
Appeal Decision

Site visit made on 21 January 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2020

Appeal Ref: APP/V4630/W/19/3239850
115 to 117 High Road, Willenhall WV12 4JN

- 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 Iraj Saidi against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 19/0693, dated 21 June 2019, was refused by notice dated 16 August 2019.
 - The development proposed is described as: 115 High Road to retain existing retail area, within A1 classification. 117 High Road to be converted to pizza take away, install extraction system, change of use A1 to A5. Retain roller shutter, new shop front. 1st floor converted into 2 flats.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the Council's decision notice differs a little to that provided on the application form. However, I have not been provided with any evidence confirming that a change of description was agreed between the Council and the appellant. I have therefore used the description of development provided on the application form, which in essence does not differ to the description provided on the Council's decision notice.
3. The evidence suggests that the first-floor of the appeal property has already been converted to, and is in use as, 2 flats. The proposal is therefore, at least in part, retrospective. I have made my decision on this basis.

Main Issue

4. The main issue is whether the proposed development would result in highway safety issues.

Reasons

5. In planning policy terms, the site is located within the Lane Head local centre. The area immediately around the road junction consists of a small number of retail units, a public house, nursery school, car sales business and residential properties. The wider area is predominantly residential.
6. The site comprises a two-storey end of terrace property located on the western side of High Road at a controlled junction of High Road and Bentley Lane. The

road is a classified road. Outside the front of the site on High Road there are double yellow lines extending in both directions on both sides of the road. There are also double yellow lines on both sides of Bentley Lane extending from the traffic lights in a south-easterly direction. Except for a gap where a formal pedestrian crossing exists at the traffic lights, there are pedestrian barrier rails at the front of the site extending in both directions.

7. Not only does this range of traffic and pedestrian controls around the road junction make it physically very difficult to park a car on the highway close to the site, but it is also unlawful to do so. For these reasons I conclude that the development would not result in on-street parking in a hazardous location. In this regard, the proposal would accord with saved Policy S10 of the Walsall Unitary Development Plan (2005) (UDP), which, among other things, supports the development of hot food take-aways, providing that the absence of off-street parking does not lead to on-street parking in a hazardous location.
8. However, there is an existing vehicle access point between Nos 117 and 119, providing access to an area of land to the rear of the site. I observed that the land was covered with a hard surface and it had several vehicles parked on it at the time of my visit. Although within the application site boundary, the proposal does not include using the land for parking. I note that both parties agree that the access is narrow and has substandard pedestrian and vehicle inter-visibility onto High Road. Therefore, due to the access, the land is considered not to be suitable to propose as on-site parking.
9. The proposal includes sub-dividing the ground-floor such that 115 would be retained with an A1 retail use and 117 would have an A5 hot food take-away use. The sub-division of the first-floor has created 2 x 1-bed flats. I note that the A1 unit has been closed for some years and does not currently generate any vehicle movements. However, its lawful use, and the lawful use of one flat above, must be the baseline against which to compare the proposal. I appreciate the appellant considers that the current A1 use would require a similar parking requirement to an A5 use and could generate similar traffic movements. This may be the case. However, I consider that changing the use of the site from a single A1 unit and one flat, to an A1 unit, an A5 unit and 2 flats would be an intensification of use of the site. Moreover, the intensified use would generate an associated increased off-street parking requirement and increase in vehicle movements, compared to the existing situation.
10. Although I have not been provided with copies of saved transport policies T7 to T13 of the UDP, the Council has indicated, which the appellant has not challenged, that based on the parking standards outlined in these policies, the proposal would generate a need for 9 off-street parking spaces in total. This would be an increase of 5 spaces over the existing requirement. The appellant also suggests that the proposed A5 unit may offer a home delivery service which, at minimum, would include the use of motor-cycle vehicles.
11. Although the proposal does not formally include using the existing access and utilising the land to the rear of the site for car parking, the fact is that the access is an existing access and the land can be used for parking vehicles. In the absence of any legal mechanism preventing the use of the access or the parking of vehicles on the land to the rear of the site, (noting that I consider such restrictions could not be controlled by conditions), there is no guarantee that either staff, residents or visitors would not use the land to the rear of the

site for parking, thereby utilising the existing access. Due to the traffic controls around the junction and the limited on-street parking facilities close to the site, I consider it highly likely that staff, residents and visitors would seek to park at the rear of the site. As the access is sub-standard, I consider that the likely intensified use of it would have an unacceptable impact on highway safety around the junction of High Road and Bentley Lane.

12. Therefore, notwithstanding my conclusion regarding on-street parking around the hazardous junction, I conclude that the lack of on-site parking facilities would result in unacceptable highway safety issues due to the likelihood of staff, residents and visitors utilising a sub-standard access for off-street parking. As such, the proposal would not accord with saved policy GP2 of the UDP, which does not support development that would have an adverse impact on the environment taking account of, among other things, traffic impact and the adequacy of parking facilities. The proposal would also not accord with paragraph 109 of the National Planning Policy Framework, which advises that developments should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Conclusion

13. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR