



Appeal Decision

Site visit made on 5 March 2024

by Graham Dudley BA (Hons) Arch Dip Cons AA

an Inspector appointed by the Secretary of State

Decision date: 19 March 2024

Appeal Ref: APP/D4635/C/23/3324575

Land Comprising 16 Alameda Gardens, WOLVERHAMPTON, WV6 9EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Rachel Bruerton against an enforcement notice issued by Wolverhampton City Council.
 - The notice was issued on 19 May 2023.
 - The breach of planning control as alleged in the notice is without planning permission, change of use from a residential property to a mixed use, residential dwelling and hairdressers.
 - The requirements of the notice are 1. To cease the use of the property as a hairdresser and 2. Remove the internal hairdressing station(s) and any equipment relating to the hairdresser.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) of the Town and Country Planning Act 1990 as amended. There is no ground (a) appeal or deemed planning application.
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Decision

1. The appeal is dismissed and enforcement notice upheld.

Reasons

Ground (c)

2. This is a residential area, where the director of the St Joseph's Place (Tettenhall) Management Company Ltd notes that there are no other business uses occurring, although some businesses have these as a registered address. It is a small residential cul-de-sac and has a quiet, distinctly residential character.
3. The appellant was told, after a visit by the Council, that a material change of use had not occurred and that planning permission was not required providing certain matters remained the same or did not occur. The appellant notes she relied on the officer's advice and nothing has subsequently changed. There has been a change to the garage door and window and it has building regulations approval, and it is not part of the requirements of the notice to remove them.
4. It is noted that customers arrive by car, walk or use public transport and it is also noted other people park in the cul-de-sac. The appellant says there is plenty of parking on site, with a maximum of eight customers a day and hours are to be limited. The hairdressing only takes place in half the garage, which is a small part of the overall space and it is also used for other purposes.
5. It is said the use is for friends and family, but a third party has provided a web advertisement for the hairdresser. The appellant accepts that there has been

- an increase in activity, but does not accept it is a material change, but maintains that the use remains incidental to the dwelling.
6. There has been a mixed reaction from local residents, with some support and some opposition, in particular there is a petition against the use signed by local residents, but this does not provide evidence in relation to any nuisance caused. Residents of the area identify difficulties with parking occurring, although it is difficult to conclude a particular problem is the result of the appeal use. However, clearly parking is an issue and users of the appeal building who come by car would add to parking, although parking can occur on the appellant's land.
 7. A schedule has been provided by an objector for some days and this shows 17 visitors on Thursday 10 November 2022, 14 visitors on a Friday 11 November 2022 and 8 on Saturday 12 November 2022. It is not possible to discern the purpose of the individual visits, and this is only a snapshot, but clearly this would not be a normal pattern of comings and goings at a residential property. This includes what is identified as an employee, but I understand that has now stopped.
 8. The number of regular visits to the premises is more than could reasonably be expected for a residential use. This number of visitors will have a small effect on parking, increase activity beyond expected for a residential property and clearly materially changes the character of the use. I note the appellant says that the use will be limited, with no employees, and days of the week will be limited, as would hours of operation. The appellant is also willing to provide a planning obligation to control these matters. However, these matters are properly considered and controlled in a planning application.
 9. Interested parties note the presence of a covenant in the area that prevents business use of the houses. This is a legal matter that will need to be taken up with others and is not a planning matter and has no effect in relation to this appeal.
 10. I conclude overall that the use materially affects the character of the area and that planning permission is required, so the appeal on ground (c) fails.

Ground (f)

11. Ground (f) asks if the steps required by the notice exceed what is necessary to remedy the breach or any injury to amenity. There is no ground (a) appeal related to the merits of the case to consider compliance or not with planning policy. Clearly the Council's intention in the notice is for the breach of planning control to be remedied. The only way that this can occur is if the use ceases. This is not excessive. The appeal on ground (f) fails.
12. I have taken into consideration the Human Rights Act and the European Convention on Human Rights and recognise that dismissal of the appeal would interfere with those rights. However, given the breach of planning law, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is proportionate to the situation.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Graham Dudley

INSPECTOR