



Appeal Decision

Site visit made on 30 July 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/C4615/W/24/3343481

**Ocean Swimming Pools Ltd, Holloway Street, Dudley, Lower Gornal
DY3 2EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Marlow of CJP HOMES LTD against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P23/1570.
 - The development proposed is for the change of use from office to a 12 Bedroom HMO with proposed single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from office to a 12 bedroom HMO with proposed single storey side extension at Ocean Swimming Pools Ltd, Dudley, Lower Gornal DY3 2EA in accordance with the terms of the application, Ref P23/1570, subject to the conditions set out in the schedule below.

Preliminary Matters

2. At the time of my visit it was clear that some works towards the clearance of the site had already begun. In particular, the wall separating the existing car park and garden, and the former garage have both been removed. However, I do not find that these works are a commencement of the scheme before me.

Main Issues

3. The main issues are the effect of the proposal on:
 - The living conditions of neighbouring occupiers; and,
 - Highway safety

Reasons

Living Conditions

4. The appeal site contains a large, detached building that has formerly been a public house and, more recently, offices. It is separated from the neighbouring dwellings by areas of garden, a car park and a footpath. The site is within a predominantly residential area, although I noted non-residential uses these are modest and sporadic. Given the nature of the area, I consider background noise to be primarily domestic in character.

5. The proposal would convert the existing building to a house in multiple occupation (an HMO) with twelve bedrooms. It is likely that residents will primarily be single people and it is unlikely that residents would include children. As with any property, it is not possible to be certain of the exact type or level of noise that could be generated. Nevertheless, I consider that an HMO use would be akin to a residential dwelling and so the character of any noise would be similarly domestic.
6. I am mindful though that the number of potential occupiers would exceed that typical for a residential property in the area, which from my observations on site appear to be family homes. There is a potential, therefore, of greater levels of noise being generated at the site than is typical for the surrounding dwellings.
7. However, I consider that this potential is tempered as the occupation of the site would be by people who are unlikely to know each other, and the available shared amenity space would be modest and divided in to two distinct areas. I consider that these spaces would not be conducive to more than modest use between a small number of people at any one time. For example, it is more likely to be used as a space to sit out and relax rather than to hold group events or parties. Such usage would be comparable to that of the dwellings nearby.
8. Whilst the noise of a small group socialising within the garden may be audible from neighbouring properties, such noise is typical for built-up and urban areas. I note the noise disturbance and anti-social behaviour management plan set out within the appellant's submissions. Although brief, the plan relies upon the deterrent of potential eviction to control disturbance. In light of the above, I find that this would be sufficient, alongside the powers available to the Council under separate legislation, to ensure significant noise events do not occur.
9. With the exception of the single storey extension, the proposal would not result in any significant external alterations to the host building. In particular, no additional windows are proposed on the first floor. Given the relationship of the host building to the neighbouring plots and the presence of intervening boundary treatments, the proposed extension would not cause an unacceptable overlooking impact. The communal garden is similarly separated from neighbouring dwellings by tall boundary treatments which would provide privacy. I do not, therefore, consider the proposal to cause any unacceptable overlooking or loss of privacy to neighbouring occupiers.
10. In light of the above, the proposal would not cause any unacceptable impacts on the living conditions of neighbouring occupiers by way of noise, disturbance or loss of privacy. The proposal would therefore comply with Policies L1 and D5 of the Dudley Borough Development Strategy (the DBDS) which seek to prevent incompatible adjacent uses and require developments to not harm the amenity of neighbouring occupiers, including by way of noise. It would also comply with the guidance contained within the Dudley Council Residential Design Guide on HMOs, and the National Planning Policy Framework (the Framework), including Paragraph 135 which requires developments to promote well-being with a high standard of amenity for existing and future users.

Highway Safety

11. The local policies do not set out a specific parking requirement for HMOs but instead consider it necessary to assess cases on their own merit. The proposal would provide 14 parking spaces to serve the 12 bedrooms provided at the appeal site. It is intended by the appellant that two of those spaces would be used by visitors to the site. The existing vehicular access would be retained as is to provide access to the extended car park.
12. The appeal site sits opposite the junction between Holloway Street and Hermit Street. Those portions of both roads that are within a short walk of the appeal site are wide with no significant parking restrictions. Although my site visit can only provide a snapshot in time, there was very little on-street parking at the time of my visit. Given the level of off-street parking provision in the area, I consider that the on-street parking witnessed is likely to be typical.
13. I am mindful that a small number of future occupiers may have more than one motor vehicle, such as a private and company vehicle. Moreover, it is possible that more than two visitors may be present at any one time, given the number of occupiers at the site. The site may, therefore, generate a modest need for parking provision that cannot be accommodated on site. Nevertheless, given the nature of the surrounding roads, I find that they could safely accommodate the modest increase that could stem from the proposal.
14. Holloway Street appears to form a thoroughfare through the residential area and connects to a number of through routes, including via Hermitage Street. Although the existing lawful use is not currently being carried out, it could be brought back without seeking planning permission. The site has the potential, therefore, of already generating vehicular movements. Mindful of this, and the scale of the proposal, I do not consider that there would be a significant increase in movements. In light of the submissions before me and my observations on site, I find that the modest increase in vehicular movements associated with the site would not cause congestion or traffic to such an extent as to risk the highway safety of the surrounding area.
15. The proposal would not increase on-street parking demand or vehicular movements so significantly as to unacceptably affect highway safety. As such the proposal would comply with Policy L1 of the DBDS and Policy TRAN2 of the Black Country Core Strategy which require developments to provide adequate access and parking that is not detrimental to highway safety or the free flow of traffic. The proposal would also comply with the guidance set out within the Parking Standards Supplementary Planning Document as well as Chapter 9 of the Framework

Other Matters

16. The Council have referred to the appeal site being within the Ruiton Gornal Stone Village area of High Historic Townscape Value and that the nearby Ruiton United Reformed Church is a Grade II listed building. Having regard to my statutory duty, I am satisfied that the relationship of the appeal proposal to this listed building would have a neutral effect upon its setting. Moreover, the modest external works would not affect the character or appearance of the surrounding area. Harm to the townscape area or the significance of the nearby heritage asset would therefore not occur. It is noteworthy that the Council did

not raise the impact on the nearby heritage asset as a concern when it refused the planning application.

17. I note the concerns of interested parties that future occupiers may participate in anti-social, criminal or otherwise nuisance behaviour on and around the appeal site. However, it is not possible to predict who could move into the property or how they will behave. I cannot make any assumptions as to the character or quality of future occupiers.
18. I have not been provided with any substantive details to demonstrate that services or facilities within the area are currently struggling with demand. It has also not been demonstrated that the increase of 12 residents, which I consider to be modest relative to the size of the settlement, would so significantly affect demand that it would unacceptably harm the quality of provision.

Conditions

19. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
20. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
21. Conditions are necessary requiring a landscaping scheme and details of boundary treatments in the interests of the character and appearance of the surrounding area. Details and the provision of bin and bike stores are also needed to ensure that there is appropriate waste storage provision and safe spaces for bicycles. Conditions are needed to ensure that the proposed car park is provided but that permeable materials are used. This is to prevent any surface water flooding while also protecting highway safety. In the interests of the living conditions of neighbouring occupiers, the development should be carried out in accordance with the appellant's noise management submission.

Conclusion

22. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Proposed site plan (CA-002-103

rev A), Proposed floor plans (CA-002-101B), Proposed elevations (CA-002-102).

- 3) Other than demolition, site clearance and initial groundworks, no development shall commence until full details of the soft landscaping scheme for the site have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following first occupation of the development. Any trees or shrubs planted in pursuance of this permission including any planting in replacement for which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.
- 4) No above ground development shall commence until details of the positions, design, materials and type of boundary treatment or means of enclosure have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved details and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
- 5) Prior to the development's first occupation, bin stores shall be provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The approved stores shall thereafter be retained and maintained for no other purpose, for the life of the development.
- 6) Prior to the development's first occupation, cycle storage shall be provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The approved storage shall thereafter be retained and maintained for no other purpose, for the life of the development.
- 7) Prior to the development's first occupation, the proposed car park will be laid out and prepared in accordance with the approved plans. These areas shall thereafter be retained and not be used for any other purpose for the life of the development.
- 8) The parking area hereby approved shall be completed with a surface and sub-strata that is permeable, or provision shall be made to direct run-off water from the hard surface to a permeable area within the curtilage of the site, which shall be retained as such for the life of the development.
- 9) The development hereby approved shall be completed and operated in complete accordance with the statement submitted by the agent dated 25th January 2024 titled 'Statement from the Agent in response to West Midlands Police comments' and the submitted HMO Management Plan by Simpatico Town Planning dated 12th February 2024 for the life of the development.