The Planning Inspectorate

Appeal Decision

Site visit made on 23 October 2018

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2018

Appeal Ref: APP/C4615/W/18/3199719
Land adjacent to 38 New John Street, Halesowen B62 8HL

- 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 Steven Green of Skilled Manufacturing Ltd against the decision of Dudley Metropolitan Borough Council.
- The application Ref P17/1200, dated 14 August 2017, was refused by notice dated 6 October 2017.
- The development proposed is described as 'residential development of two, 2 bed Semi Detached Houses with associated parking and external works – re submission of application ref P16/1498'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:

   - The character and appearance of the area; and
   - The living conditions of the future occupiers of the proposed development, with particular regard to noise and odour.

Reasons

Character and Appearance

3. The appeal site is situated at the corner of New John Street and Vernon Road, within a mixed use area. It is bounded by galvanised steel palisade fencing, and is currently used for informal parking. New John Street is predominantly residential north west of the appeal site, with a range of mainly terraced houses of different architectural styles. To the south of the appeal site is an industrial estate which is accessed via Vernon Road and to the south east is a trading estate which is accessed via New John Street.

4. Though the siting of houses relative to the road varies, houses along this part of New John Street are generally grouped into short terraces with consistent building lines. The appeal site lies adjacent to No 38, which is at the end of a row of 5 terraced properties at Nos 38 – 42. These properties date from the late 19th or early 20th century and are set back slightly from the road behind small front gardens. Nos 38 - 42 have rear gardens which back on to the neighbouring industrial estate.

5. Although the appellant has described the proposed houses as semi-detached, they would directly adjoin the existing house at No 38, giving the appearance of a longer terrace of houses. The proposed house with a gable end closest to Vernon Road would be staggered further back from the road than the proposed house which would adjoin the existing house at No 38.

6. While the layout of the proposed development has sought to address concerns about highway safety raised with regard to the previous planning application P16/1498, the proposed development would alter the characteristic building line of the terrace by introducing a stagger, which would diminish the consistent and established building line set by properties at Nos 38 - 42.

7. The prominence of the changes to the building line would be increased by the appeal site's corner location. Despite alterations having been made over time to the adjacent terraced properties, the staggered nature of the proposed development from the terrace at Nos 38 – 42 would be uncharacteristic of the area's development pattern and would appear incongruous.

8. There are examples of dwellings set further back from the road along New John Street, including a recent permission P16/1535 for housing on a former industrial site opposite the appeal site. However, the building line generally varies between the different groupings, rather than within groupings of houses.

9. The appeal scheme would enable the redevelopment of a vacant site which currently has limited aesthetic value and is subject to fly-tipping and anti-social behaviour. Furthermore, while the ridge height of the proposed development would be higher than its immediate neighbours, I concur with the Council's view that this would not be harmful, given that roof pitches and ridge heights vary along the road.

10. Additionally, I note that the detailing and brickwork would complement adjoining properties, and that the appellant has referred to the possibility of implementing a 2 storey side extension to No 38 with a setback. However, I am required to deal with the appeal before me, and none of these matters alter my findings with regard to character and appearance.

11. Concluding on this main issue, I consider that the proposed development would harm the character and appearance of the area. This would be contrary to policy ENV2 of the Black Country Core Strategy 2011 (BCCS) which seeks to preserve local character and conserve the historic aspects of, amongst other things, areas of Victoria and Edwardian higher density development which survive with a high degree of integrity, including terraced housing. It would also be contrary to policies L1 and S6 of the Dudley Borough Development Strategy 2017 (DBDS) which, amongst other thing, both seek to ensure that development respects the character of the area and policy S1 of the DBDS which supports development which accords with other DBDS policies.

Living Conditions

12. The proposed development would back on to a brick industrial building on the existing industrial estate, with car parking between the rear gardens and an electrical sub-station. The industrial estate is bounded by housing on all sides. The Council's Environmental Safety and Health team has advised that this location is within an uncontrolled industrial area. I have no evidence to dispute this and have therefore considered the appeal on this basis.

13. DBDS policy D2, amongst other things, seeks to ensure that development is not incompatible with surrounding uses, in terms of noise and disturbance, and odour. Additionally, DBDS policy L8 seeks to ensure, amongst other things, that non-industrial development would not adversely affect the continued viability and operation of the existing business use, and that suitable mitigation measures can be included for the proposed development to address such concerns.

14. There would be implications for the nearby industrial uses in the event operations would need to be restricted to prevent statutory nuisance. However, given the close relationship which already exists between the industrial uses and residential properties locally, it is likely that such operations are already constrained. I consider it highly unlikely that noise or odour from the industrial uses, sufficient to cause a statutory nuisance, would affect the appeal properties but not the adjacent terraced properties.

15. Furthermore, I have been provided with no evidence to demonstrate that noise or odour is currently having or has had an adverse effect on nearby residential occupiers. Thus, the appeal scheme would have no greater effect on the viability and operation of existing business use than existing development. There would therefore be no conflict with DBDS policy L8 in this regard.

16. However, the flank elevation of the proposed house closest to Vernon Road would be set back only a short distance from Vernon Road, with bedroom, kitchen and living room windows facing the road. I have been provided with no information regarding the number, type and frequency of vehicle movements in this location. Nonetheless, it is reasonable to assume that, given the uncontrolled industrial nature of the estate, it would be accessed by HGV traffic and that this could occur during the day and during night-time hours.

17. HGV traffic travelling along Vernon Road would generally be moving at a slow speed, with breaking and revving on the approach to and exit from the junction of Vernon Road with New John Street. While existing dwellings along New John Street will experience noise from HGV movements, given the more limited distance between the junction of Vernon Road and New John Street and the nearest flank elevation of the proposed development, I consider this would be likely to result in HGV noise adversely affecting the living conditions of the future occupiers of the proposed development.

18. The appellant has advised they are willing to install acoustic glazing and mechanical acoustic ventilation. However, I have no details of the acoustic reduction that would be required to ensure that noise would not adversely affect living conditions. This is therefore not a matter that could be addressed by condition. It has not been demonstrated that the mitigation proposed would be effective or appropriate for the development proposal.

19. I conclude that there would be no harm to living conditions with regard to odour and noise from the industrial uses themselves. However, it has not been demonstrated that there would not be harm to the living conditions of future occupiers of the proposed development with particular regard to noise from HGVs. Thus, whilst there would be no conflict with DBDS policies D2 and L8 in respect of odour, the proposed development would conflict with these policies in respect of noise. These policies are referred to above. It would also be contrary to DBDS policy D5 which states, amongst other things, that proposals for noise sensitive development will not be permitted where noise levels are

assessed as being significant to the extent that amenity will be demonstrably prejudiced despite the provision of mitigation and, where those mitigation measures are considered to be inappropriate for the development proposal.

Other Matters

20. The principle of residential development has been demonstrated to be acceptable in this location and the appeal scheme would make a modest contribution towards meeting housing need in this area. The site is located in an area which has a range of services and is accessible, and the appellant has sought to provide appropriately designed internal and external spaces for future occupiers. However, any benefit arising from the two proposed houses would not be outweighed by the harm I have identified above.

21. Planning permission has previously been granted on the site for flats, reference P06/2142. However, this permission is not extant and was determined under different local and national planning policy. As such, the specific circumstances of the two applications differ and I cannot afford weight to the previous planning permission as a fallback in this instance.

22. I appreciate that the appellant has sought to address highway reasons for refusal through the appeal scheme as they were not given the opportunity to amend plans prior to determination of application P16/1498. However, in this instance, I have identified that the proposed development would harm the character and appearance of the area and the living conditions of future occupiers.

Conclusion

23. For the reasons given above, and taking into account all matters raised, the appeal is dismissed.

M Savage

INSPECTOR