



Appeal Decision

Site visit made on 21 April 2021

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/D4635/C/20/3262786

Land north west of 197 Staveley Road, Wolverhampton, West Midlands

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Rashid Zada of Dubai Lounge Ltd against an enforcement notice issued by Wolverhampton City Council.
 - The enforcement notice was issued on 15 October 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a glass front extension, new boundary wall with railings, roller shutter and rear extension in excess of planning approval (17/00982/FUL).
 - The requirements of the notice are:
 1. Remove the front and rear extension and wall and reinstate the parking spaces in accordance with the details approved under referenced 17/00982/FUL
 2. Return the site to its condition before development commenced in accordance with the approved planning permission 17/00982/FUL
 3. Remove the roller shutter and all associated housing from the approved building
 - The period for compliance with the requirements is 4 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. The main issues of the appeal are:
 - the effect of the appeal scheme on highway safety;
 - whether the appeal scheme provides safe and convenient access for people with disabilities; and
 - the effect of the appeal scheme on the character and appearance of the area.

Background

3. Planning permission, reference 17/00982/FUL, was granted on 15 December 2017, for the erection of a new retail unit at the site. Although the enforcement notice makes reference to the above planning permission, it is clear from the enforcement notice that the allegation is unauthorised development, not a breach of condition. The planning permission includes an adjacent building and car parking area which is outside the red line boundary shown on the enforcement notice. For the avoidance of doubt, the enforcement notice only

relates to land within the red line boundary of the enforcement notice plan and not the entire planning permission boundary.

Reasons

Highway safety

4. The appeal site is located in an area which comprises a number of commercial uses at ground floor level. Although there was parking in the wider area, on street parking demand along Staveley Road was significant during my visit. During my visit I saw that parking on both sides of the road in this part of Staveley Road obstructs the free flow of traffic due to the limited width of the road. Whilst this is a snapshot in time, I have no evidence to suggest this is not representative of demand in the area.
5. Policy AM15 of the Wolverhampton Unitary Development Plan (UDP)(2006) seeks to ensure that proposals contribute towards improving road safety, amongst other things and policy D11 sets out that development proposals should be designed to provide safe and convenient access for people with disabilities, and sets out measures, including the provision of dedicated parking spaces. Policy AM12 seeks to secure minimum levels of disabled car parking, amongst other things. Although the Council did not refer to policy AM12 in its enforcement notice, it did refer to it in its Statement of Case, which the appellant has had the opportunity to comment on through this appeal.
6. The appeal scheme has resulted in the loss of three parking spaces to the front of the building, including a disabled parking bay. Although there is parking to the rear of the building, the building appears to have been constructed over an area designated as a loading bay and bin store, which would need to be located elsewhere within the wider site, reducing the availability of parking within the car park.
7. The appellant advises that a transportation statement is being prepared, however, I have no such document before me and am therefore unable to give this matter weight. I have no substantive evidence to suggest that the parking approved by planning permission 17/00982/FUL is no longer required or that the use of the building would not generate a requirement for parking.
8. The appeal scheme has resulted in the loss of parking, including disabled parking, increasing the likelihood that visitors to the site will park on Staveley Road. This in turn is likely to lead to congestion and harm to highway safety, contrary to policies AM12, AM15 and D11 of the UDP, the requirements of which are set out above.

Accessibility

9. The access to the front of the building is stepped, which limits accessibility to people with mobility impairments. Furthermore, as set out above, the building has been constructed on land which is designated as a disabled bay and the wall which has been constructed prevents vehicular access to the front of the building.
10. The appellant advises that he is amending the access arrangement to allow disabled access. However, no details have been provided as to what this would comprise and so I am unable to afford this matter any weight.

11. For the reasons given above, the appeal scheme fails to provide safe and convenient access for people with disabilities, contrary to policy D11 of the UDP, the requirements of which are set out above.

Character and appearance

12. During my visit, although roller shutters were in use on the adjacent site, I did not see a roller shutter in use within the appeal site. Nevertheless, the appellant does not dispute that one was present when the enforcement notice was served. The building is located in a prominent position, fronting onto Staveley Road. The use of a roller shutter in this location would create a dead frontage which would diminish the character and appearance of the area.
13. The appellant suggests the use of a perforated roller shutter, or restricting the use of a roller shutter between the hours of 22:00 and 09:00. However, no details of the perforated roller shutter are provided and so I cannot be sure what its effect would be on the character and appearance of the area.
14. Although it would be possible to restrict the use of the roller shutter by condition, this would still lead to a dead frontage outside those hours and would diminish the character and appearance of the area, contrary to policies D6 and D9 and HE1 of the UDP and ENV3 of the Black Country Core Strategy (2011)(BCCS), which all seek design which respect local character, amongst other things and policy CSP4 of the BCCS which seeks to ensure that the pedestrian environment is closely associated with active frontages at street level.

Conclusion

15. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR