The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date:06 August 2020

Appeal Ref: APP/V4630/W/20/3246283
5 Richmond Street, Walsall WS1 2JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Harood Bashir against Walsall Metropolitan Borough Council.
- The application Ref 17/0589, is dated 21 April 2017.
- The development proposed is first floor extension to factory.

Decision

1. The appeal is allowed and planning permission is granted for a first floor extension to factory at 5 Richmond Street, Walsall WS1 2JX in accordance with the terms of application 17/0589 dated 21 April 2017, subject to the following conditions:

    1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

    2. The development hereby permitted shall be carried out in accordance with the following approved plans, details and documents: Location Plan – Undated and Scale 1:1250; Block Plan dated March 2017; Elevations – Un-numbered Plan Rev B dated July 2018; Proposed Ground and First Floors – Un-numbered Plan Rev B dated July 2018; and Noise Assessment prepared by RandTech Consulting – Ref: MDR/J3868a and dated 17 March 2019.

    3. The materials to be used on the external surfaces of the development shall be in accordance with those specified in the application unless any different materials are first agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

    4. The external metal staircase shall only be used as a means of escape from the building, with the door to the staircase being kept closed at all times, except in the case of an emergency.

Preliminary Matters

2. Following the submission of the appeal against a failure to give notice within the prescribed period, the Council have clarified the position they would have taken had they determined the application. I have had regard to these submissions, in so far as they provide clarity in terms of the reasons why the

Council would have refused planning permission had it done so. The main issues below are therefore informed by the Council's submissions.

Main Issues

3. The main issues are:
   - The effect of the proposed development upon the living conditions of surrounding residents, in particular overlooking from the proposed open metal staircase and noise from the development; and
   - The impact of the proposed development on highway safety.

Reasons

Living conditions of surrounding residents

4. The appeal site comprises an existing factory, located to the rear of a row of Victorian terraced properties. It is accessed via an opening from the street. The appeal proposal would involve the extension of the existing 1st floor workshop to provide additional workshop space.

5. A new external fire escape staircase would be provided to the rear. The primary means of access to the extended 1st floor workshop would remain as existing. On this basis, the proposed external staircase would only be used as a means of escape in times of emergency, or when employees are required to practice evacuation drills. During these times, when staff would be exiting the 1st floor, there would be potential for overlooking of the neighbouring properties in Richmond Street and Bernard Street. This would, however, be only for a very short period of time and would occur very infrequently. To prevent any informal use of the staircase and to ensure it is only used for this purpose, a suitably worded condition could be attached to any planning permission to restrict the use of the staircase for emergency purposes only.

6. The appeal site is currently used as a warehouse and therefore surrounding neighbours are likely to already experience a degree of noise and disturbance from the existing use. In this regard, I note that the Council have no record of any complaints in relation to the existing business. The submitted Noise Assessment confirms that the noise generated from the proposed extension would be unlikely to exceed the existing background levels.

7. The Council's Noise Pollution Control team have no objection to the proposal subject to a number of conditions. A number of these were however considered by the Local Planning Authority to fail the tests that conditions must meet to be acceptable for the imposition on a planning permission. Having reviewed the proposed conditions, I see no reason to disagree with the Council's position. However, it is clear from the submitted Noise Assessment that the proposed development would be acceptable from a noise perspective and does not need these conditions to make the development acceptable. On this basis, and without any substantiated evidence to suggest otherwise, the proposal would not give rise to an unacceptable increase in noise levels to such a degree that it would harm the living conditions of surrounding residents.

8. For the above reasons, I therefore conclude that the proposed development would not significantly effect the living conditions of surrounding residents, and in this regard, accords with Policies CSP4, ENV2 and ENV3 of The Black Country Core Strategy (BCCS), Policies GP2, ENV10, ENV32 and JP8 of the Walsall

Unitary Development Plan (WUDP) and the Policies contained within the National Planning Policy Framework (The Framework). These policies amongst other things seek to ensure development protects the living conditions of surrounding residents.

Highway safety

9. I note that the Local Highway Authority raised no objection to the proposal, subject to the attachment of a suitably worded condition to prevent the use changing to a different operator within class B1 (c). Such a condition would fail to meet the necessary tests for its imposition. Moreover, there would appear to be no adverse highway impacts that such a condition would be seeking to mitigate. On this basis, and without any substantive evidence to the contrary, I therefore consider that the proposed development would be unlikely to have any adverse effect upon highway safety.

10. For the above reasons, I therefore conclude that the proposed development would be unlikely to have an adverse effect upon highway safety and, in this respect would comply with Policies TRAN2 of the BCCS, Policies T7 and T13 of the WUDP and the policies contained within the Framework. These policies amongst other things seek to ensure the adequate provision of car parking spaces.

Conditions

11. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. A standard implementation condition, along with a requirement to implement the scheme in accordance with the approved plans is necessary. To protect the character and appearance of the area, a condition to ensure the external materials match the existing property is necessary. To protect the living conditions of surrounding residents, a condition to ensure that the external metal staircase is used only as a means of escape is necessary.

12. I have reviewed the Council's suggested conditions 4a and 4b, which relate to an enclosure around the staircase and consider this to be unnecessary in light of the condition restricting its use. With regards to suggested conditions 5a and 5b, which cover acoustic mitigation, given the clear conclusions of the Noise Assessment, I do not find such conditions are necessary. I reach the same conclusion in regard to suggested condition 6 in relation to dust and debris.

Conclusion

13. I conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions.

Adrian Hunter

INSPECTOR