



Appeal Decision

Site visit made on 2 October 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/C4615/W/23/3330852

4 Moor Street, Brierley Hill, West Midlands DY5 3EH

- 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 Rizwan Hyder, Usman Brothers against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P23/0458.
 - The development proposed is change of use of ground floor from vacant former takeaway restaurant (OSG) to residential unit (C3). Refurbishment of first floor residential unit above and front elevation to include new windows, door and rendering. Two storey rear extension to create additional 2 no, residential units (Following demolition of existing single storey element of building at rear (Resubmission of refused application P22/1762)).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of the appeal, the Local Planning Authority ('LPA') has adopted 'The Dudley Council Residential Design Guide - Supplementary Planning Document' ('Design Guide'). This replaces and incorporates all existing guidance relating to new housing developments and residential extensions into one document.

Main Issues

3. The main issues are: i) Whether the proposed scheme provides an acceptable quality of accommodation, and ii) Whether the proposal would harm the living conditions of neighbours.

Reasons

Quality of proposed accommodation

4. The proposed scheme would comprise 4 x 1-bedroom flats. These would be arranged as two flats on the ground floor and two on the first floor of the appeal property, as extended.
5. In considering the quality of the proposed accommodation, the LPA has referred to the 'Technical housing standards – nationally described space standard' ('Technical Standards'). Whilst these are referenced in the Council's Design Guide, I have not been specifically referred to a local planning policy that makes a direct link to these Technical Standards. They are therefore for guidance only, and I have applied them accordingly.

6. The proposed flats are identified as 1 bed, 1 person flats and each of these incorporates a shower room.
7. The Technical Standards say that where a 1 bed, 1 person flat has a shower room instead of a bathroom, the floor area may be reduced from 39m² to 37m². In this case, each flat incorporates a shower room and the smallest of the proposed flats measures about 37m². Furthermore, each bedroom is shown to accommodate one bedspace and in accordance with the Technical Standards, a single bedroom requires a floor area of at least 7.5m² and is at least 2.15m wide. The proposed bedrooms meet these requirements. Therefore, the proposed scheme accords with the Technical Standards.
8. The bedroom for Flat 3 would be served by an existing rear facing window. Although this is close to the flank gable of the neighbouring property to the east, this still offers a degree of outlook towards the rear of the appeal property. This outlook would be improved once the extraction flue is removed as part of the proposal and would also provide sufficient daylight to the modest bedroom this serves.
9. A similar rear facing window is proposed for Flat 1 at ground floor level. Notwithstanding the neighbouring flank elevation, this would also provide a similar outlook to Flat 3 and sufficient daylight for the modest bedroom this is intended to serve.
10. For the above reasons, the proposed scheme would provide an acceptable quality of accommodation. This accords with Policy L1 of the Dudley Borough Development Strategy (2017), which along with other matters requires that an appropriate level of amenity shall be provided for future occupiers of the development.

Living conditions of neighbours

11. There is an existing block of development to the east of the appeal site. This includes residential accommodation which is arranged around an internal courtyard between this and the appeal site. Some of the accommodation in this block incorporates windows for habitable rooms, which directly face the area for the proposed two storey extension.
12. At present, the outlook from the neighbouring windows is towards the derelict single storey outrigger of the appeal property and beyond this, to the west, the taller blank gable of a three-storey building. Whilst the proposal would introduce a two-storey extension broadly in the same location as the outrigger, this would be lower in height than the existing gable. Therefore, because of the existing arrangement and the context of a built-up area, the proposed development would not unacceptably change or undermine the outlook from the neighbouring accommodation. Also, given the context of the existing taller side gable, I am not persuaded that the proposal would introduce any unacceptable overshadowing or loss of daylight.
13. However, the proposal would introduce some facing windows to habitable rooms. As such, there would be considerable intervisibility between habitable room windows due to the proximity of the neighbouring block to the proposed extension. This arrangement would result in an unacceptable loss of privacy for neighbouring residents.

14. Whilst the proposed arrangement would also compromise the privacy of the residents of some of the proposed flats, new residents would have some choice in whether to accept such an arrangement. However, existing neighbours would have no choice in this.
15. Therefore, the proposal would harm the living conditions of neighbours. This would be contrary to Policy L1 of the Dudley Borough Development Strategy (2017) which also requires that the development does not cause harm to the amenities of the occupiers of neighbouring dwellings, including harm arising from loss of privacy, outlook and sunlight, taking into account factors such as levels, orientation and the separation of development.

Other Matters

16. The appellant has redesigned the appeal scheme following a previous refusal. Nevertheless, the scheme before me is unacceptable for the reasons already stated. The proposal would bring a vacant building into use and provide new housing. There would also be some social, economic and environmental benefits arising from this. Even so, these factors do not outweigh the harm I have identified.

Conclusion

17. I have found that the proposal would provide an acceptable quality of accommodation. On the other hand, this would harm the living conditions of neighbours. For this reason and conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR