



Appeal Decision

Site visit made on 28 February 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2024

Appeal Ref: APP/C4615/W/23/3330901

173-176 High Street, Quarry Bank, Dudley DY5 2AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Robert Walker of Hawthorne and Walker against Dudley Metropolitan Borough Council.
 - The application Ref is P23/0665.
 - The development is for the proposed construction of 5 number 1 bedroom 2 person apartments.
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Decision

1. The appeal is dismissed and outline planning permission for the proposed construction of 5 number 1 bedroom 2 person apartments is refused.

Preliminary Matters

2. The application is submitted in outline with all matters reserved for future approval. I have dealt with the appeal on this basis and have treated the submitted indicative layout plan as illustrative.
3. Notwithstanding that access is a reserved matter, the illustrative plan shows that it is intended vehicular access for the proposed development would be via the existing access to the site leading from Chapel Street. Therefore, I consider this satisfies the requirement of paragraph 5 (3) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015, as amended, that an application for outline planning permission must state the area or areas where access points to the development proposed will be situated.
4. The appeal site, as outlined in red, differs on the various submitted plans. However, as the proposed site plan is for illustrative purposes only, I have considered the appeal site area to comprise that shown on the site location plan and existing site plan and so, includes the existing buildings which front onto High Street and existing passageways that lead through to High Street.

Main Issues

5. Having regard to the Council's statement of case and the concerns they have raised therein; I consider the main issues in this appeal are the effect of the proposed development on:
 - highway safety with regard to access and parking;

- the viability of existing businesses along High Street, in respect of parking and servicing related thereto; and,
- the character and appearance of the surrounding area in respect of its position and relationship with surrounding buildings.

Reasons

Highway safety

6. Proposed means of access is reserved for future consideration. However, in having regard to the site location plan and from my observations the only likely possible vehicular access would be from Chapel Street, via the existing access used for the parking and servicing of properties in High Street. This access is shown to be only 4.8 metres wide, and therefore is less than the Council's required minimum width of 5.2 metres, plus a 2 metres wide footway.
7. Whilst the means of vehicular access would be the same width as the existing access, the proposal would likely intensify the use of the access, as it would serve the proposed apartments and provide some concessionary parking spaces for the existing dentists on High Street. Also, I do not have any substantive evidence about the parking arrangements for the existing apartment above 175-176 High Street nor, how the servicing requirements for the butchers' premises would be accommodated within the proposal.
8. High Street is a busy main road, with a bus route and there are double yellow lines in front of Nos 173-179 High Street. Therefore, servicing from High Street would not likely be possible. I also observed that there are clear instructions that customer parking for the butchers is at the rear of the premises, within the appeal site, but the displacement of such is not explained within the proposed scheme. Accordingly, this could place unacceptable pressure on the local highway and other parking within the surrounding area.
9. The proposed indicative site layout plan, furthermore, does not demonstrate that all the existing parking and servicing needs can be accommodated in addition to the requirements for suitable and safe access and parking for the proposed apartments.
10. In view of the above and without any substantive evidence provided to the contrary, I consider that the proposed development would likely cause harm to highway safety in respect of access and parking, in conflict with Policy S17 of the Dudley Borough Development Strategy (March 2017) (DBDP) and Policy TRAN2 of the Black Country Core Strategy (February 2011) (BCCS). Policy S17 of the DBDP requires amongst other things, that adequate provision is made on site for the managing of delivery operations and the servicing of new properties and businesses. Policy TRAN2 of the BCCS sets out that planning permission will not be granted for development that is likely to have significant transport implications, unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety for all modes of transport to and from all parts of the development.
11. Additionally, it has not been appropriately demonstrated that the proposal would comply with the purpose of the Dudley Borough Parking Standards Supplementary Planning Document (SPD) (September 2017), to ensure future development provides sufficient parking that will not result in on-street parking

congestion to the detriment of the safe and efficient operation of the public highway.

Viability of business premises

12. I have not been provided with any substantive evidence in respect of the operational and servicing requirements of the existing businesses which currently use the appeal site. However, from my observations and representations received from interested parties, the appeal site and access from Chapel Street is currently being used for servicing and parking for the wholesale butcher's and parking for the dentists.
13. The indicative proposed site block plan shows that some concessionary parking spaces could be provided for the dentists, although it is not shown whether this would be sufficient to meet the existing business operational needs. Also, the proposal does not demonstrate how or where the servicing and parking for the butchers would be as part of the proposal. As noted above, due to parking restrictions along High Street, this would not be a potential viable option. Furthermore, any servicing direct from High Street would likely cause congestion and obstruction to the public highway even on a temporary or infrequent basis.
14. There is a small public car park in Chapel Street that had spaces available at the time of my visit, which could be used by customers and employees, and there is also a bus route along High Street, but this could not meet the servicing needs of the businesses.
15. In view of the above, it has not been demonstrated that the proposed development would ensure no harm would be caused to the viability of existing businesses along High Street, in respect of parking and servicing related thereto. This is contrary to Policy S17 of the DBDP which requires amongst other things, that adequate provision is made on site for the managing of delivery operations and the servicing of new properties and businesses.

Character and appearance

16. The appeal site lies within a mixed-use, built-up area. There are principally commercial premises along High Street and residential development in Chapel Street. The appeal site includes a wholesale butchers fronting High Street and associated storage building and servicing areas at the rear. Above 175 and 176 High Street is a residential flat accessed via a rear external staircase.
17. Most of the appeal site is an area of informal hardstanding surrounded by existing development, with some trees and vegetation towards the rear and side site boundaries. The hardstanding area is used for parking and provides service access to the butchers, in addition to parking provision for other High Street premises. Vehicular access is gained via Chapel Street and there are pedestrian accessways from the main part of the appeal site leading through to High Street, located between 179 and 176 High Street and adjacent to 173 High Street.
18. Where the proposed apartments would be situated, the land is surrounded by existing development, set behind two-storey buildings fronting High Street and set back significantly from Chapel Street, beyond existing development. Due to the position of surrounding development and land level variances in the area, it is unlikely the proposed apartment block would appear prominent from any

public vantage points. It would also not appear as an overly isolated and incongruous form of development, subject to its height and scale.

19. Whilst predominately there are terraced two-storey properties fronting onto High Street, there are also examples of buildings with larger footprints which are set back from High Street, namely the Church and Sunday School to the north-west of the appeal site. There are examples of dwellings and other buildings set to the rear of commercial premises along High Street that are accessed from Chapel Street. Also, there is variety of building form, scale, and position of buildings along this part of Chapel Street, where the development is proposed. Therefore, a building with a larger footprint, located behind other properties and accessed from Chapel Street would not, in principle, be unsympathetic to the established mixed character and form of development in the surrounding area.
20. Even though the proposed apartments would be sited behind existing development, there would be opportunities for direct pedestrian access links to both High Street and Chapel Street, as demonstrated from the proposed illustrative block plan. Such pedestrian links through to High Street, would provide future occupiers of the proposed development accessibility to bus services, which I observed operate along High Street.
21. Whilst the submitted site block plan does not provide a suitable layout for the proposed development, this is solely for illustrative purposes and so only shows an example of how development of the 5 proposed apartments could be achieved within the site. The proposed development would deliver 5 1-bedroom dwelling units on brownfield land, where higher density form is not uncommon within the surrounding area. Such forms of development are supported by the National Planning Policy Framework (the Framework).
22. Having regard to the above, the proposed development would not be harmful to the character and appearance of the surrounding area in respect of its position and relationship with surrounding buildings. Therefore, I find the proposal would not conflict with Policy L1 of the DBDP, which amongst other matters, supports housing development on previously developed land provided, amongst other matters, the design of development is of appropriate form, siting, scale, and mass, which respect and are responsive to the context and character of the surrounding area.
23. Also, subject to conditions in respect of the scale and form of the development, the proposal would not conflict with the Dudley Council Residential Design Guide Supplementary Planning Document (SPD), (May 2023), which amongst other matters, sets out the overarching design principles to achieve new housing development that is appropriate and sympathetic to its surroundings, requiring an understanding of the context of the development and the character of the surrounding area.

Other Matters

24. That the planning application was not determined by the Council within the statutory time period is not a justified reason in itself to allow the appeal. The appellant furthermore raises concerns that the Council did not provide a reasonable level of service in dealing with the planning application. However, the quality of service provided by the Council is not a matter that falls within my remit in the consideration of a planning appeal. Notwithstanding this, I

have however found the proposal would cause harm in relation to two of the main issues.

25. There is some dispute raised in relation to the landownership of the appeal site. The dentists who occupy 179-180 High Street state they own and park on part of the appeal site, yet the appellant has completed a certificate A ownership declaration setting out that they are the sole owners of the appeal site. Whilst the evidence provided is not conclusive in relation to the ownership of all of the land at the rear of the buildings along High Street, as I have found harm in relation to some of the main issues and so dismissing the appeal on such basis, I have not needed to consider this matter further.
26. I have been referred to inconsistency of approach by the Council in relation to a development for 6 apartments that received planning approval in Brierley Hill. However, I have not been provided with any substantive details of this development example, and so I am unable to comment or compare this with the proposed scheme. Notwithstanding such, I have considered the appeal proposal having regard to its individual merits and found there would be harm caused in relation to two of the main issues.

Conclusion

27. Whilst the appeal site is in a sustainable location and would provide the benefit of new housing on brownfield land, as supported by the Framework, this would not outweigh the harm I have identified. Therefore, the proposed development would conflict with the development plan taken as a whole and material considerations, including the Framework, do not indicate that the appeal should be determined other than in accordance with the development plan.
28. For the above reasons, the appeal should be dismissed and planning permission is refused.

C Billings
INSPECTOR