



Appeal Decision

Site visit made on 25 April 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2023

Appeal Ref: APP/D4635/W/22/3305942

Shadi Sweets Centre, 10 Craddock Street, Wolverhampton WV6 0QJ

- 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 M Zareed against the decision of Wolverhampton City Council.
 - The application Ref 21/00899/FUL, dated 20 January 2021, was refused by notice dated 5 May 2022.
 - The development proposed is described on the application form as 'proposed three two bedroom flats with three live-work units'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have been provided with neither an officer's report or a statement of case by the Council, and consequently I have based my assessment of their concerns on the reasons for refusal as set out on the decision notice.

Main Issues

3. The Council's 6 reasons for refusal are interlinked and I have summarised these into 4 main issues as follows:
 - the effect of the proposal on the character and appearance of the surrounding area, with particular regard to refuse facilities;
 - the effect of the proposal on highway safety, with particular regard to parking and servicing provision;
 - whether the proposal would provide acceptable living conditions for future occupants with particular regard to the provision of private garden space and natural light, and the relationship of the proposal to existing commercial activity; and
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties in Warmley Close and Dunstall Lane, having particular regard to privacy.

Reasons

Character and appearance

4. The appeal site is located towards the end of a residential road comprising of terraced houses. The building is set a short distance back from the pavement

and has a building line similar to that of its neighbours. It is two storeys in height and has a pitched tiled roof.

5. The appellant has confirmed that the proposal relates to the change of use of the first floor of the appeal property, which is currently disused, and there are no new building works proposed. That said, I note that the planning drawing, when compared with the survey drawing, indicates a new pedestrian entrance to the storage area at ground floor level and alterations to the first-floor windows. On the rear elevation a ground floor window is shown to be filled in and alterations made to the first-floor windows. Given the limited nature of these alterations I find that they would not have a significant harmful effect on the character and appearance of the area.
6. Notwithstanding the above, the proposal would introduce a need for additional refuse facilities. On my site visit I noted that a commercial wheeled refuse bin and a clothing bank recycling bin are already located on the forecourt of the property. Two additional bins are proposed in this area. Whilst accepting that the refuse bins, and recycling bin, would be in a convenient location for the collecting authority, they would occupy a prominent location within the street scene. I note that the appellant proposes to enclose the bins in a bin storage unit, or possibly store them in the parking area. That said, I have been provided with no substantive evidence as to their intentions in this regard and as a result there is no certainty that this could be achieved to an acceptable standard. Consequently, I find that the refuse and recycling facilities would have a significant and harmful effect on the character and appearance of the area.
7. I conclude, on this main issue, that the proposal would be contrary to saved Policies B5, D4, and H6 of the Wolverhampton Unitary Development Plan 2001-2011 (UDP) and Policy ENV3 of the Black Country Core Strategy (BCCS) which jointly, amongst other matters, support developments that respect and enhance local character, and provide appropriate storage for waste awaiting disposal.

Highway safety

8. The appeal site is located a short distance from the junction of Dunstall Road with Craddock Street. Craddock Street is a mainly residential street with the majority of properties being terraced houses with no off-street parking provision. It is a busy road with 'No waiting at any time' restrictions in place on one side of the street. At the time of my visit the majority of the available on-street parking spaces were occupied by vehicles. I acknowledge that this represents only a snapshot in time, and the circumstances will change during the day and week, but I have no substantive evidence to indicate that this is not a typical situation.
9. Comments made by the Council's transportation unit indicate that a residential development of the type proposed, at this location, would be likely to generate 1.5 spaces per unit. Therefore, the proposal would need to provide 5 off-street parking spaces. They have also indicated a need to accommodate cycle storage, disabled parking facilities and an electric vehicle charging point. In this regard I note that no allowance has been made for the existing 'permitted' use of the appeal property.

10. Against this requirement the submitted drawings indicate the provision of parking for 6 vehicles, 1 disabled parking space, 1 parking space with an electric charging point and a cycle store. The appellant also asserts that the site has good public transport links, however no evidence has been submitted to substantiate this assertion.
11. At the time of my site visit the space earmarked for car parking was being used for the parking of vehicles and storage purposes. That said, it would provide secure off-street facilities and would meet with the requirements of the transportation unit with regards to parking space dimensions and manoeuvring.
12. The Council's transportation unit are also concerned that the live-work units will not solely be available to the occupiers of the proposed flats, and this may result in additional parking demand and traffic generation. In this regard I note that the Design and Access Statement, at paragraph 3.3, indicates the room sizes for each of the flats and their 'accompanying' workroom. Whilst this implies that there is a connection between the uses, in the absence of a planning obligation, or appropriately worded condition, there is no certainty that this would be the case.
13. The transportation unit are satisfied that, given the short duration taken for refuse collections, the impact of the scheme in this regard would not significantly affect traffic movements. However, they remain concerned that serving the proposed development would take far longer and would interrupt the free flow of traffic using Craddock Road. In this regard the Design and Access Statement indicates that each new workspace would be less than 15 sqm in floor area and would be suitable for crafts people, designers, dressmakers or any job that requires a small private working space. The appellant anticipates that they would not generate many visits and probably only by small vans.
14. I accept that the size of the workspace would limit the level of activity, however any additional servicing that occurs on the road outside the property, in close proximity to the road junction, when combined with servicing of the existing commercial premises, would be likely to have an adverse impact on the movement of vehicles. Therefore, the proposal would not allow for the efficient delivery of goods, and as a consequence would have an unacceptable impact on highway safety.
15. Accordingly, on this main issue, I conclude that the proposal would be contrary to Policies AM12, AM15 and B5 of the UDP and Policy ENV3 of the BCCS. These policies jointly, amongst other matters, support developments where servicing can be conducted without an adverse effect on highway safety and the free flow of traffic.

Living conditions for future occupants

16. Policy H6 of the UDP requires a high standard of design for all housing developments, including building conversions. It supports developments that provide an attractive green residential environment, including adequate private garden space. The policy does not quantify the amount of space that is considered adequate. However, in this case no garden space is indicated to be provided for the proposed flats.

17. I have taken into account the appellant's reference to the availability of public open spaces at West Park and Dunstall Wood. Whilst I acknowledge that these facilities are within a short distance of the appeal site, and provide recreational opportunities, I do not regard them as performing the same function as private amenity space attached to the property. Consequently, they do not meet the requirements set out in the development plan.
18. Policy H6 also supports the delivery of schemes that incorporate sustainable design principles, including good orientation for habitable rooms. The Town and Country Planning (General Permitted Development) Order 2015 defines 'habitable rooms' as "any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms".
19. The kitchens/lounges to the proposed flats would have a single aspect, however they would be of limited depth and be served by large windows. Therefore, I am satisfied that those rooms would receive a reasonable level of sunlight/daylight and natural ventilation. That said, the windows serving bedroom 2 in all of the flats are either limited in size, have restricted outlook or are absent altogether. Furthermore, the window serving bedroom 1, located in the rear elevation, is set at a high level and as a result has a limited outlook. Consequently, the proposed arrangement would provide a particularly oppressive and bleak living conditions for the occupants of the bedrooms.
20. Paragraph 119 of the National Planning Policy Framework encourages the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Policy EP5 of the UDP also indicates that a flexible approach should be taken, where possible, to mitigate the impact of existing commercial activity with particular respect to noise. However, in the absence of substantive evidence I am unable to conclude that the appropriate measures would be available to successfully mitigate against any disturbance arising from adjoining commercial uses.
21. I have also taken into account reference to the mobile phone arrays that are located on the ridge of the appeal property. Whilst I note the Council's concern about these features, I have no substantive evidence to indicate that harm would arise from their presence. Consequently, I have treated this as a neutral matter.
22. For the above reasons, I conclude, on this main issue, that the proposal would not provide acceptable living conditions for future occupants. Accordingly, the proposal would conflict with Policies B5, EP5 and H6 of the UDP and ENV3 of the BCCS which jointly seek, amongst other matters, a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions of occupiers of neighbouring properties

23. The first-floor windows in the rear elevation, which serve the proposed workrooms and a bedroom, are proposed to be at a height of 1750mm above first floor level. There would be a distance of approximately 29 metres between the windows and the houses to the rear. Consequently, any views from these windows into the neighbouring properties in Warmley Close and Dunstall Lane would be limited, and the privacy of the occupants would not be significantly

affected. That said, there would be views into gardens of the properties in Dunstall Lane from the windows on the stair landing. This could be mitigated against by the use of obscure glazing, which could be secured by an appropriately worded condition.

24. I conclude, on this main issue, that subject to an appropriately worded condition with respect to the first-floor landing window, the proposal would not harm the living conditions of neighbouring properties in Warmley Close and Dunstall Lane. Accordingly, the proposal would not conflict with Policy D8 of the UDP which, amongst other matters, seeks developments that do not adversely affect people's amenities in respect of privacy.

Other Matters

25. I have taken into account comments made in respect to a pedestrian access from Warmley Close to the rear of the appeal site. On my site visit I noted a narrow grass track between the fenced gardens of Nos 52 and 54. The narrow grass track does not form part of the appeal site. Moreover, I have no evidence before me to indicate what rights the appellant may have over it. Consequently, I have treated this as a neutral matter.
26. I am also aware of the representations made by residents of properties in Dunstall Lane with respect to a proposed rear pedestrian access, as shown on the submitted drawing. As far as this matter is concerned, I note that the application was supported by a Certificate A under Article 14 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 which indicates that all of the land forming part of the application site is in appellant's control. The neighbouring occupants contest this matter and indicate that the appellant has no legal right of access over the affected land. However, this is a civil matter and not an issue that I am able to address.
27. I acknowledge that the use of redundant space, and the employment generation that would arise from the provision of workspace units, would be a benefit which would weigh in favour of the proposal. I also accept the proposal would deliver 3 residential units that could provide a flexible and affordable form of accommodation which would avoid the need to travel to work. However, these benefits do not outweigh the significant harm that I have identified above.

Conclusion

28. I have found no conflict with the development plan with regards to the impact of the proposal on the privacy of the neighbouring residents. However, this is a neutral matter and does not outweigh the harm that I have found with regard to the character and appearance of the area, highway safety and the living conditions of future occupiers.
29. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR