



Appeal Decision

Site visit made on 22 October 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/C4615/W/24/3344556

68 Mount Pleasant, Quarry Bank, Dudley DY5 2YS

- 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 William Downing of N.E. Downing (Blackheath) Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P23/0979.
 - The development proposed is 'proposed new garage'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a garage and new vehicular access to site to include sliding gate at 68 Mount Pleasant, Quarry Bank, Dudley DY5 2YS in accordance with the terms of the application, Ref P23/0979, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the decision above is taken from the Council's decision notice. That is consistent with the description on the appellant's appeal form and more accurately describes the proposal than the description used on the original application form.
3. The proposed layout plan was amended after the Council made its decision. The revised layout (Ref 1445.101 Revision B) shows the sliding gate set slightly further back into the appeal site. The Council commented on this revision in their appeal statement. The appeal is determined with regard to that revision.

Main Issue

4. The main issue is whether the proposed vehicular access would be acceptable with respect to highway safety.

Reasons

5. There are two roads leading off Mount Pleasant (the Road) that are named Talbots Lane. Both lead to the trading estate to the rear of the appeal site. The Talbots Lane that is immediately adjacent to the appeal site is narrow. Whilst it provides access to commercial premises to the rear of the appeal site, those are also accessible from the more substantial Talbots Lane that is closer to the dual carriageway (A4036). That more substantial Talbots Lane has clear road markings and space for vehicles travelling both into and out of the trading estate. Consequently, that Talbots Lane is likely to be used in preference to the narrow Talbots Lane immediately adjacent to the appeal site.

6. Accordingly, the number of occasions on which vehicles are likely to be exiting the proposed appeal site access at the same time as a vehicle that is exiting the adjacent Talbots Lane is likely to be highly limited. As such, instances of pedestrians, including adults and children attending Mount Pleasant Primary School, having to stand in the path of one vehicle whilst waiting for another vehicle to exit the appeal site/Talbots Lane would be highly limited.
7. Furthermore, the appeal site is located along a stretch of the Road where there are already a mix of uses. Consequently, users of the pavement would already need an awareness of vehicle comings and goings from residential driveways and commercial premises. Moreover, vehicles using the proposed access and the adjacent Talbots Lane would have a clear view of the pavement to enable pedestrians to continue to have priority, in line with the Manual for Streets user hierarchy.
8. Although the proposed access would be in the vicinity of the pedestrian crossing outside Mount Pleasant Primary School, it would provide access for staff working at the appeal site who are likely to be familiar with the proximity of the appeal site to the crossing. Visitors to the appeal site who may not be familiar with the site would continue to use the existing separate car park. In any event, I note that that existing car park has an existing vehicular access from the Road that is to the other side of the pedestrian crossing. No substantive evidence is before me to indicate that highway safety has been a concern in respect of that access.
9. In addition, the appeal site is situated on a straight section of the Road, with good visibility in both directions. Therefore, if vehicles were to exit Talbots Lane and the proposed access at the same time, those drivers would have a clear view in both directions and of each other. As such I am not persuaded that such an occurrence would give rise to unacceptable highway safety concerns.
10. The revised layout provides space for a 7000mm long hearse/limousine to be stationary outside of the sliding gates without encroaching on the pavement. As such, the proposed location of the sliding gate would not impinge on the ability of pedestrians to use the pavement on that side of the road. I note the Council reached the same conclusion on that matter.
11. Therefore, the proposed access would be acceptable with respect to highway safety. Thus, it would accord with Policy TRAN2 of the Black Country Core Strategy (adopted February 2011), Policy S17 of the Dudley Borough Development Strategy (adopted March 2017), and chapter 9 of the National Planning Policy Framework. Amongst other matters, these generally seek to ensure proposals are acceptable with respect to highway safety.

Conditions

12. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. I have amended the wording of certain conditions in the interests of precision, without altering their meaning.
13. As well as the standard time condition, and for certainty, a condition is required to ensure that the development is carried out in accordance with the approved plans. Due to the potential risk arising from the area's coal mining legacy, a condition requiring further site investigation on the nature and extent of any land instability and remediation is necessary. For simplicity, two conditions on

this matter are combined. This condition is required to be discharged prior to commencement of development to ensure the site is safe and the appellant agreed to the timing of that condition. A condition requiring submission of full details of the proposed access is necessary in the interests of highway safety. A condition specifying the hours of construction is necessary in the interests of protecting the living conditions of neighbours during the construction phase. A condition is necessary to require approval of external materials to ensure the development achieves an acceptable appearance as full details of materials are not shown on the submitted plans.

Conclusion

14. The proposed development would accord with the development plan and therefore the appeal should be allowed.

Rachel Hall

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 1445.001, 1445.101 Rev B, 1445.103, 1445.104, and 1445.100 (except in respect of the location of the sliding powered gate that is to be installed in accordance with 1445.101 Rev B).
- 3) No development shall take place until an intrusive site investigation of the nature and extent of any land instability due to past coal mining activity has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the Local Planning Authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.

If, during the course of development, any unexpected land instability issues are found which were not identified in the site investigation, development shall be suspended until additional measures for their remediation have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

- 4) The development hereby permitted shall not commence (excluding demolition, site clearance and initial ground investigation works) until details of the access into the site, together with parking and turning area (including details of lines, widths, levels, gradients, cross sections, drainage and lighting) have been submitted to and approved in writing by the local planning authority. The development shall be laid out in accordance with those details and retained as such for the lifetime of the development.

- 5) Demolition or construction works shall take place only between 0700 and 1800 hours on Mondays to Fridays, and 0800 and 1700 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.