



Appeal Decision

Site visit made on 15 October 2019

**by David L Morgan BA (Hist) MA (T&CP) MA IoAAS (Build Con) MRTPI
IHBC**

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

Decision date: 28 November 2019

Appeal Ref: APP/C4615/W/19/3221149

39, Derelict Workshop, Churchfield Street, Dudley DY2 8QR

- 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 Ms Danielle Hunt against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P18/1276, dated 4 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is conversion of existing building to X4 residential flats and 4 storey extension to rear.
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Decision

1. The Appeal is dismissed.

Main Issues

2. These are a) The effect of the proposed development on the architectural interest of the locally listed building (identified as 'Derelict Workshop'), b) its effect on the character and appearance of the area, c) its effect on the living conditions of future occupiers, d) its effect on the living conditions of adjacent occupiers, e) whether the risk to land stability has been mitigated through appropriate Coal Mining Risk Assessment and f) whether it would pose a risk to highway users as a result of levels of car parking proposed.

Reasons

Context

3. As the Appellant sets out in their Appeal Statement, the urban character of the environs of the site are diverse, with a mix of terraced housing, detached dwellings, light industry and workshops and informal open space. This is reflected in the area's designation as one of High Historic Townscape Value under the Dudley Borough Development Strategy 2017 (DBDS). Indeed, within Churchfield Street itself, this mix is clearly illustrated, with a dense and arbitrary mix of terraced dwellings, small industrial workshops and enclaves of self-colonised green space. The building the subject of the Appeal adds considerably to this character, being a former workshop of simple chapel-like form. Collectively this dense and diverse mix generates a strong sense of working industrial character expressive of the town as a whole.
4. A local list description of the appeal building is not provided, though datestone set within the pediment on the front elevation (1866) offers convincing

evidence of a mid C19 date for its construction. It is a simple orthogonal structure of two floors over a basement. The front elevation, with its loosely Neo-Classical pediment, pilasters and matrix of sub-pilasters and stringcourses, give it real presence in the street. This structure is embellished with a dentil cornice to the pediment, polychromatic brick-arched window heads and a similar device in the pediment supporting the inscribed datestone. This elevation, its proportions, and the plainer detailing of the flank and rear elevations, offer the clearest clue to its possible ecclesiological origins as a chapel-like structure. This imposing front elevation and its plain but bold form make it a strong and distinctive presence in the street scene. Having said that, the building has evidently been vacant for a number of years and is showing signs of distress through water ingress, vandalism and neglect.

Proposals

5. The proposals comprise the conversion and extension of the building to residential units. This is to be achieved through the provision of an additional floor and roof structure to the existing building and the provision of a similarly proportioned and detailed block to the rear, each linked by a glass-fronted stair well between. The additional floor is designed to replicate the existing second floor, extending the pilasters and string course arrangement and capping all with a new pediment. The available land is to be utilized for 8 parking spaces, turning areas and storage for bikes. A small residual area remains beyond the bike storage though this has no identified purpose.

Effect on architectural interest and on character and appearance of the area

6. No details of the methodology for the alteration of the building are provided. However, from the evidence submitted it would appear that the existing roof structure and pediment above second floor are to be removed and replaced by a new superstructure above the additional floor. This suggests the loss of the fabric and detailing (there is no suggestion that the dentil cornice or datestone are to be reinstated on the elevations) that constitute one of the primary areas of special interest the building expresses. Moreover, the addition of this floor would stretch or attenuate this elevation to an improbable extent, distorting its classical proportions.
7. The rear addition would have a degree of separation from the existing structure by means of the glazed stair well. Nevertheless, the effect, highly visible from both street and green space to the north, would be to stretch the form of the structure to the rear. This would again distort its form to an improbable extent, eroding its simple cellular character as a former chapel-like building. Furthermore, the remaining land would again look to be given over to unrelieved hard surfacing for the accommodation of vehicles. This would be a barren, utilitarian context which would do nothing to enhance the immediate context of the building, notwithstanding its current forlorn condition.
8. The sum of these effects would in my view cause very significant harm to the architectural interest of the locally listed building and its immediate setting.
9. It follows that the significant harm to the architectural interest of the locally listed building would result in a significantly adverse effect on the character and appearance of its context. This unbalanced and visually degraded building, with its arid, car-dominated context would visually impoverish the Churchfield

Street scene, degrading the townscape value and local distinctiveness of the designated area.

10. With regard to the effect this would have on the locally listed building, this would result in conflict with Policy S11 of the DBDS, which resists inappropriate alteration or extension of buildings on the Local List. It would also conflict with Policy S8 of the same, which anticipates development taking account of locally distinctive character and respect and respond positively to the attributes of non-designated heritage assets. It would also conflict with Policy ENV2 of the Black Country Core Strategy (BCCS) which anticipates that development should protect and promote the historic character and distinctiveness of the Black Country.

Effect on living conditions of future occupiers

11. The lower ground floor units proposed in both the existing building and the extension would have their main outlook from their principal habitable spaces onto the carpark and turning area. Not only would this offer a poor outlook for future occupiers, but such occupants may anticipate exposure to a greater degree of noise and disturbance from the manoeuvring of vehicles within this space. Such an outcome would in my view result in material harm to the living conditions of these future occupiers. Moreover, no collective open amenity space is proposed as part of the development which fails to meet the expectations of the Council's New Housing Development Supplementary Planning Document (SPD) (which advises of a requirement of 30sqm of such space per unit). Whilst the Council accept this standard could be viewed flexibly to secure the optimum use of such a locally listed building, given the harm already identified in this regard, such an approach cannot be considered here. Furthermore, whilst there is informal open space adjacent to the site this, in its present condition, would not be conducive to casual recreation. Neither is the location of alternative open space in the vicinity of the site identified that might otherwise mitigate this absence. Such an outcome would conflict with Policy L1 of the DBDS, criteria 3 of which anticipate an appropriate level of amenity for future occupiers.

Effect on living conditions of adjacent occupiers

12. The principal outlook of all main habitable areas on the upper floors of the proposed development would be to the south. Despite this elevation being some 10 meters from the boundary of the adjacent property, there can be no doubt that these living spaces (particularly those of the extension) would have a clear prospect over the rear of No 37 and its rear garden space. Despite the distance, I conclude that the sense of cumulative oversight would result in a loss of privacy to adjacent occupiers, causing material harm to the living conditions of occupiers. This again would result in conflict with Policy L1 of the DBDS, criteria 2 thereof, which anticipates the amenity of adjacent occupiers being safeguarded.

Land stability assessment

13. The Appeal site falls within a defined Development High Risk Area, which has the potential for coal mining-related features and hazards requiring evaluation. The Appellant has provided a report prepared by Groundsure to appraise the site for risk, and this sets out a broad overview on a range of environmental and geophysical matters. However, despite its broad coverage, the report does

not address technical matters associated with potential risks to the site. Indeed, in Annex 1 to the report entitled *The Coal Authority CON29M Coal Mining Report* in the section under 'Comments on Coal Authority Information' it states 'In view of the mining circumstances a prudent developer would seek appropriate technical advice before any works are undertaken. Therefore if development proposals are being considered, technical advice relating to both the investigation of coal and former coal mines and their treatment should be obtained before beginning work on site'. In the absence of such technical information, significant doubt must remain as to the potential for geo-technical factors to occur that may directly influence prospects for development proceeding. In the absence of such detailed technical information the proposals are therefore in conflict with Policy D4 of the DBDS, which anticipates the provision of appropriate levels of technical information to support at-risk development proposals. Such an approach is also consistent with paragraph 178 of the National Planning Policy Framework (the Framework), which advises that planning decisions should ensure that a site is suitable for development in light of risks arising from natural phenomena or human activity.

Highway safety

14. Council parking standards, set out in formally adopted SPD supported by development plan policy, sets an aggregated parking requirement (combining conversion and new build space allocation) of ten parking spaces. The development proposals provide for 8. Whilst the Council accept that there may be circumstances (such as proximity to local services) that might allow for flexibility, this must be contingent on a consideration of likely concomitant effects on highway safety as a result of further on-street parking pressure. Although there are limited parking restrictions within the vicinity of the site, Churchfield Street is reasonably constrained, and on-street parking is in part restricted by dropped kerb parking in sections of the street. Despite my visit occurring during the mid-day, parking in the area of the site was visibly constrained. I can readily conclude this may become more acute when residents return to their homes for the evening and morning. I therefore concur with the Council's highway officer that notwithstanding the relative proximity of the site to local services, the proposed development will in all probability result in an increased demand for on-street parking with a resultant deleterious effect on highway safety and the free flow of traffic in the area. The proposals would therefore conflict again with Policy L1 of the DBDS, criteria 4 thereof, and the Council's adopted SPD referred to above.

Other matters

15. The Appellant persuasively suggests there is local support for the development proposed, with residents seeing it as an end to anti-social behaviour associated with the site and an opportunity to bring the building back into beneficial use. Engaging the community in the development process is a positive step, and I have no difficulty accepting these views in support of the proposals.
16. The Appellant also refers to a previous grant of planning permission for the conversion of the building to residential use in support of the current proposals. I note the Council also refer to the now lapsed permission, pointing out it was for the conversion of the existing building rather than its upward and rear extension. Again, I have no difficulty in accepting this planning history as an indicator that the building is capable, in planning terms, of being adapted to

residential use. However, I have no details of the former proposals before me and I note they in any event pre-date the current development plan policies and those of the Framework. These factors in themselves would limit the weight to be afforded them in this case.

17. The Appellant makes some detailed submissions on the conduct of the Council over the processing of the initial application. The Council rightly point out that these matters, whatever the facts of the process, are not ones I am able to take into account in relation to the planning merits of the case.

Planning balance and conclusions

18. These proposals seek to deliver 8 units of housing in a sustainable location within the borough. They also seek to establish a new use for a long vacant building acknowledged to be worthy of preservation and regeneration. Moreover, the proposals have the support of members of the local community. In the context of a national need for additional new housing, and a policy context that favours the optimal reuse of heritage assets, designated or otherwise, these factors weigh very significantly in favour of the proposals.
19. However, these proposals would only deliver these benefits through serial breach of local and national planning policies. They would result in very significant harm to a non-designated heritage asset, harm to the character and appearance of a designated character area, harm to living conditions of future and adjacent occupiers and harm to the safety and convenience of highway users. Moreover, the risk to the development proceeding as a result of former mining activity in the area has not been sufficiently mitigated through technical analysis. The sum of all these harms therefore significantly and demonstrably outweigh the benefits the proposals might bring.
20. For the reasons given above I conclude that the appeal should be dismissed.

David Morgan

Inspector