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## Appeal Decision

Site visit made on 11 August 2020

**by R Walker BA Hons DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 August 2020**

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**Appeal Ref: APP/R1845/W/20/3249598**

**2 Prospect Road, Stourport on Severn, Worcestershire DY13 9DE**

- 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 Dino Coppola against the decision of Wyre Forest District Council.
  - The application Ref 19/0739/FUL, dated 11 November 2019, was refused by notice dated 9 January 2020.
  - The development proposed is change of use of warehouse building (B8) to dwellinghouse (C3) and alterations to side facing windows.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of warehouse building (B8) to dwellinghouse (C3) and alterations to side facing windows at 2 Prospect Road, Stourport on Severn, Worcestershire DY13 9DE in accordance with the terms of the application, Ref 19/0739/FUL, dated 11 November 2019, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. In Part E of the appeal form it is stated that the description of the development has not changed. However, the wording from the Council's decision notice has been entered rather than that from the application form. The description of development, as stated on the application form describes the development as *'Change of use from Storage (B8) to Private Dwelling House (C3(a)). The owner has renovated the property. It was in very poor condition. Installing electric, water, kitchen, bathroom, sitting room and one bedroom'*.
3. The Council, on its decision notice, has described the development as the *'retrospective change of use of warehouse building (B8) to dwellinghouse (C3) and alterations to side facing windows'*. However, I consider that the description of development is more accurately described as *'change of use of warehouse building (B8) to dwellinghouse (C3) and alterations to side facing windows'*, omitting the word *'retrospective'* which is not a description of development. I have determined the appeal on this basis and have used this description in the header above.
4. I saw on my site visit that the accommodation was in occupation although works had not completed. As such, I am dealing with the appeal, in part, retrospectively.

## **Main Issues**

5. The main issues are the effect of the development on:

- the living conditions of the occupants of the development having particular regard to outdoor amenity space provision; and
- highway and pedestrian safety.

## **Reasons**

### *Living conditions*

6. The appeal building is a 2-storey property located at the end of a row of terraced houses. It steps down from the housing, is of modest proportions with a single window at the front first floor level and large opening to the ground floor. To the front is a small yard with access onto the street.
7. I have not been referred to any specific local standard for outdoor amenity space associated with new developments. However, the Council refer to Policy SAL.UP7 of the Wyre Forest District Council Site Allocations and Policies Local Plan (LP) (adopted 2013), the National Design Guide<sup>1</sup> (NDG) and the National Planning Policy Framework (the Framework) in its reason for refusal. These seek, amongst other things, a high quality of design to ensure good standards of living conditions for future occupants and reinforce the importance of external spaces in supporting the health and wellbeing of their users.
8. The development does not provide any dedicated private outdoor amenity space. However, the yard to the front provides a small area of useable external space even taking into account bin storage. Although prominent from the footpath, the outdoor space is positioned with a high fence to one side, opposite there is a church and a dwelling set back from the road with planting on its front boundary. These elements ensure that the external space is not substantially overlooked by other properties. The attached neighbouring property would have angled views to the outdoor space. However, such views are common in residential areas even in rear gardens.
9. Given that the development comprises of a small 1-bedroom dwelling and is not suitable for family occupation and having regard to the above, I consider that the size and location of this outdoor amenity space is appropriate in this instance.
10. As such, I am satisfied that there are acceptable living conditions for the occupants of the dwelling having particular regard to outdoor amenity space provision. On this matter, the development complies with the requirements of Policy SAL.UP7 of the LP, the NDG and the Framework.

### *Highway and pedestrian safety*

11. The development has no off-street parking space and there is no dispute between the main parties that this brings conflict with the Worcestershire County Council Streetscape Design Guide (2018) (SDG). Parking is possible to the front of the property on the street. Although the site is close to a junction, double yellow lines restrict parking near it.

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<sup>1</sup> MHCLG – National Design Guide – planning practice guidance for beautiful, enduring and successful places 2019

12. Prospect Road or other streets in the vicinity of the site have no parking restrictions in place. Many of the properties in the street have no off-street parking and park on-street. I am mindful that as a former storage unit there could be a degree of vehicular movements and parking associated with such a use.
13. Although I note the comments regarding the number and type of vehicles owned by the appellant, such circumstances could occur with any of the other terrace properties that rely on on-street parking. As a 1-bedroom dwelling the level of parking demand is not likely to be so substantial to result in a significant displacement of vehicles in Prospect Road or surrounding streets.
14. At the time of my morning site visit there was on-street parking occurring along Prospect Road and in the surrounding streets. However, there was also spaces available. Where there were parked vehicles, the carriageway in Prospect Road and surrounding streets were sufficiently wide to enable other vehicles, including larger vehicles, to pass. As such, it would be possible for additional vehicles associated with the appeal site to park on-street without causing an obstruction.
15. I recognise that my site visit represented a snapshot in time and the level of parking would likely be different in the evenings and weekends. Moreover, the development would likely result in more regular and increased on-street parking over and above what could reasonably be expected from a small storage unit. However, I have no substantive evidence that this would result in an adverse effect on highway or pedestrian safety.
16. I therefore conclude on this matter that although there is conflict with the SDG, the development would not result in an unacceptable effect on highway or pedestrian safety. The development therefore complies with paragraph 109 of the Framework which seeks to ensure that development does not have an unacceptable impact on road safety.

### **Other Matters**

17. The side windows face toward the windows of neighbouring properties along Minster Road at a reasonably close distance. I was able to see that from the first-floor open window clear uninterrupted views are possible. The plans state that the windows are to be obscure glazed. With such glazing in place, and an appropriate opening mechanism to preclude overlooking, I am satisfied that there would be no loss of privacy.
18. Concerns regarding the actions of the appellant and the retrospective nature of the works and occupation of the building, are not matters that have a bearing on this development. The development should be judged against material planning considerations. I have considered the arguments that any grant of planning permission would set a precedent for similar developments in the surrounding area. However, each proposal must be determined on its own individual merits and a generalised concern of this nature does not amount to a reason to withhold planning permission.
19. The Council have referred to a refrigeration unit in the Officer Report. However, it did not raise noise and disturbance in its reasons for refusal. Moreover, there is no substantive evidence of a noise issue from any other neighbouring

property from this unit. As such, there is no firm evidence that this results in unacceptable living conditions.

### **Conditions**

20. I have considered the Council's proposed conditions in accordance with the Planning Practice Guidance. I agree that there should be a condition that works are to be carried out in accordance with the submitted plans to provide certainty. It is reasonable and necessary to restrict permitted development rights in the interests of the visual amenity of the area and in order to maintain the external amenity space.
21. In addition, a condition is imposed to ensure that the details of the proposed obscure glazing and opening mechanisms of the side windows are submitted, approved, implemented and retained so as to make the development acceptable in planning terms as outlined above.
22. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the windows before the development takes place. The condition will ensure that the development can be enforced against if the window details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
23. A condition is also included to restrict any additional windows or openings on the west elevation in the interests of the living conditions of the occupants of the neighbouring properties that face toward this elevation.

### **Conclusion**

24. For the reasons given above, and having regard to all other matters raised, the appeal is allowed subject to conditions.

*Robert Walker*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: DWG: 2019 166 02; and 2019 166 01.
- 2) Unless within 3 months of the date of this decision a scheme for the windows on the west elevation including details of obscure glazing and opening mechanism, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the occupation as a dwellinghouse (C3) shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the occupation as a dwellinghouse (C3) shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved window scheme specified in this condition, the windows and obscure glazing forming part of the window scheme shall be retained thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or openings of any kind (other than those expressly authorised by this permission) shall be constructed on the west elevation of the building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Classes A and E, and Part 2 Classes A and B shall be carried out without express planning permission first being obtained from the Local Planning Authority.