



Appeal Decision

Site visit made on 10 September 2025

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 September 2025.

Appeal Ref: APP/C4615/W/25/3366071

63 Dudley Road, Brierley Hill, West Midlands DY5 1HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Asif Majid on behalf of Brierley Hill Superstore against the decision of Dudley Metropolitan Borough Council.
- The application Ref P24/0827, dated 17 July 2024, was refused by notice dated 28 April 2025.
- The application sought planning permission for Variation of Condition 2 (Hours of use) of planning approval P16/0170 to revise the hours of opening to the public to Monday to Saturday 08:00 to 20:00 and Sundays and bank holidays 10:00 to 18:00 without complying with conditions attached to planning permission Ref P24/0019, dated 02 February 2024.
- The conditions in dispute are Nos 1, 4, 5 and 6 which state that:
- 1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order) the site shall only be used for the sale of vintage retro collectables, antiques and local craft items within Use Class E with a small tearoom which shall remain ancillary to the main use of the site.
- 4. Within three months of this permission a parking management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within one month of the approval of the management plan and thereafter retained for the lifetime of the development.
- 5. Within three months of this permission a Transport and Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within one month of the approval of the Statement and thereafter retained for the lifetime of the development.
- 6. Within three months of this permission details of secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within one month of the approval of the scheme and shall thereafter be retained for the life of the development.
- The reasons given for the conditions are:
- 1. In order to ensure that there is satisfactory provision for off street parking on the site in accordance with the adopted Development Strategy 2017 and Parking Standards Supplementary Planning Document.
- 4. In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
- 5. In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
- 6. In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted amended plans with the appeal¹. The changes include a re-configured internal layout, changes to the external layout which include moving the cycle parking, changes to car parking and also shows additional car parking outside of the appeal site. The appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which people's views were sought. While the Council have seen sight of the amended plans as part of this appeal, they have not had the opportunity to formally comment or consult on the amended plans prior to the appeal being lodged and significant changes to the appeal scheme are proposed. For that reason, I consider that the Council, along with any interested parties, would be prejudiced if I determined the appeal on the basis of the amended plans. Accordingly, I have determined this appeal based on the plans originally submitted with the planning application, on which the Council made its decision.

Main Issues

3. The main issues are whether the conditions are necessary in the interests of highway safety.

Reasons

4. The appeal site occupies a corner position and contains an area of hardstanding for parking as well as a large metal clad building that is being used as a food retailer. Access to the appeal site is from Victoria Street which is predominantly residential with the wider area being a mix of residential and commercial.
5. The appeal seeks to remove condition 1 which restricts the use of the appeal site to uses within Class E of the use class order as well as changes to conditions 4, 5 & 6 which relate to car parking, parking management and cycle parking.
6. The Council's Parking Standards Supplementary Planning Document (SPD) Adoption September 2017 (Parking SPD) provides guidance on the way the Council expect parking standards to be applied. It outlines the maximum parking standards for non-residential uses and in the case of the appeal site, the baseline parking level parking standards is 1 car parking space per 14sqm. On the basis of the proposed retail space, this would require a maximum of 24 spaces.
7. The proposal includes 8 car parking spaces which is significantly less than the maximum standards. I acknowledge that these are maximum standards, and that reduced parking could be beneficial to the appeal scheme, through encouraging the use of sustainable transport. However, while I note the appeal sites proximity to residential areas and public transport there is little evidence to demonstrate the significantly reduced amount of parking. I am also mindful of the appeal site's location where parking is restricted on Dudley Road and the occupiers of residential properties are parking on Victoria Street, which could result in cars being parked indiscriminately if space was not available.

¹ Planning, Design and Access Statement (Revised 28th July 2025)
Ground Floor Plan July 2025 PA 5457-02 P2
Sequential Assessment Report (Revised on 20th July 2025)
Traffic and Travel Plan Statement With Parking Management Plan (Revised on 28th July 2025)

8. The appellant suggests that a dedicated parking attendant will be managing the car park and surrounding area. However, there is very limited information about how this would work in practice and on this basis, would not be able to be controlled by condition and would therefore not justify the undersupply of spaces. I am also mindful of the appellant's suggestion that additional spaces could be located and leased close to the appeal site, however, there is nothing before me to consider.
9. There are several public car parks within the area, which provide short term parking, with spaces being readily available. However, visitors to the appeal site are more likely to seek to park at or close to the appeal site when making quick visits or for carrying out larger shops. I also note the appellant suggests that these car parks could be used for deliveries, however, this is unlikely to be suitable for large vehicles, and the moderate walking distance would be inconvenient to carry deliveries.
10. I note that the Council state that the parking spaces are also substandard through not complying with the Parking SPD. It is not clear what aspect of the parking is substandard; however, this does not appear to be disputed by the appellant. This could therefore make using the parking spaces difficult and result in customers parking incorrectly or parking on the street instead.
11. I therefore conclude that the proposed development would harm highway safety. It would be contrary to Policy TRAN2 of the Black Country Core Strategy Adopted February 2011, Policy S17 of the Dudley Borough Development Strategy Adoption March 2017, Paragraph 115 of the National Planning Policy Framework and guidance contained within the Parking SPD. Amongst other things, these seek to ensure that proposals provide an acceptable level of safety by all modes of transport and have full regard to the Council's Parking SPD.

Other Matters

12. The appellant states that the Council did not work proactively with the appellant in seeking to find a solution to the concerns, however, I am only in a position to consider the planning merits of the appeal.
13. I note that several signed letters and a petition have been provided with the appeal. These provide general support for the retail premises and also state that the store has ample parking and residents walk to the premises, however, for the reasons outlined, this does not outweigh my findings on highway safety. I also note that several of these letters relate to the extension of the opening hours, however, this is not part of the proposal before me.

Conclusion

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

D Wilson

INSPECTOR