



Appeal Decision

Site visit made on 22 July 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 September 2025.

Appeal Ref: APP/C4615/W/25/3366072

Land adj rear of 16 Camberley Road, Kingswinford DY6 8QP

- 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 Paul Morris of DP Developers Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is 24/1250.
 - The development proposed is construction of 4 dwellings
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address given on the decision notice for clarity in the banner heading above.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on highway safety;
 - whether the appeal site is a suitable location for the proposed development having regard to former coal mining activity; and
 - the effect of the proposed development on wildlife and the ecological value of the site.

Reasons

Character and Appearance

4. The appeal site is located to the rear of surrounding residential dwellings sited on Camberley Road. It is currently disused and the site benefits from an existing vehicular access off Camberley Road which also serves a row of garages.
5. Back-land development generally refers to development of land that is set back behind existing built form. Whilst I acknowledge that the appeal site has an existing vehicular access, it remains that the proposal would be located to the rear

of the existing residential dwellings on Camberley Road and thus in my judgement would constitute back-land development.

6. The existing dwellings in the immediate locality and predominant pattern of development in the surrounding area face square to the public highway. The rear elevations of the appeal scheme would be square to the rear gardens and boundary of dwellings located on Rangeways Road. Consequently, whilst the orientation of the appeal scheme may allow it to be accommodated on the site, the lack of frontage to the public highway would, to my mind, be conspicuous when viewed within the context of the prevailing pattern of development of the area.
7. Due to the pattern of development, the relationship between the dwellings along three boundaries of the appeal site and the proposed scheme, would result in unacceptable harm irrespective of whether it might be viewed more clearly from above.
8. I acknowledge that the architectural style and design of the proposed dwellings would generally assimilate with the surrounding character and appearance of the area. However, it does not provide adequate justification for development which to my mind, due to the orientation of the development, would result in unacceptable harm to the character and appearance of the surrounding area.
9. In conclusion, the appeal scheme would result in harm to the character and appearance of the surrounding area and thus conflict with Policy S6 of the Dudley Borough Development Strategy 2017 (the DBD) and Policy ENV3 of the Black Country Core Strategy 2011 (the BCCS). These policies seek, amongst other things, to ensure that developments are of a high design quality and assimilate with the character and appearance of the surrounding area.

Highway Safety

10. The appeal scheme would use the existing access which adjoins Camberley Road. The access would be a shared private drive and would measure approximately four metres in width. Consequently, in my judgement, it would not provide adequate space for the passing of two vehicles simultaneously where one is entering and the other is leaving the site and thus result in harm to highway safety.
11. I note the appellant refers to an approximate width of 4.8 metres. The appellant has submitted an advisory note which refers to Manual for Streets, however, it is not clear from where this advisory note is taken from. Nevertheless, regarding shared private drives it states, amongst other things, that where two-way movement is not possible, single lane shared private drives should have a minimum of five metres provided within the first six metres of the entrance. Accordingly, even if the access was 4.8 metres there is limited substantive evidence to adequately demonstrate this to be the case in the appeal scheme before me.
12. Paragraph 116 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety amongst other things. Consequently, given the limited substantive evidence regarding the access, it has not been adequately demonstrated that the appeal scheme would provide safe access to the site.

13. In conclusion, it has not been adequately demonstrated that the appeal scheme would not result in harm to highway safety. It would therefore conflict with Policy L1 of the DBD insofar as it seeks to ensure that developments provide adequate access with no detrimental impact on highway safety and free flow of traffic.

Suitable Location

14. The appeal site is located within an area subject to risk from former coal mining activity.
15. The appellant provided an amended Coal Mining Risk Assessment dated February 2025 (CMRA 2025) during the appeal process. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage. The Mining Remediation Authority (Coal Authority) are a statutory consultee and have not seen the CMRA 2025. I therefore cannot assume its accuracy.
16. The Coal Mining Risk Assessment dated August 2023 (CMRA 2023) states that any underground mine workings beneath the site would be too deep to impact surface stability. I acknowledge that the conclusions of the CMRA 2023 was accepted by the Coal Authority previously. However, the Coal Authority have highlighted that since the CMRA 2023 there has been an ongoing data improvement project in which the departure distance for the shafts adjacent to the site have been revised. Consequently, the Coal Authority has a reduced confidence in the exact positions of these features.
17. Given the above, it is possible that the two recorded shafts could be present within a radius of five metres from their plotted positions. This could result in one of the shafts being located within the appeal site.
18. Even if the CMRA 2025 did allay my concern regarding the location of mine shafts, the above two issues when considered together are sufficient reasons to dismiss the scheme.
19. In conclusion, based on the evidence before me, it has not been adequately demonstrated that the appeal site would be a suitable location for the proposed development. It would therefore conflict with Policy D4 of the DBD insofar as it seeks to prevent development on unstable land.

Wildlife and Ecological Value of Site

20. Interested parties have provided evidence to suggest that there is a significant presence of wildlife including badgers, dormice, foxes, hedgehogs, buzzards and deer in the surrounding area as well as the appeal site.
21. The submitted Ecological Impact Assessment dated May 2025 (EIA) states that a burrow located on the appeal site under one of the neighbouring garages presented as a fox burrow on both survey occasions (May 2024 and March 2025). The Protection of Badgers Act 1992 does not directly protect the commuting and foraging grounds of badgers. Consequently, given the significant evidence contained within the EIA, I am satisfied that there is conclusive evidence before me to demonstrate that there are not badgers present on the appeal site and accordingly that the appeal scheme would not result in harm to badgers.

22. Additionally, the EIA also does not identify the presence of any other protected species on the appeal site in either of the two surveys conducted and the Council's Ecologist has not indicated concerns regarding the effect of the appeal scheme for any other protected species other than badgers.
23. Mandatory Biodiversity Net Gain (BNG) was introduced for small sites in April 2024. The Council has confirmed that the application was received on the 4 November 2024 and validated on the 25 November 2024.
24. The EIA states that the biodiversity metric calculation tool, dated May 2025 (BMC), would require off-site credit to cover the habitat unit loss whilst the net gain for linear habitats could be achieved via on-site planting of new hedgerow along the western boundary of the site.
25. However, based on the evidence before me, it is unclear as to whether the appellant has included the scattered trees referred to by the Council in the baseline BNG information. Even if the trees have been included in the baseline calculation, it remains that the BMC outlines that there would be an unacceptable net percentage change in habitat units. Accordingly, the appellant has failed to adequately demonstrate that the appeal scheme would achieve a 10% net gain in biodiversity.
26. Consequently, whilst the appeal scheme would not result in harm to badgers and other protected species, it has not been adequately demonstrated that the appeal scheme would result in an acceptable level of BNG. Whilst the above three main issues are sufficient to dismiss the appeal, this issue is a further matter against the appeal scheme. The appeal scheme would therefore conflict with Policy S21 of the DBD and ENV1 of the BCCS insofar as they seek to safeguard and enhance habitats.

Other Matters

27. The Council has stated that it can only demonstrate 63% of its housing target published in 2024. This is substantially below the supply it is expected to deliver. The appeal scheme would provide four units and would boost the housing stock in circumstances where there is a shortfall.
28. The appellant highlights that the appeal scheme would prevent antisocial behaviour. However, there is limited substantive evidence before me to adequately demonstrate this to be the case. Accordingly, I attach limited weight to the appellant's claimed benefit.
29. An interested party has indicated support for the appeal scheme regarding the prevention of fly tipping and vermin. There is limited substantive evidence regarding either of these matters and as such they are not significant material planning considerations in this case.
30. A lack of harm regarding living conditions including spatial standards are neutral factors in this case.

Planning Balance

31. As set out above, the appeal site would not be a suitable location for the proposed development and the appeal scheme would result in harm to the character and appearance of the surrounding area, highway safety and to wildlife as well as the

ecological value of the site. Consequently, there would be a conflict with development plan policies and the Framework.

32. Paragraph 11 d) of the National Planning Policy Framework (the Framework) explains that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. The appeal scheme would result in four additional dwellings in a Borough that is falling significantly below their HDT. Given that it is for four dwellings it therefore attracts moderate weight in this case.
34. Nevertheless, the adverse impacts I have identified as a consequence of the appeal scheme would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework policies as a whole.
35. There are no material considerations of such weight or significance to justify a decision other than in accordance with the development plan.

Conclusion

36. 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. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR