



Appeal Decision

Site visit made on 16 September 2019 by S Watson BA (Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Appeal Ref: APP/C4615/W/19/3231020

127-129 Dudley Road, Brierley Hill DY5 1HD

- 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 Mohammed Rafiq against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P18/1801, dated 18 December 2018, was refused by notice dated 31 May 2019.
 - The development proposed is described as a loft conversion with dormer to rear to form 2 No flats.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion with rear dormer to provide 1 No flat. Installation of replacement extraction flue to the rear elevation (resub of P18/0632) at 127-129 Dudley Road, Brierley Hill DY5 1HD in accordance with the terms of the application P18/1801 dated 18 December 2018 and subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Plan B&W 1:1250, ZL 3657, ZL-3657/1 REV F, ZL-3657/2 REV B, ZL-3657/3 REV G, ZL-3657/4 REV H, ZL-3657/5 REV F, ZL-3657/6.
 - 3) No external materials shall be installed until details of the types, colours and textures of the materials to be used on the external surfaces of the development hereby approved have first been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
 - 4) The new dwelling shall not be occupied until the access into the site, together with parking have been laid out in accordance with the approved details, and that space shall thereafter be kept available at all times for these purposes.
 - 5) The new dwelling shall not be occupied until electric vehicle charging points have been provided for use in accordance with details which have first been submitted to, and approved in writing by, the local planning authority. The charging points shall thereafter be kept available at all times for this purpose.

- 6) The new dwelling shall not be occupied until secure and covered cycle storage have been provided for use in accordance with details which have first been submitted to, and approved in writing by, the local planning authority. That space shall thereafter be kept available at all times for this purpose.
- 7) Prior to the first occupation of the new dwelling, bin stores shall be provided in accordance with the approved details and shall thereafter be kept available at all times for this purpose.
- 8) Before the extraction flue is used on the premises, details to mitigate against noise and vibrations entering the residential units at the appeal site shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) Prior to first occupation of the development hereby approved, the existing flues shall be removed, and the replacement flue installed in accordance with the approved details. The flue shall be powder coated black and shall be retained as such for the lifetime of the development.
- 10) The level of noise emitted from the external extraction plant serving the ground floor A5 use shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the approved residential unit) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the approved residential unit). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. 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 parties has provided written confirmation that a revised description of development has been agreed. Notwithstanding the description set out above, the scheme has been amended and would comprise the formation of only one additional flat, not two and the replacement of an extraction flue. The Council dealt with the proposal on this basis and so shall I.

Main Issue

4. The main issue in this case is the effect of the proposal on highway safety, with particular regard to the provision of parking spaces.

Reason for Recommendation

5. The appeal site contains a terraced building with a restaurant on the ground floor and a residential unit on the first floor. The proposal is for an additional flat within the roof space, which would have two bedrooms.
6. The Council's Parking Standards Supplementary Planning Document (SPD) sets out that the minimum car parking standards for apartments is 1.4 spaces if it is a new build or 1.2 spaces if it is the result of a conversion. The provision of 2 car parking spaces as proposed exceeds these minimum standards. The car parking spaces would be provided to the rear of the property and there would be a rear access from the flat so that it would be convenient for the intended future occupiers of the property to use the spaces provided.
7. Whilst I note the Council's concern about the proposal increasing the demands on car parking upon the site, I have not been provided with evidence that the proposal would displace existing parking provision. In the event that staff, residents or customers use the car parking spaces that are proposed to be used by the intended future occupiers of the new flat, that would be likely to result in 2 vehicles having to find space to park elsewhere. It is reasonable to assume that drivers of vehicles may park in John Street, or if a space was not available in this road that they would use the public car park nearby in Dudley Road.
8. I have no evidence before me to indicate that on street car parking in John Street or in the locality has reached saturation point or that there would be no space to park in nearby public car parks. Nor have I been provided with substantive evidence to demonstrate that on street car parking results in highway safety issues. Nevertheless, I noted on my site visit that there were double yellow lines near the roundabout at the end of John Street. There were also parking restrictions in front of a number of dropped kerbs. Such controls would help maintain the free flow of traffic in response to any increase in on-street parking that the proposal may generate.
9. I note the concerns raised by local residents however, I have no evidence before me to demonstrate that the existing access is unsuitable or its use would result in harm to highway safety, including the safety of pedestrians. The area of hardstanding appears large enough to allow vehicles using it to leave and enter it in a forward gear. I also acknowledge that there are concerns about the cumulative increase in traffic due to the opening of a new music college. However, I have not been provided with any details of the college or the likely impacts on traffic and therefore can only give this matter limited weight.
10. It is noteworthy that the Council's Highway's Officer did not raise concerns about highway safety in response to the proposed development, and from the evidence before me I have no reason to conclude otherwise.
11. In light of the above, I conclude that the proposed car parking would be sufficient to serve the new flat and that harm to highway safety would not occur as a result. There would be no conflict with Policy TRAN2 of the Black Country Core Strategy, Policy L1 of the Dudley Borough Development Strategy or the guidance within the Parking Standards SPD which seek, amongst other things, to prevent detrimental impacts on highway safety and the free flow of traffic.

Other Matters

12. A number of concerns have been expressed in terms of the proposal's impact on the character and appearance of the area, particularly with regard to the design of the flue, the rear dormer window and the access platform. These features would be viewed in the context of similar development on the rear of properties fronting Dudley Road. They would not be unduly prominent in the street scene or harmful to the character and appearance of the area. It is noteworthy that the Council found similarly in this regard.
13. I note the privacy concerns raised by nearby occupiers in terms of the effect of the proposal on the privacy of nearby occupiers in both their homes and gardens. However, given the distance between the proposed dormer windows and the neighbouring dwellings, as well as the presence of existing first floor windows, I find that the new windows would be unlikely to increase overlooking or cause a loss of privacy, to the degree that would result in harm to nearby occupiers' living conditions.
14. I acknowledge that there is a disagreement between third parties and the appellant over land ownership. The granting of planning permission does not give permission to access third party land. It is the appellant's responsibility to ensure that he can undertake the development as approved.
15. I acknowledge the concerns raised about fire safety, albeit this has not been substantiated. It is likely that means of escape would be a consideration under other legislation. This matter is not a determining factor in this case. Although it is suggested that the proposed refuse storage area would result in an increase in crime, no substantive evidence has been submitted to demonstrate this. I can therefore only give this limited weight.
16. I am not aware of what, if any, works have been carried out on site or whether these works would require the grant of planning permission. I have limited my consideration to the proposal before me.

Conditions

17. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the National Planning Policy Framework and the Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.
18. A condition is necessary requiring that the development is carried out in accordance with the approved plans for certainty. In the interests of the character and appearance of the host dwelling and surrounding area, conditions are necessary controlling the external materials to be used on the new extension and new flue and requiring that the existing flues are removed.
19. Details showing the proposed vehicular access, parking area and bin stores have been provided with the planning application and so I find it would be unnecessary to require further details to be provided. However, in the interests of highway safety, a condition is necessary to ensure that each of the above are provided and permanently retained. To ensure that sustainable modes of transport are supported, conditions requiring that an electric vehicle charger and bicycle storage are provided are necessary.

20. In order to ensure acceptable living conditions for the occupiers on the appeal site conditions requiring mitigation measures to be identified and undertaken in respect of the extraction unit is necessary, as is controlling the noise output of the flue.

Conclusion and recommendation

21. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed with the suggested conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed with the conditions set out above.

RC Kirby

INSPECTOR