
Appeal Decision

Site visit made on 19 November 2019 by John Gunn DipTP Dip DBE MRTPI

Decision by V Lucas LLB (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/C4615/W/19/3236550
305-306 Long Lane, Halesowen B62 9LB

- 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 Rizwan Mahmood against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P19/0520, dated 9 April 2019, was refused by notice dated 16 July 2019.
 - The development is proposed single storey extension to form new studio flat.
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Decision

1. The appeal is dismissed.

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.

Preliminary Matters

3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use to residential and a single storey rear extension to form an additional studio flat. The Council dealt with the proposal on this basis and so shall I.
4. The Council have provided 6 reasons for refusal, as set out on their decision notice. Reason 5 relates to a requirement to pay a CIL contribution if the development is allowed. Reason 6 relates to paragraph 38 of the National Planning Policy Framework (the Framework) which requires Local planning Authorities to work with applicants in a positive and proactive manner. Neither of these matters are substantive reasons for refusal and consequently they will not be addressed in my report.

Main Issues

5. The main issues in this case are:

- whether suitable provision is made for the parking and manoeuvring of vehicles; and
- whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy and noise.

Reasons for the Recommendation

Parking and highway safety

6. The Appeal property is located close to the junction of Long Lane, Malt Mill Lane and Nimmings Road, within a commercial area. Access to the Appeal Site would be provided through a gated passageway, of limited width and height, located between Nos 1 and 2 Malt Mill Lane. The access currently serves a number of existing commercial and residential properties, including several storage units. The access drive has a concrete surface, with the surrounding areas comprised of rough grass, parts of which had waste materials deposited upon them.
7. The Council are concerned that the Appeal Proposal would reduce the size of the turning head within the service area resulting in cars reversing onto the public highway with restricted visibility. They also consider that in the absence of adequate off street parking drivers would park on Long Lane and Malt Hill Lane to the detriment of public and highway safety.
8. In his appeal statement the Appellant provided a plan which seeks to demonstrate how a car would be able to manoeuvre within the service area and access the public highway in a forward gear. The details provided indicate a manoeuvre that would appear achievable and would enable vehicles to leave the site in a forward gear. This would be preferable to reversing through the narrow passage and would reduce risks to road users. In the event that the appeal was allowed a condition could be imposed to ensure that the manoeuvring space is always kept clear of parked cars.
9. No information has been provided by either party to indicate the current level of parking during the day or week, or the servicing requirements of the commercial properties. I have no evidence showing where parking spaces would be provided. Consequently, I am unable to assess the capacity of the site to accommodate vehicles or how the vehicles manoeuvring in the service area would interact with them. Furthermore, I have no evidence before me, such as accident data, to indicate whether highway safety would be comprised if additional on street parking was to take place.
10. At my site visit I saw only one car parked within the service area, and no servicing of the commercial premises took place. I also noted that there were double yellow lines at the point where the access joins Malt Mill Lane and the pavements were clear of any obstructions. There was a significant level of on street parking occurring to the west of the site in Malt Mill Lane. I appreciate

that this represents just a snapshot in time and acknowledge that it may be busier at other times of the day and week.

11. Paragraph 110 of the Framework states that planning should make the fullest possible use of public transport, walking and cycling. The appeal site is in a reasonably accessible location with good access on foot and by public transport to local facilities and services to meet the day to day needs of future occupants. This is likely to reduce the need for car ownership. Whilst the proposal would result in the provision of additional one bedroom dwelling, the increase in vehicular trips, and demands on parking provision, arising from it are likely to be very limited. Consequently, it is not envisaged that the proposal would lead to a significant increase in on street parking or would adversely affect highway safety.
12. In the light of the above, and subject to a condition requiring a manoeuvring area to be provided and kept clear at all times, I conclude that the development would not significantly increase dangers to highway users. Consequently, the development would not be against Policy TRAN2 of the Black Country Core Strategy (2011) (CS), Policy L1 and S17 of the Dudley Borough Development Strategy (2017) (DS) and the Parking Standards SPD (2017) (SPD) which seek sufficient parking to meet the needs of developments without compromising the safe and efficient operation of the public highways.

Living conditions

13. The appeal proposal would sit directly adjacent an area where vehicles and pedestrians would be active. Windows serving a bedroom and lounge would be open to direct views from pedestrians circulating within the parking and service area. Whilst the level of activity during my site visit was low any pedestrian activity close to the windows would result in a significant loss of privacy for future residents.
14. The Council has also raised concerns that the proposed dwelling would provide a poor standard of accommodation due to potential noise disturbance. No evidence has been provided by either party regarding existing noise levels, or the type of activity that might lead to noise disturbance. At the time of my site visit there was no activity in the service area that would be likely to result in noise disturbance and the background noise level was low. I appreciate that this represents just a snapshot in time and acknowledge that given the commercial uses in the area the noise environment may be different at other times of the day and week.
15. Notwithstanding the above, the parking and manoeuvring of vehicles would be in very close proximity to the lounge and bedroom windows. Furthermore, given the commercial nature of the surrounding uses, these activities could take place early in the morning or late at night. No noise mitigation measures have been identified by either party. As a result, future occupiers would be likely to be disturbed by vehicle related activity including unloading and loading of commercial vehicles, engine noise and closing of doors. Consequently, the development would not provide a suitable noise environment for future occupiers.

16. I conclude, therefore, that the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to privacy and noise. The proposal would conflict with Policy HOU2 of the CS, Policy L1 and D5 of the DS, the New Housing Development SPD and paragraph 127 of the Framework which require that development should have regard to the amenity of future occupiers.

Other Matters

17. I note that the appeal site is in a sustainable location with good access to public transport, shops and local amenities.
18. The Appellant has indicated that there are already a number of studio flats and residential developments in the area. However, I have been provided with no details of those developments and cannot therefore be certain that the circumstances in those instances are comparable to the appeal proposal. In any event, I have considered this appeal on its own merits.
19. The Council refer to Policy HOU1 of the LP which relates to delivering sustainable housing growth. Whilst the appeal proposal would make a small contribution towards the provision of housing this benefit does not outweigh the harm to the living conditions of future occupiers as identified above.

Conclusion and Recommendation

20. I see no reason why the proposal would generate such traffic movements as to have a harmful effect on parking and highway safety. However, the lack of harm in this respect would not outweigh the harm to future occupiers which I have identified with regard to privacy and noise. Therefore, the proposal would conflict with Policy HOU2 of the CS, Policy L1 and D5 of the DS, the New Housing Development SPD and paragraph 127 of the Framework which require that development should have regard to the amenity of future occupiers.
21. Therefore, for the reasons given above, I recommend that the appeal should be dismissed.

J Gunn

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 should be dismissed.

V Lucas

INSPECTOR