



Appeal Decision

Site visit made on 11 January 2022

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/G4620/W/21/3284185

Madina House, 24 Walsall Street, Wednesbury, West Midlands WS10 7PY

- 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 Madina Education Trust against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/65649, dated 5 May 2021, was refused by notice dated 4 August 2021.
 - The development proposed is proposed additional use for storage of deceased body and extension to house cold room with new pitch roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposal on highway safety.

Reasons

3. Pritchard Street is regularly and heavily parked with vehicles. Double yellow lines extend from Walsall Street into Pritchard Street, giving highway protection to the junction. Hearses currently park on the double yellow lines so that coffins can be unloaded and loaded to an entrance off Walsall Street.
4. Hearses would continue to park on the double yellow lines but use an entrance off Pritchard Street to bring in deceased bodies for storage. The appellant suggests that there would be no more than three bodies stored on site at any one time but it is not clear how many vehicle trips this would translate to. It is also not clear if the entrance off Walsall Street would become redundant for the movement of deceased bodies or if both entrances would continue to operate, to meet demand. I appreciate that exact numbers will depend on the frequency of death. However, the appeal site has been in operation for many years and therefore some indication of the frequency of vehicle movements could be given. The numbers of vehicles associated with the appeal proposal is a decisive omission from the evidence.
5. Vehicles parked on double yellow lines and close to the junction with Walsall Street would form an unwarranted obstruction to passing traffic. This, in turn, would make it difficult for vehicles to navigate the junction safely, posing a risk to highway safety.
6. I recognise that it is not illegal to park on double yellow lines for loading and unloading. However, the double yellow lines are in place to protect the

junction from traffic accidents and congestion. To allow the appeal proposal knowing that it would rely heavily on the use of double yellow lines which have been put in place for safety reasons is not, to my mind, good planning. Furthermore, the double yellow lines are not within the appellant's control. Should other vehicles be parked on double yellow lines for loading/unloading purposes, hearses would be forced to park elsewhere in the area. Given that Walsall Street is a busy throughfare and Pritchard Street is heavily parked, this would cause a serious competition for parking.

7. It seems from the evidence before me that the current premises has operated without objection or complaint or without reports of vehicle or pedestrian accidents and collisions. However, evidence from the past cannot be used to reliably predict incidents in the future, particularly when the appeal proposal suggests a material change in the use of the premises.
8. I have been referred to St Pauls Church on Woodgreen Road. There is nothing within the evidence before me to suggest that the competition for parking here is anything like that on Pritchard Street. There is no evidence to refute the Council's comment that there is no storage of bodies on site at St Pauls which therefore does not compare with the appeal proposal. Plus, I have no details about the frequency of vehicle movements and parking at St Pauls Church to compare with the development proposed. And so, St Pauls Church does not set a precedent in favour of the appeal.
9. All in all, the development proposed would create a competition for parking and unduly hazardous driving conditions with the potential for significant conflict between road users. The Council have not referred to the development plan in refusing the planning application on highways grounds but found the proposal contrary to the National Planning Policy Framework (2021) (the Framework). The Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. For the reasons given I have found that this would be the case.

Other matter

10. The Council has referred to the development proposed being unacceptable in the context of the houses and the children's nursery nearby but has not expressed this within the reason for refusal. The Council's Environmental Health Officer raised no objection to the use but suggested that further details re noise be sought.
11. Currently, deceased bodies are transported in front of the children's nursery and therefore in greater view than would be the case if the entrance on Pritchard Street was used for this purpose. Nonetheless, this access is shared with residents and immediately adjoins a residential property. Furthermore, if for any reason a hearse cannot be parked on the double yellow lines, then a space elsewhere in Pritchard Street would be used. On both accounts, the increased visibility of deceased bodies in a residential area seems ill-fitting.

Conclusion

12. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R Walmsley INSPECTOR