that the appeal proposals would not be contrary to the development plan as a whole. As such, it is unnecessary to further consider the question of housing supply and presumption in favour of sustainable development contained in national policy, as this would not alter the outcome of my determination against the development plan. The appeal should therefore be allowed.

E Heron

INSPECTOR