



Appeal Decision

Site visit made on 4 July 2019

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Appeal Ref: APP/C4615/W/19/3227026

Land rear of 86 Hagley Road, Stourbridge, DY8 1QU

- 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 Tim Warrington against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P18/1163, dated 10 August 2018, was refused by notice dated 23 October 2018.
 - The development proposed is the erection of 2 No 1-bedroom apartments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues to be considered are i) the impact of the proposal upon the character and appearance of the area, ii) the impact of the nearby extraction flue upon the proposed development, iii) whether the proposal can provide an acceptable level of amenity for future occupiers and iv) the impact of the proposal upon the residential amenity of neighbouring properties.

Reasons

Character and Appearance

3. The appeal site is located to the rear of an existing retail premises and currently accommodates a concrete storage building, which is to be demolished as part of the proposal. The site is accessed, from the South West, via a service road off Heath Lane. The service road provides access to the adjoining rear yards associated with the commercial properties, which have residential flats above, which front onto Hagley Road. The appeal site is located within the Hagley Road and Oldswinford Hospital Area of High Historic Townscape Value (AHHTV).
4. I noted, from my site visit, that there are already examples of back land development within the area, which has resulted in more ad-hoc forms of development around the appeal site, and the area is home to a wide variety of property styles and uses. The materials in the area are predominantly brick and tile, however, there are some examples of use of render noted. The use of render for all elevations of the proposal, with some cladding, I find would look out of character when viewed against the rear elevations of the brick and tile properties along Hagley Road, however, alternative material details could be secured via a condition in order to overcome this concern.

5. There is a large mature tree on site and the site is overgrown. The existing storage building is single storey and well screened to the point it fails to stand out from behind a timber panelled fence which also has vegetation growing over it with bins stored in front. The site is relatively 'tucked away', however, a two-storey building would be visible in limited views from Heath Lane. Despite this, given the varied built form, and existing back land development, I do not find that this would cause an impact upon the character and the appearance of the area which is sufficient to warrant refusal. The proposal would be subservient to the properties on Hagley Road and would be set back a sufficient distance from Heath Lane so as to not appear visually prominent.
6. The impact on the AHHTV itself would be relatively limited given that I find the area currently fails to make much of a positive contribution to the AHHTV as it stands. The character of the area appears to have been lost between the service road and the properties on Hagley Road itself. With a material condition on any consent granted it is likely the proposal could improve the overall appearance of the appeal site and contribute positively to the area.
7. The proposal would be consistent with Black Country Core Strategy 2012 (CS) Policy HOU2 in so far as it emphasises the need to take account of the characteristics and mix of uses in the area, CS Policy CSP4 which requires all development to make a positive contribution to place making, CS Policy ENV2 which requires development to preserve and, where appropriate, enhance local character and CS Policy ENV3 which seeks to ensure design which reflects the character of the area.
8. The proposal would also be consistent with Dudley Borough Development Strategy 2017 (DS) Policy L1 which supports new development on previously developed land, in sustainable locations, provided the development is of an appropriate siting, scale and mass and DS Policy S12 which requires development within the AHHTV to consolidate or enhance the existing positive characteristics of the locality.

Nearby extraction flue

9. Environmental Safety and Health, as consultees, objected to the proposal based upon concern from noise and odour as a result of the extraction flue utilised as part of the hot food takeaway at 84 Hagley Road. The appellant has, however, submitted a noise impact assessment¹ (NIA) and odour assessment² as part of his appeal submissions.
10. I am satisfied, based upon the evidence before me, that mitigation measures in the form of acoustic double glazing would be able to ensure that daytime and night-time noise levels are within the recommended limits for future occupiers of the scheme. Such measures could be secured by an appropriately worded condition on any consent granted. Additionally, I am satisfied that the odour assessment demonstrates that future occupiers of the scheme would be exposed to no significant odour as a result of the same extraction flue.
11. The proposal would comply with paragraph 170 of the Framework which seeks to prevent new development from being adversely affected by noise pollution. The proposal would also comply with DS Policy D2 which requires that the

¹ Report No: EGE213 – 13/03/2019

² Report No: EGE213_Odour – 23/03/2019

amenity of the occupiers of proposed buildings are not subject to undue harm as a result of noise and odours and DS Policy D5 which requires development, where appropriate, to include measures to reduce noise intrusion to an appropriate level.

Amenity of future occupiers

12. Whilst the Council may not have formally adopted the Nationally Described Space Standard (NDSS) as part of their Local Plan, such standards are indicative of what constitutes acceptable living space in new development, and they are a good guide to work from as a national minimum. A slight shortfall from this guide, without formal adoption, may have been acceptable but the proposed units are only just over half recommended the floor space, a notable shortfall which I find fails to provide an acceptable area of living space. Even if I had agreed with the appellant, and disregarded the NDSS, the proposal would still have failed to provide an acceptable level of residential amenity as discussed below.
13. The number of windows within the proposal are limited with one large window into the dining/lounge area, a single, narrow, window into the bedroom and a bathroom window. I am not convinced, based on the plans before me, that there would be a suitable amount of natural light into the properties, regardless of orientation, and also find this would provide a poor outlook for future occupiers.
14. The New Housing Development Supplementary Planning Document 2013 (SPD) outlines minimum standards for private rear amenity space/gardens for new housing development. For flats with communal/private gardens or amenity areas this is required at 30 sq./m per flat resulting in a total space of 60sq./m for the proposal. Taking the footprint of the proposed building, and the car parking area, away from the site area this would leave in the region of 40sq./m, even when including the space around the building itself. As a result of this I find that the proposal would be unable to provide an appropriate level of private outdoor amenity space.
15. The proposed parking arrangement would see both parking spaces immediately in front of the main habitable window which would serve the lounge and dining area for the ground floor flat. This would result in a loss of privacy to future occupiers of the ground floor flat as a result of the occupiers/visitors of the first-floor flat utilising that space. Additionally the limited, shared, amenity space would look directly into the bedroom window of the ground floor flat. The combination of these factors would result in an unacceptable lack of privacy for the future occupiers of the ground floor flat. Provision of curtains would further block out light, and reduce outlook, in a scheme with already limited sources of light. I do not find an element of 'buyer beware' to be a substitute for poor design relating to such matters and such an approach would be directly contrary to the direction given within the Framework.
16. The proposal would be contrary to paragraph 124 of the Framework which states that good design is a key aspect of sustainable development which creates better places to live and paragraph 127 f) which seeks to create places with a high standard of amenity for future users. The proposal would also be contrary to CS Policy HOU2 which seeks to achieve high quality design and minimise any amenity impacts and DS Policy L1 which requires an appropriate

level of amenity to be provided for future occupiers. There would also be conflict with the SPD guidance which seeks, amongst other things, to secure adequate private amenity space for new dwellings.

Amenity of neighbouring properties

17. The buildings to the East of the appeal site are stated to have residential flats at first floor level. The nearest habitable window, at 86a Hagley Road, is stated to be less than 5m from the proposed building. The appellant's description of the accommodation at No. 86 is noted, however, I still find that the proposal will result in some loss of outlook from the kitchen and have an overbearing impact given that the proposal is still in front, albeit not directly in front, of the window.
18. Even if this loss of outlook was not significantly adverse enough to warrant refusal, I have no evidence before me to support that there would be no unacceptable loss of light as a result of the orientation of the properties and the proposal's very close proximity to the windows of the neighbouring properties. This would, therefore, be contrary to DS Policy L1 which seeks to avoid unacceptable harm to the amenities of the occupiers of neighbouring dwellings including harm arising as a result of loss of outlook and sunlight.

Conclusion

19. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR