



Appeal Decision

Site Visit made on 3 August 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2021

Appeal Ref: APP/C4615/W/21/3274698

The Coach House, Cobden Street, Wollaston, DY8 3RU

- 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 Lyndenway Limited against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P21/0143, dated 21 January 2021, was refused by notice dated 18 March 2021.
 - The development is described as installation of 2 air conditioning units with cover to provide screening (revised scheme).
-

Decision

1. The appeal is allowed, and planning permission is granted for installation of 2 air conditioning units with cover to provide screening, at The Coach House, Cobden Street, Stourbridge DY8 3RU, in accordance with the terms of the application, and the following conditions:
 - 1) The works shall be completed in accordance with the following approved plans: Location Plan 18-1043 Hemming, Block Plan 18-1043 Hemming, and drawing number LGA 284D01 Rev B.
 - 2) The materials used to screen the units shall be as specified in the application and illustrated in the 'Timber Screen Example' shown on approved drawing ref LGA 284D01 Rev B.
 - 3) The rating level of sound emitted from the approved air conditioning units shall not exceed background sound levels by more than 5dB(A) between the hours of 0700- 2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Preliminary Matters

2. I have used the description of development provided on the planning application form, although I have removed the phrase "revised scheme" from the description as this does not describe development. The description of development on the Council's Decision Notice differs to that on the application form; in particular, it does not specify the number of air conditioning units

applied for. The Officer Report refers to four units. I have not been provided with any evidence that the appellant agreed to a change of description. I have therefore made my decision based on what was applied for, ie 2 units and a screen, as identified in the documents submitted by the appellant.

3. I observed that the 2 air conditioning units have already been installed. I have made my decision taking this into account.
4. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. I sought the views of the main parties as to the relevance of any changes; no comments were received. Whilst some content has been added and paragraph numbers changed, the substance of the Framework with respect to the main issue of this case has not. I have taken account of the revised Framework in my decision.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupiers of existing properties, in particular properties to the rear of the site on The Dell, with regard to outlook and noise disturbance.

Reasons

6. The site comprises a 2-storey building constructed of brick under a dual-pitched, slate tiled roof. The building is positioned at the end of a terrace of courtyard garages located to the rear of properties on both Cobden Street and The Dell. The terrace of garages is constructed with brick elevations to the side and rear, brick piers at the front, a shallow pitched roof of mainly corrugated material, and most have up-and-over metal doors. The building is in use as a pet grooming parlour. There is a sub-station located adjacent to the southern boundary of the site. In planning policy terms, the site is in a residential area and the building is located just outside the boundary of the Wollaston Conservation Area.
7. There is a timber fence, around 2 m high, along the boundary between the appeal building and the rear garden of No. 36 The Dell. The rear elevation of the building faces the rear elevation and garden of No. 36. The air conditioning units are located at first-floor level on the rear elevation of the property, positioned a little above the height of the boundary fence and close to the boundary with No. 36. They would be enclosed in a slatted timber structure.
8. I note the submissions from the occupiers of No. 36 The Dell suggesting that the distance a slatted screen structure would have to be from the units for them to operate appropriately would be further than that shown on the plans. However, my decision is based on the details shown on the plans, as that is the proposal before me.
9. The proposed slatted timber screening would enclose the 2 air conditioning units, creating a relatively shallow, oblong-shaped structure that would project a little off the rear elevation of the building above the passageway at the rear of the property. I consider the timber slats would provide a lightweight appearance to the structure, rather than a dense mass of timber sheets.
10. I consider the timber structure would be relatively small and given that it would be viewed in the context of the timber fences sited along the rear boundaries of the closest neighbouring properties, I consider the development would not be

overbearing on the occupiers of these properties. I also consider that the timber structure, which would screen the air conditioning units, would not harm the outlook from the neighbouring properties on The Dell.

11. I note the concerns raised by the occupiers of No. 36 The Dell during the planning application process regarding noise disturbance. At the time of my visit the units were not emitting any noise. However, I appreciate that some noise could be emitted when they are in operation, noise which is likely to be audible in the rear garden of No. 36.
12. I note the consultation comments provided by the Council's Environmental Safety and Health Team (ESHT), which suggest that such noise would cause annoyance to occupiers of No. 36 when using their rear garden. However, the ESHT comments suggest that if the noise emitted from the units does not exceed certain levels at specified times of the day and night, ie levels based on British Standards guidance, then the level of noise emitted would not have an adverse effect on the living conditions of the occupiers of No. 36. I also understand that there is a condition attached to the current planning permission for use of the appeal property which restricts the hours of operation to mainly 08:00 to 18:00 Monday to Friday.
13. Bearing these factors in mind, I consider that a suitable condition could be attached to a permission to ensure noise generated by the air conditioning units is not of a level that would harm the living conditions of existing occupiers of residential properties in proximity of the site, in particular occupiers of No. 36 The Dell.
14. Considering all the above, I conclude that the development would not harm the living conditions of occupiers of neighbouring properties close to the site with respect to outlook or noise disturbance. As such, the development accords with Policies ENV2 of the Black Country Core Strategy (2011), S6, D2 and L1 of the Dudley Borough Development Strategy (2017). Collectively, and among other things, these policies require development to be well designed, appropriate to the character and appearance of the area in terms of siting, scale, and materials and not to cause unacceptable harm to the living conditions of existing occupiers of neighbouring dwellings.

Other Matters

15. I have a statutory duty to ensure the development preserves or enhances the character or appearance of the Wollaston Conservation Area (CA). I consider that the CA derives its significance mainly from the pattern of its streets, some individual and groups of buildings and the open space trees and hedges. I consider the appeal site is located within the immediate setting of the CA. However, I consider that the appeal site and the immediate neighbouring buildings outside of the CA do not positively contribute to the setting of the CA.
16. Within this context, and given the development would not harm any views into the CA, I conclude that the development would preserve the CA.

Conditions

17. I have taken account of the conditions suggested by the Council and guidance in the National Planning Policy Framework and Planning Practice Guidance. I have not attached a condition regarding the timescale within which development must be begun, given that development has already started. I

have attached a condition specifying the approved plans for the avoidance of doubt. I have attached a condition regarding materials in the interest of the character and appearance of the area. A condition restricting the level of noise emitted from the approved air conditioning units is attached to protect the living conditions of occupiers of neighbouring properties.

Conclusion

18. For the reasons outlined, I conclude that the appeal is allowed.

J Williamson

INSPECTOR