



Appeal Decision

Site visit made on 1 October 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/V4630/W/24/3337190

29 Edward Avenue, Aldridge, Walsall WS9 8AX

- 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 Saul Peabody against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 23/0314.
 - The development proposed is "I would like to apply for permission to use a very small section of my garage to cut hair which includes a small piece of worktop attached to the wall with a mirror above it also attached to the wall, a plug bank and a barbers chair. I would be working by appointment only so there would be no overlap of clients and there would be no requirements for clients to park on the road as our drive can accommodate at least three cars and our household only has one car. Our drive has a two dropped curbs, one at either side of our drive."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development stated in the application form in the banner heading above. The Council's decision notice refers to the proposal as being for a change of use from a domestic garage (C3) to use by a single barber (sui generis use). I have considered the proposal on this basis. I have had regard to other aspects of both parties descriptions, which do not specifically constitute an act of development, such as the operating hours, internal equipment, appointments and parking arrangements, in considering the merits and potential effects of the development, and scope of suitably worded planning conditions.
3. During the site visit I observed that the garage was in use to cut hair. The appeal has therefore been considered on the basis that the application is retrospective.

Main Issues

4. The main issues are the effect of the proposal on:
 - highway safety;
 - the vitality and viability of nearby designated centres;
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and
 - the character of the area.

Reasons

Highway safety

5. The host property is a detached dwelling in a predominantly residential area with off street parking and two dropped kerbs serving the dwelling driveway. Edward Avenue is characterised by a mix of semi-detached and detached dwellings set back from the road, with driveways generally of more than one parking space, and often behind low boundary treatments. Whilst the majority of vehicles were parked off-road there is unrestricted on-street parking available. At the time of my midweek, midmorning visit, which I accept was only a brief snapshot in time, there was available on street parking and a relatively free flow of traffic.
6. However, there is little substantive evidence that what I saw is typical throughout the whole day, particularly from mid-afternoon during the week, and on Saturdays, when more local occupiers would be expected to be home. As well as noting the opinion of the Council and Highway Authority, an interested party submissions indicate that at times, local parking conditions make it difficult for vehicles enter or leave driveways, resulting in the potential for a number of manoeuvres, inhibited by parked vehicles, potentially blocking other traffic, being prejudicial to highway safety.
7. Based upon what I saw, the plans and the descriptions of the proposal indicated by the appellant, due to its limited size, only one client could be accommodated at one time. However, it is possible two clients with parking needs may have some overlap, and over the course of the day there is the potential for a number of vehicular trips to be generated.
8. Although there is sufficient space on the drive to accommodate up to three vehicles, the loss of the garage means that two spaces would be required for the residential use of the property. I acknowledge that currently the occupiers only have the use of one vehicle but there is no guarantee that circumstances may not change in the future. This would leave one space for visitors to the premises. Were this to be occupied, there is clear potential for parking on the public highway at times when there may be a significant level of on-street parking and it is unclear how customers would be made to only park off-street. I cannot be certain that at times further additional on-street parking would not restrict the free-flow of traffic or not be prejudicial to highway safety.
9. The appellant states that many of the clients are local and walk to the premises and that there would be up to a maximum of four cars parking at the premises each day. However, based upon the evidence before me and having regard to the potential restrictions to which both parties have referred, there is no mechanism available to ensure that this may always be the case and limit the number of potential vehicles at any one time. In the absence of evidence to the contrary, I have concerns that such conditions preventing patrons driving may not meet the test of being enforceable or reasonable, because the public highway is not within the control of the appellant.
10. Therefore, for the reasons set out above, it has not been demonstrated the development would not harm highway safety. It conflicts with the aims of Policies T7 and T13 of the Walsall Unitary Development Plan (2005) (UDP) which together amongst other matters seek to ensure that development provides an adequate level of car parking to meet its operational needs and it

is demonstrated there will be no adverse effect upon highway safety. It also conflicts with the aims of paragraph 115 of the National Planning Policy Framework (the Framework) which seeks to ensure development will not have an unacceptable impact upon highway safety.

Vitality and viability

11. Policy CEN7 of the Black Country Core Strategy (2011) (CS) and Policy S7 of the UDP set out a presumption in favour of focussing development in centres and a presumption against town centre uses in out of centre locations. In this case there is no sequential assessment of existing facilities, or impact assessment before me. However, Policies CEN6 of the CS and S7 set out circumstances in which small-scale facilities may be acceptable. Any application for a town centre use may be considered favourably only where it meets all of their requirements.
12. The appeal site is within a residential area and not in a town centre or edge of centre location. The appellant indicates that the use of the garage is necessary whilst the business is starting up as the cost to rent facilities nearby would be prohibitive on current earnings. In addition, he states that the use of the garage is intended to be a temporary arrangement until the client base is sufficient to be accommodated in alternative premises.
13. Though noting the appellant's intentions, there is no evidence before me regarding suitable local facilities available to rent, such as chairs at an existing facility or a small individual unit. Therefore, it is not demonstrated there is a specific local need for improved facilities, or that local need cannot be better met by investment in a nearby centre. Though this may be a small-scale facility, it would compete with and divert trade away from facilities in other centres, reduce footfall in a limited way, and reduce the potential for linked trips. Therefore, it conflicts with some requirements of the policies and there would be highly likely to be some harm to the vitality and viability of nearby centres. Even were a temporary consent granted, there would still be adverse effects for its duration.
14. I conclude that the development would harm the vitality and viability of nearby centres. This conflicts with Policies S6 and S7 of the UDP and Policies CEN6 and CEN7 of the Black Country Core Strategy (2011) (CS) which together amongst other matters seek to direct development to designated centres, ensure that development does not undermine existing facilities and only permits development where specific criteria are demonstrated. It also conflicts with paragraph 91 of the Framework insofar as it refers to sequential testing and demonstrating other suitable sites are not available.

Living conditions

15. Edward Avenue is primarily residential in character. Inherent in this would be a moderate level of comings and goings by occupiers, and deliveries of goods and services over the course of the day and early evening. There would be additional vehicle movements, with associated manoeuvring, car doors and other limited activity during the hours of operation. The Council has not clearly explained or substantiated if and why the 40 minute to 1 hour average appointment time is unrealistic. Based upon the anticipated timescale for a typical haircut, number of customers and proposed hours of use, I am not

persuaded by the evidence before me that this would be of a level that would be unacceptable or result in harmful living conditions for nearby occupiers.

16. For the reasons set out above, I conclude that while the proposal would result in some adverse effects, these would not be of a level that would result in harmful living conditions for neighbouring occupiers with particular regard to noise and disturbance. Therefore, the development complies with Policies GP2 and ENV10 of the UDP which together amongst other matters seek to ensure that development does not have an unacceptable adverse impact on nearby land uses. It also complies with paragraph 191 of the Framework which has similar objectives.

Character

17. There appellant's evidence suggests there would typically be up to four additional vehicles to the premises per day. Even were there to be a greater proportion of customers driving, there would be a limited increase in the number of vehicles and customers travelling by other modes using the highway. Given the frequency of trips by all highway users over the course of a typical day, it seems likely there would be a limited increase in activity. This increased activity level could well be similar to a residential dwelling with more than one vehicle, such as a family with children old enough to drive.
18. On the above basis, given the number of dwellings on the street and the likely number of vehicle movements, deliveries and through traffic, and overall activity that currently takes place, the Council has not made its case that the changes in activity levels would be so elevated that this would be out of keeping with and harmful to the character of the area.
19. The Council has suggested the scope for another occupier to increase the area of use. However, it is not clear why this could not be the subject of a suitably worded planning condition. Though only referred to in the delegated report and not explicitly in the reason for refusal, it is also fully not clear why external elevational changes, including harmful adverts, could not be controlled in a similar manner or under the advertisements regime.
20. I conclude that the development would not harmfully affect the character of the area. Therefore, it does not conflict with the aims of Policies GP2 and ENV32 of the UDP and Policies ENV2 and ENV3 of the CS which together amongst other matters seek to ensure that development preserves local character and takes account of its surroundings.

Other Matter

21. I also note the letters of support for the proposal. This is however a neutral matter in my determination of the appeal.

Planning Balance and Conclusion

22. The development would have resulted in some limited benefits in respect of matters such as purchase and installation of equipment, provide employment for the appellant, and increase choice and convenience for customers. However, they would be limited benefits, attracting limited weight. I have found the development would not result in harmful living conditions to neighbouring occupiers with particular regard to noise and disturbance, or harm to the character of the area, which are neutral matters in the balance.

23. However, the development conflicts with policies for the location of such uses, it would have harmful effects upon the vitality and viability of designated centres, and it has not been demonstrated that the development would not be harmful to highway safety. The policy conflicts and harm are such that they significantly outweigh the benefits of the development.
24. The proposal conflicts with the development plan read as a whole, and the Framework, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR