
Appeal Decisions

Site visit made on 25 April 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 May 2017

Appeal A: APP/Q4625/C/16/3163981

72 Binley Close, Shirley, Solihull B90 2RB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Grant Rowlands against an enforcement notice issued by Solihull Metropolitan Borough Council.
- The enforcement notice was issued on 26 October 2016.
- The breach of planning control as alleged in the notice is without planning permission the change of use of the property as a dwellinghouse to a joint or mixed use as a dwellinghouse and Class B1 office with incidental storage/parking of motor vehicles.
- The requirements of the notice are:
 - (1) Cease the use of the property for Class B1 office purposes.
 - (2) Cease the use of the property for the parking or storage of motor vehicles otherwise than incidental to the use of that property as a dwellinghouse.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variation.

Appeal B: APP/Q4625/W/16/3154086

72 Binley Close, Shirley, Solihull B90 2RB

- 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 Grant Rowlands against the decision of Solihull Metropolitan Borough Council.
- The application Ref PL/2016/00049/COU, dated 5 January 2016, was refused by notice dated 13 June 2016.
- The development proposed is the change of use of a residential property (class C3) to a mixed use of residential property and office use (sui generis).

Summary Decision: The appeal is dismissed.

Preliminary Matter

1. The correct address of the appeal site is 'Binley Close' and not 'Binley Road' as stated in the notice. I can correct the notice without causing injustice to either party.

Appeal A on ground (a) and Appeal B (s78 appeal)

Main Issue

2. The main issue is the effect of the development on highway safety.
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3. The appeal site is a detached house located at the end of a cul-de-sac in a predominantly residential area.
4. The appellant operates a company that trades as Care Help Line (West Midlands), which is the domiciliary care agency for Solihull. The former garage and dining room on the ground floor of the appeal property have been converted into administrative offices. The business employs four office staff - one full-time and three part-time and more than fifty carers. The office is open between 9am to 5pm Monday to Friday.
5. The appellant acknowledges that the business has increased significantly and that parking and traffic issues have been caused as a result of carers visiting the property for amongst other things, equipment and training. The appellant contends that steps have been taken to reduce the number of people visiting the property by delivering equipment to the carers thereby avoiding the need for them to visit the appeal site and the use of alternative premises at a local football club for staff training and meetings. Conversely, a number of third parties comment that carers continue to visit the property and on-street parking issues continue due to carers parking in nearby roads and walking to the appeal property. According to residents, issues regarding parking and vehicular manoeuvrability exist despite the measures the appellant has put in place to reduce the amount of business generated traffic.
6. Notwithstanding the attempts made to reduce traffic to the property circumstances could change in the future. Thus the measures cannot be relied upon to mitigate the impact of the business use in this location. Given the nature of the business and the number of carers employed there could be severe consequences on the parking, vehicle movement and activity on the highway and/or into and out of the appeal property which could have an adverse effect on highway safety. I therefore consider that the development conflicts with Policy P8 of the Solihull Local Plan (2013) which states that development which results in a reduction in safety for any users of the highway will not be permitted.
7. I note the appellant's reference to other businesses at various locations in Binley Close, Langcomb Road and Dunton Hall Road. I do not know the full circumstances of these businesses and thus do not know if they are directly comparable with the appeal before me. In any event, each case falls to be considered on its own merits and uses elsewhere do not provide justification for this type of business at the appeal site.
8. I also note the appellant's comments regarding the financial constraints within which this kind of business operates but they are not sufficient to alter my decision.
9. I have taken into account the testimonial from a client and correspondence in support of the business. However, the beneficial service that the business provides to its clients does not outweigh my concerns regarding the impact on highway safety.

Conclusion

10. For the above reasons, and with regard to all other matters raised, I conclude that the appeal on ground (a) in Appeal A, and Appeal B, fail and I refuse to grant planning permission on the deemed application.

Appeal A on ground (f)

11. The purpose of the notice is to remedy the breach of planning control. The requirements are not excessive to achieve that purpose.
12. In relation to the steps already taken by the appellants, I have commented on these when dealing with ground (a) above. Moreover, I note the appellant's willingness to put in place further changes. In the absence of specific information, I would be unable to substitute a lesser requirement. The appeal on ground (f) therefore fails.

Appeal A on ground (g)

13. The appellant suggests a minimum compliance period of 9 to 10 months but gives no reasons why a compliance period of 6 months is too short.
14. In cases involving business operations, it is necessary to weigh the interests of the business, its employees and customers against the harm caused by the activities subject of the notice. Given the nature of the business and the number of employees, the closure of the business entirely or even for a time would not accord with the Government's commitment to care in the community. A period of nine months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between private and public interests in order to allow for the company to find alternative premises. I therefore consider that the period for compliance with the notice should be increased to nine months and the appeal on ground (g) should succeed.

Formal Decision

15. It is directed that the enforcement notice be corrected by the deletion of the word "Road" from paragraph 2 and the insertion thereof of the word "Close".
16. It is directed that the enforcement notice be varied by the deletion of the words "six months" and the substitution therefor of the words "nine months" as the time for compliance in paragraph 5 of the notice.
17. Subject to this correction and variation, I dismiss Appeal A and uphold the enforcement notice.
18. Appeal B is dismissed.

Elizabeth Jones

INSPECTOR