



Appeal Decision

Site visit made on 25 February 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th March 2025

Appeal Ref: APP/D4635/W/24/3353614

77 Stubby Lane, Wolverhampton WV11 3NE

- 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 D Janday against the decision of Wolverhampton City Council.
 - The application Ref is 23/01374/FUL.
 - The development proposed is ground floor studio flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have not included the full description of development from the appellant's application form as it makes reference to the proposal being retrospective and that is not in itself development. I was able to see on my site visit that the development has taken place and therefore I have determined this appeal on that basis.

Main Issues

3. The main issues are the effect of the proposal on:
 - the living conditions of future occupiers with regard to light, noise, outlook, outdoor amenity space, and bin storage;
 - the character and appearance of the area;
 - highway safety; and
 - the vitality and viability of a local centre.

Reasons

Living conditions

4. The proposed ground floor studio flat is located within Stubby Lane local centre, at the rear of a unit which is in use as a barbers, and between a convenience store and a beauty parlour.
5. One of the proposed flat's windows into the main living/sleeping area would be partially screened off via a patio door. However, from visiting the property I observed that the patio door also allows light in, and despite the flat being single aspect, I consider that the windows would provide an adequate amount of natural light into the room.

6. Whilst future occupiers inside the flat may be exposed to noise from neighbouring commercial units, paragraph 56 of the National Planning Policy Framework indicates that decision-takers should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. As such, had I been minded to allow the appeal, a planning condition could have ensured that noise insulation measures were submitted to the Council and undertaken within a suitable timeframe to mitigate any impacts.
7. The proposed flat would have an outdoor amenity space. The space would be small, with a limited outlook due to the boundary fence, but would be private and functional, being of sufficient size to enable future occupiers to sit out and dry washing, and planting could enhance the outlook. The outdoor area would be exposed to some noise and odours from neighbouring commercial activities, but there is no indication that this would necessarily be significantly greater than the noise or odours generated by occupants of other residential dwellings enjoying their outdoor space.
8. However, although the wheelie bins associated with the proposed flat would be stored in the rear yard, they would need to be wheeled through the flat and along the shared hallway to the shared front entrance door on bin collection day. The evidence before me suggests that the bins would be collected from the entrance of the vehicular and pedestrian service access to the rear of the units. This is some distance from the front entrance of the property. This arrangement would be inconvenient and impractical and could be difficult for potential occupiers, particularly those who may be elderly or have mobility issues.
9. Whilst the proposal would not harm the living conditions of future occupiers with regard to light, noise, outlook and outdoor amenity space, it would harm the living conditions of future occupiers in terms of an impractical arrangement for the storage of refuse. In this regard, while the proposal would comply with Wolverhampton Unitary Development Plan 2001-2011 (2006) (UDP) Policy EP5 which relates to noise, the proposal would not accord with UDP Policies D4, D8, D9, EP5, H6 and Black Country Core Strategy (2011) (CS) Policy ENV3 which together seek to ensure that development is well designed and does not adversely affect people's amenities.

Character and appearance

10. The proposal would see the loss of the service yard for the existing commercial unit, which provided external space to support the activities of the unit. As a result, the bins associated with the commercial unit are now left in the vehicular and pedestrian access area to the side of Golden Wok and 2 Perry Hall Road, some distance from the existing commercial unit and the proposed flat.
11. As there is no adequate storage space for the bins, they are therefore visible within the street scene, adding to street clutter and potentially leading to overspill and vermin issues. Whilst there are a number of other bins stored at this point and elsewhere within the local centre, this does not justify further development which would exacerbate the number of bins on display close to neighbouring residential properties, and harm the character and appearance of the area.
12. The loss of the service yard as a result of the proposal and the resultant lack of appropriate bin storage for the commercial unit would harm the character and appearance of the area. The proposal would therefore not comply with UDP

Policies D4 and D9 and CS Policy ENV3, which seek to ensure that developments are well designed and respond positively to the character of an area.

Highway Safety

13. The location of the bins at the head of the vehicular and pedestrian access area between Golden Wok and 2 Perry Hall Road would hinder the use of the access for existing commercial and residential uses. The access serves a number of commercial units as well as another residential unit at the rear of 77 Stubby Lane. The positioning of the bins could impede access on and off the access area, narrowing the available space and thereby making vehicular manoeuvrability difficult, particularly by larger vehicles. Vehicles entering the access area would need to pull up to reposition the bins, thus blocking the pavement and reducing visibility for pedestrians and vehicles at the busy local centre. Therefore, the proposal would increase the potential for conflict between road users and pedestrians which constitutes an unacceptable effect upon highway safety.
14. The proposal would not provide a parking space. The flat would be in an accessible location, close to services, facilities and public transport links, and future occupiers may not rely on the private car for transport. Nevertheless, Policy AM12 of the UDP indicates that even in highly accessible locations one parking space per unit should be provided. There are off-street parking spaces in proximity, but these are generally for the customers of the local centre's commercial and retail units. Should future occupiers park in one of these spaces, the loss of the space for customers of the local centre would lead to additional parking pressure in the surrounding streets or on areas unmarked and unsafe for parking around the roundabout where the local centre is located. This is likely to lead to conflicts between pedestrians, vehicles and other road users, with a resultant increase in harm to highway safety.
15. The proposal would therefore harm highway safety. It would therefore not comply with UDP Policies AM12 and AM15 which seek to ensure that developments provide appropriate parking provision and contribute towards improving road safety.

Vitality and viability

16. The Council has raised concerns that the siting of the proposed flat in proximity to commercial units could lead to disturbance from the units for the occupiers of the proposed flat, which could cause complaints resulting in restrictions on the use of the units, thus harming the vitality and viability of the local centre.
17. However, there are other residential flats in proximity. As such, there is already a mix of commercial and residential units at the local centre, with residential occupiers who would likewise be similarly affected by any disturbances from existing or future commercial uses in the neighbouring units. I have not been presented with any substantive evidence that the mix of residential and commercial units that currently exists has led to any issues or complaints.
18. As there are already residential units at the local centre, I consider it unlikely that a further residential use in the locality would limit the future opportunities of surrounding commercial units.

19. The proposal would therefore not harm the vitality and viability of the local centre. It would accord with UDP Policies SH8 and SH9 which seek to maintain and enhance local centres.

Other Matters

20. The appeal site is located within 15km of the Cannock Chase Special Area of Conservation (the SAC). I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact that the proposed development would have upon the SAC. However, given my findings in respect of the effect of the proposal on the living conditions of future occupiers, the character and appearance of the area, and highway safety, it is not necessary for me to ascertain the appropriateness of the scheme or the necessity for mitigation within an Appropriate Assessment. Consequently, as I am dismissing the appeal for other reasons, I have not taken this matter further.
21. The proposal would be an affordable unit and as it is not in use as a business it would make efficient use of the space, rather than it lying empty. However, these benefits do not outweigh the harm that I have found would arise to the living conditions of future occupiers with regard to inadequate refuse storage, the harm to the character and appearance of the area and the harm to highway safety.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
23. For the reasons given above the appeal should be dismissed.

L C Hughes

INSPECTOR