



Appeal Decision

Site visit made on 16 August 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2022

Appeal Ref: APP/U4610/W/22/3293960

541 Foleshill Road, Coventry CV6 5AU

- 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 Jahangir Akhtar against the decision of Coventry City Council.
 - The application Ref FUL/2021/2301, dated 16 July 2021, was refused by notice dated 27 October 2021.
 - The development proposed is change of use from (Use Class E) to a Hot Food Takeaway (HFT) (Use Class Sui Generis), with limited sit in facilities and erection of a first-floor front extension.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council amended the description of the proposed development from 'change of use from office (property management) to A3/A5 eat in cafe/takeaway' to 'change of use from (Use Class E) to a Hot Food Takeaway (HFT) (Use Class Sui Generis), with limited sit in facilities and erection of a first-floor front extension'. The revised description has also been used by the appellant on the appeal form. I consider that the revised description represents a more succinct description of the proposed development and have therefore proceeded on this basis.

Main Issues

3. The main issues relevant to this appeal are:
 - the suitability of the site as a location for the proposed development, with particular reference to local planning policies;
 - the effect of the development upon the character and appearance of the surrounding area;
 - the effects of the developments upon the living conditions of the occupiers of the neighbouring property; and
 - whether suitable living conditions would be provided for the future occupiers of the proposed dwelling.

Reasons

Suitability of the site

4. The appeal site is located in a parade of commercial properties. The surrounding area therefore includes several business uses, including restaurants and takeaways. The wider area includes a school and a wide variety of residential accommodation.
5. In considering this appeal, I have been directed towards the Hot Food Takeaway Supplementary Planning Document (2019) (the SPD). Amongst other matters, this seeks to limit the provision of takeaways, particularly when close to schools. In addition, on my site visit, I noted the presence of several takeaways in the surrounding area. These appeared to sell a variety of different cuisines.
6. In result, the proposed development would lead to an even greater provision of takeaways. This is a concern given that the surrounding area is sensitive to the proliferation of unhealthy food options. Therefore, a further take away, in an area which is already well served by takeaways, would result in harm.
7. This is a concern as the appeal site is near to large amounts of residential accommodation in the surrounding area. In addition, the appeal site is near to a school. This school is within a very short walk of the appeal site. This means that the proposed development would be accessible to a great number of people. The development would encourage the participation in unhealthy eating practices due to its accessibility. Although the intended menu might include healthier options, there is not a mechanism before me which might secure this.
8. It might be intended for the proposed takeaway to offer a type of cuisine that is not currently available in the surrounding area. However, the planning system cannot compel or control the type of food sold from a business.
9. Therefore, there is a possibility that in the future the proposed development would not offer this point of difference. In addition, I note that the surrounding area already features a varied amount of choice. In result, I cannot give this suggestion a significant amount of weighting in my assessments.
10. The submitted documentation does not detail the provision of extraction equipment. This means that cooking odours are unlikely to be satisfactorily dispersed. This is a particular concern as such odours are likely to be notable in the surrounding dwellings, including their gardens. Therefore, the proposed development would cause some conflict with existing uses within the vicinity.
11. Whilst I note that the appellant intends to install such equipment prior to the first use of the proposed development, I do not have information before me that indicates whether planning permission has been granted, or would be forthcoming, for such installations. As such, I cannot be certain it would be provided in this timescale. Therefore, I give this point limited weight.
12. I therefore conclude that the proposed development would be sited in an inappropriate location. The development, in this regard, would conflict with Policies DE1, DS3 and R6 of the Coventry Local Plan (2016) (the Local Plan) and the SPD. Amongst other matters, these seek to ensure that developments respond to the physical context of the site; result in increased health, wellbeing and quality of life; would not result in harmful cumulative impacts due to the

existence of any existing or consented proposed outlets; and would not fall within a five-minute walk from the gate(s) of any primary or secondary school.

Character and appearance

13. The appeal site is located within a predominantly commercial area. A notable feature of the site is that the first floor is currently recessed from the ground floor. It is proposed that this recess be infilled with the proposed first floor extension. The neighbouring properties are similar in that they also predominantly feature such a recess. However, there are also a limited number of buildings in the surrounding area that do not feature such a recess.
14. In result, the proposed extension would appear incongruous given that it would remove the recessed element. Furthermore, the projecting front gables that face the highway are not a feature that occurs with a degree of frequency in the surrounding area. Therefore, the proposal would be discordant.
15. This is a particular concern given that the appeal site is readily viewed alongside buildings that have comparable designs and proportions to each other. Although there are some exceptions in the wider area, the appeal site is similarly designed to the neighbouring buildings. The proposed development would therefore erode this character of similarity between buildings.
16. I recognised that the surrounding area features buildings constructed to differing proportions, however, these are located some distance away from the appeal site and therefore do not have the same character of similarity as experienced between the appeal site and the neighbouring properties.
17. In addition, the presence of buildings with the same projection of first and ground floor levels in the surrounding area generally occur adjacent to road junctions, or on buildings that were originally constructed in such a manner. Therefore, the presence of such buildings does not overcome my concerns.
18. The erosion of the area's character is particularly concerning given the relative prominence of the appeal site. the proposed extension would be readily apparent from some distance away owing to the pattern of development in the surrounding area, the general topography and the shape of the highway. In result the proposal would be readily perceptible and would be experienced by potentially a large number of people. The proposed extension would therefore be discordant with in this regard.
19. Although the proposed development involves work to an existing building, the changes are so significant that it can be described as a new dwelling.
20. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies DE1 of the Local Plan; and the Design Guidance for New Residential Supplementary Planning Guidance (1991). Amongst other matters, these seek to ensure that developments consider local distinctiveness and maintain the existing character of an area.

Living conditions for neighbouring occupiers

21. The proposed development would result in the provision of a front extension to the building. The appeal site is similar to its neighbouring property in that the ground floor is set further forward from the first-floor elevation. The evidence

- before me is indicative that the upper floor of the neighbouring property is used as a dwelling.
22. By reason of the portions of the proposed extension, the development would breach a 45-degree line when measured from the window of the neighbouring property at first floor level. This is a concern as given the projection of the extension the level of outlook available to the occupiers of the neighbouring dwelling would be significantly reduced.
 23. By reason of the height and projection of the proposed extension there would be an overbearing effect upon the room served by the first-floor, front elevation window of the adjoining building.
 24. This arrangement would therefore limit the ability for residents to undertake their full range of activities within their home owing to the overbearing effect arising from the proposed development.
 25. In addition, the proposed extension would also significantly restrict the level of natural light available for occupiers of the neighbouring dwelling. This would ensure that residents of the neighbouring property would be particularly reliant upon artificial lighting in order to undertake normal domestic activity.
 26. This is particularly concerning as owing to the orientation of the appeal site, this loss of light would occur during the middle part of the day. In result, the overall effects on light levels would be particularly significant. This would be exacerbated by the roof height of the proposed development. Given the close proximity of the extension to the neighbouring property, it would not be possible for these adverse effects to be mitigated.
 27. My attention has been drawn to an existing extension elsewhere. I do not have the full information regarding the planning circumstances of this. Nonetheless, I note that it is constructed to a contrasting design and alongside differently designed buildings when compared to the appeal site and its immediate neighbours. In consequence, I give this matter a limited amount of weight.
 28. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of the neighbouring property. The development, in this regard, would conflict with the requirements of Policy DE1 of the Local Plan; and the Extending Your Home – A Design Guide Supplementary Planning Guidance. Amongst other matters, these seek high quality design, which must be complementary to their surroundings.

Living conditions for future occupiers

29. The existing development currently features a flat on the first-floor level. It is intended that this would be retained following the implementation of the proposed development however there would also be an office to serve the business located on the first floor and within the proposed extension.
30. By reason of the proportions of the office, the resultant room within the dwelling would be of an irregular shape. Of particular note, is that the window that is intended to serve this room would be located in a particularly narrow part of the room. The room would subsequently have wider proportions.
31. Due to this layout the levels of light and outlook available for occupiers of the room would be significantly reduced. This is due to the relatively small size of

the window and also the fact that it would not be directly adjacent to the part of the room that is of the most regular proportions and largest area.

32. This section of the room, by reason of its proportions, is likely to be the area that is most widely used either for activities such as recreation, relaxation or sleeping. Therefore, the projected levels of lights and outlook would mean that the occupiers do not experience appropriate living conditions.
33. This effect would be exacerbated by the fact that this is the only window that would serve the room and therefore it would not be possible to mitigate or overcome these adverse effects. These adverse effects would be exacerbated by the orientation of the appeal site, which means that direct sunlight into the room would only occur for limited portions of the day. Therefore, the proposed development would not benefit from appropriate levels of natural light to serve the occupiers of the dwelling.
34. In reaching this view, I have had regard to the fact that the appeal site contains an existing dwelling. However, the changes in the layout and fenestration would result in a notable change in the level of living conditions, when compared to the existing home.
35. It has been suggested that the proposed extension could be omitted from the proposed development. Whilst this is a matter of note, it would result in a proposal that would be notably different from the appeal scheme. In consequence, it would cause prejudice to have regard to this suggestion.
36. I therefore conclude that the proposed development would not provide appropriate living conditions for the future occupiers of the development. The development, in this regard, would conflict with Policies DE1 and DS3 of the Local Plan. Amongst other matters, these seek to ensure that developments increase quality of life; and seek high quality design.

Other Matters

37. The concerns that have been raised regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Conclusion

38. The development would not be located in an appropriate location; would have an adverse effect upon the character and appearance of the surrounding area; would not provide appropriate living conditions for the future occupiers of the development; and would erode the living conditions of neighbouring occupiers. The proposed development therefore conflicts with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR