



Appeal Decision

Site visit made on 5 December 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2024

Appeal Ref: APP/R1845/W/23/3324160

96 Canterbury Road, Kidderminster DY11 6DH

- 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 H Sanghera, of Sanghera Property Holdings Ltd, against the decision of Wyre Forest District Council.
 - The application Ref 22/0953/FUL, dated 23 November 2022, was refused by notice dated 30 March 2023.
 - The development proposed is Change of use and alterations to existing stores to form 2 bedroom apartment.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - i. whether or not adequate living conditions would be created for future occupiers of the proposal, with reference to noise and disturbance,
 - ii. whether the living conditions of future occupiers of the proposal would be acceptable, with particular regard to the provision of outdoor amenity space.
 - iii. the effect of the proposal on highway safety.

Reasons

Living conditions, noise, and disturbance

4. The appeal property (No 96) is located at the end of a row of commercial premises on Canterbury Road, at its junction with Shrewsbury Road, in an otherwise urban residential area. The commercial premises have shop fronts at ground floor and residential accommodation at first floor. The buildings front onto Canterbury Road, with the rear of the buildings containing servicing areas for the commercial premises.

5. The appeal site includes a single storey, flat roof storage building, with a large footprint, which is attached to No 96 at the rear. A fish and chip shop (No 96A) immediately adjoins No 96 and pedestrian access is provided through the storage building to the rear of No 96A.
6. The proposed development would convert the single storey building into residential accommodation and internally, the proposal would comprise of two bedrooms, bathroom, kitchen, and an open plan dining / lounge. Outdoor amenity space is also proposed.
7. No 96 and 96A have associated external plant, including condensing units, on the external elevations of the buildings and on the flat roof of the storage building. Furthermore, the servicing bay for the commercial unit is located next to the proposed dwelling. There is no acoustic report before me, and I have no objective means of quantifying the noise impacts of the external plant or the use of the commercial buildings across the day and at night, including the associated comings and goings from traffic noise. The appellant has also not proposed any means of noise attenuation measures, if any, to be incorporated into the design of the building.
8. I acknowledge that the commercial units have residential accommodation directly above them and the site is adjacent to other neighbouring residential properties, including the more recent properties on Jordan Close. However, it is not known whether any restrictions are in place to mitigate the impact of those developments on the living conditions of neighbouring occupants. In any event, the issue of noise is highly fact sensitive and site specific, turning on the individual circumstances. Therefore, whilst there are other existing residential properties above and adjacent to the commercial units, this does not ease my concern that harm would arise in this case.
9. For the above reasons and on the evidence before me, adequate living conditions would not be created for future occupants of the proposal, with reference to noise and disturbance. It would thereby conflict with Policy SP.33 of the Wyre Forest District Council Local Plan 2016-2026 (LP), which amongst other things, seeks to ensure that development proposals are designed in order to avoid any significant adverse impacts on human health and wellbeing.
10. In addition, the proposal would fail to accord with the Framework, which seeks to ensure that new development can be integrated effectively with existing businesses.

Living conditions and outdoor amenity space

11. Two areas of outdoor amenity space are proposed, the larger area would be located to the front of the building adjacent to Shrewsbury Road. The smaller area is located immediately adjacent to Jordan Close, a small residential cul-de-sac, beyond the rear boundary of the appeal site.
12. Policy DM.3 of the LP sets out certain criteria for flat conversions to be considered acceptable. The criteria, amongst other things, seeks the provision of appropriate private amenity space and refuse storage.
13. There is dispute between the main parties about whether the proposed dwelling would be a residential flat or a bungalow. However, even if I were to accept that the proposed development is a bungalow, rather than a flat, the criteria

set out in policy DM.3 is a useful guide in assessing small residential accommodation, as is proposed.

14. The larger area of outdoor amenity space would be enclosed by a 1-metre high timber fence with, in parts, low level hedge planting behind. The area provides space for activities such as sitting out, drying clothes, and for children to play, albeit the size is limited for a 2-bed dwelling.
15. Furthermore, the location of the amenity area and the height of the fence would result in the area being exposed to high levels of overlooking and disturbance from passers-by and traffic, including the servicing bay for the commercial unit which is located next to the outdoor amenity space. Therefore, future occupiers would be deterred from using this area as a garden area. Likewise, the smaller area offers a limited prospect of being used by future occupiers, other than as an external storage area, due to its narrow width and its position next to the access road to the cul-de-sac and adjacent to neighbouring properties. On this basis, the available space would provide an unsatisfactory standard of outdoor amenity space for future occupiers.
16. I acknowledge that there is a public park in walking distance of the site that would provide public amenity space but this does not overcome the shortfall of adequate private amenity space for the future occupiers of the proposal.
17. For the reasons outlined above, I conclude on this main issue that the provision of outdoor amenity space for the future occupiers of the proposal would not be acceptable and would not accord with Policy DM.3 of the LP. In addition, the proposal would fail to accord with the objectives of the Framework which seek to create places with a high standard of amenity.

Highway safety

18. The access and parking provision for two vehicles, arranged in a tandem arrangement, is proposed off Shrewsbury Road, adjacent to its junction with Canterbury Road. The parking area is also immediately adjacent to the revised servicing and loading area for the commercial unit, as well as a junction with Jordan Close, which serves a small cul-de-sac of residential dwellings.
19. Shrewsbury Road, by virtue of its location within an urban residential area and its proximity to the small parade of shops and commercial activities on Canterbury Road, is well used by vehicle traffic and pedestrians alike.
20. Policies DM.3 and SP.27 of the LP, together and amongst other things, require that vehicular traffic from the development should be able to access the highway safely and that satisfactory access and provision for the parking, servicing, and manoeuvring of vehicles should be provided in accordance with the recognised standards, which includes the Worcestershire Streetscapes Design Guide (WSDG). These are consistent with the Framework, where paragraph 114 requires that safe and suitable access is available for all users, and paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 116(c) also states that developments should minimise the scope for conflicts between pedestrians, cyclists and vehicles and respond to local character and design standards.

21. The WSDG supports tandem parking spaces for an individual residential dwelling but that private access should be set out at 90 degrees to the adjoining carriageway. The proposed access is located on the junction of Jordan Close and is not set out at 90 degrees. The proposal is also positioned immediately next to the new servicing bay and near to the Shrewsbury Road and Canterbury Road junction.
22. I acknowledge that vehicle movements associated with the proposals would be infrequent and visibility is reasonable. However, the layout of the tandem parking arrangements and the proximity of the new access and parking arrangements, close to numerous junctions and the new servicing bay, in an area with reasonable levels of vehicle and pedestrian movements, as well as reasonable levels of on street parking, would result in unacceptable highway safety risk.
23. A residential property opposite the appeal site has a tandem parking arrangement. However, that property is located further away from the Shrewsbury Road and Canterbury Road junction and on the opposite side of the road to the appeal site. Therefore, whilst there may appear to be some similarities, the example parking arrangement opposite, has not eased my concern that harm would arise in this case.
24. For the reasons outlined above and on the evidence before me, I find that the development would have an unacceptable impact on highway and pedestrian safety. Accordingly, this would conflict with policies DM.3 and SP.27 of the LP and paragraphs 114, 115 and 116 of the Framework, which together and amongst other things, seek to ensure highway safety for all users.

Other Matters

25. The appellant has identified that the Council has raised no objections in respect of the external design of the proposals, impact on neighbouring amenity, visual amenity or on drainage or ecology grounds. I see no reason to disagree with the parties on these matters.
26. The appellant has suggested that there is an identified need for such accommodation, which they consider to be suitable for elderly occupation and that development plan policies support the need for this type of development. Likewise, they consider that the proposed development represents infill development and the principle of this type of development is supported by policies of the LP.
27. I acknowledge that the creation of an additional dwelling in a sustainable urban area, would contribute to boosting the supply of new housing, as referenced in the Framework. There would also be social and economic benefits to local services during the construction and occupancy phases. However, the benefit of one dwelling in boosting housing supply and elderly accommodation in the area would be limited. Therefore, even if I were to accept that the proposed development was infill and would provide much needed accommodation for elderly occupation, the harm that I have identified would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework when taken as a whole.

Conclusion

28. For the reasons set out above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate that a decision should be made other than in accordance with it. Therefore, the appeal is dismissed.

N Bromley

INSPECTOR