



Appeal Decision

Site visit made on 3 December 2025

by Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/C4615/W/25/3363611

Land to the rear of 22 Melbourne Road, Dudley, Halesowen, B63 3NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Elliot Castle (Ferrybridge Capital Ltd 12021904) against Dudley Metropolitan Borough Council.
 - The application Ref is P24/1271.
 - The development proposed is erection of two storey apartment block containing 4. no dwellings, with courtyard garden and roof terrace at first floor.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the proposal as I find it describes the proposal more concisely. In addition, I have added "land to the rear of", as per the Council's decision letter, in relation to the site address for the avoidance of doubt as to the location of the proposal in the context of the site address stated.

Main Issues

3. The main issues are the impact of the proposal upon:
 - i) The character and quality of the area and the existing residential context;
 - ii) Neighbouring residential amenity with regard to loss of outlook and overbearingness and amenity of future occupiers with regard to outlook and general amenity;
 - iii) Accessibility and highway safety;
 - iv) Trees and ecology.

Reasons

Character and quality of the area

4. The appeal site is set behind properties on Furnace Lane and Melbourne Road respectively within an area which is residential in character. There is currently no built form on site and whilst there is some variation in character and appearance, within the immediate locality, housing is generally characterised by traditional red brick being positioned close to the road edge. The exception to this are a small number of three storey apartment blocks which, whilst they may differ in material and design, are still positioned close to the road edge as is the general pattern of development with dwellings being visible from the public realm and their

positioning, along the road edge, being a defining feature of the character of the area and defining the development pattern around the appeal site itself. In addition to this there are a number of trees within the area which contribute, positively, to a verdant character with there being a Lime tree on site (protected by a Tree Preservation Order) which is visible from the public realm, and which also makes further positive contribution to the general character of the surrounding area. Its loss would negatively impact on the character and appearance of the area.

5. The site would unlikely be prominent in longer views, beyond the boundary of the appeal site, due to the presence of 22 Melbourne Road. I acknowledge that the proposal would now be two storey in height but the physical location of the appeal site, set back from both Furnace Lane and Melbourne Road, would allow some glimpsed views between houses on Furnace Lane itself, as well as the adjacent parking and garaging to the rear of properties on Furnace Lane. Such views would provide opportunity for the appreciation of the proposal being at odds with the prevailing pattern of development along the respective roads in the vicinity.
6. Whilst the proposal has been reduced, compared to previous proposals, the proposal would conflict with the established pattern of development and would harm the character and appearance of the surrounding area. Even though the proposal would not, as outlined, be particularly prominent in longer views, it should be kept in mind that character and appearance are separate matters. In this case even if I had agreed with the appellant that the proposal would not impact upon the appearance of the area this would be separate to, and a conflict would remain, with the character of the area with regard to the development pattern. The proposal would fail to be reflective of the surrounding settlement pattern of the locality.
7. The proposal would be contrary to Black Country Core Strategy (February 2011) (CS) Policies ENV2, ENV3, HOU2 and CSP4 as well as Dudley Borough Development Strategy (March 2017) (DS) Policies S6, S8, and L1 which, in terms of their objectives, seek to ensure that proposals achieve good design having regard to the character of the surroundings. The proposal would also conflict with paragraph 135 of the National Planning Policy Framework 2024 (the Framework) which requires proposals to be sympathetic to local character and function well, adding to the overall quality of the area.
8. The proposal would also be contrary to the guidance set out within the Residential Design Guidance Supplementary Planning Document (2023) (Design SPD) which is clear in its guidance against background development which would be contrary to the surrounding pattern of development as well as the Parking Standards Supplementary Planning Document (2017) (Parking SPD) insofar, as discussed within the other main issues below, the issue with parking (or lack of) would further contribute to an overly intensive and cramped form of residential development.

Residential amenity

9. The Council's second refusal reason is firstly specific with regard to impact upon the residential amenity of 20 Melbourne Road (no. 20) with regard to loss of outlook and overbearing nature of development. The proposal would be sited within 12 metres of the main habitable room windows in the side elevation of no. 20 as well as resulting in a first-floor screened raised balcony area that would be immediately adjacent to the boundary of the immediate neighbour. A first-floor balcony feature would appear as an incongruous, uncharacteristic and overbearing feature within

the rear landscape, would stand unacceptably close to the neighbouring garden and would appear overly oppressive when viewed from the neighbouring property and their respective garden. The proposed development by reason of the siting, scale, nearness and excessive height would be detrimental to neighbouring residential amenities at no. 20 in terms of loss of outlook and the overbearing nature of the development.

10. The proposal, compared to the previous scheme, has been submitted with an alternative parking arrangement to serve the exiting occupiers of the flats at 22 Melbourne Road (no. 22). The parking provision would be sited within the established amenity area that serves the flats which would result in this compromising the level of amenity retained to serve these existing properties. The Design SPD advises that 210 sq./m of amenity space should be maintained for the existing properties – the proposal falls significantly short of this. The relocation of the parking provision within the existing amenity space for occupiers of no. 22 would therefore unacceptably compromise the amenities of the existing properties.
11. In relation to future occupiers of the appeal proposal itself, the development would fail to provide a level of amenity that would meet with the minimum garden size requirements set out within the guidance of the Design SPD. This SPD is clear that proposals should seek to secure a minimum of 30 sq./m of amenity space to serve each unit - 120 sq./m to serve the proposal. The development, as submitted, would fall significantly short of this providing a total amenity area of 48 sq./m, not even half. The appeal scheme would not provide adequate living conditions for future occupants of the proposal with regard to access to private outdoor space.
12. It is not disputed that all of the room sizes meet National Standards, however, the inclusion of high level windows as a way to overcome the shortfall noted in distance separation standards (and to prevent the overlooking of neighbours and their respective gardens) would result in unacceptable outlook from habitable rooms for occupiers of the proposal. The appellant outlines that a total of 75 sq./m of amenity space would be provided in the form of roof terraces, balconies etc to serve the units albeit this is not evident on the submitted plans.
13. Even if it were clear, from the plans, 75 sq./m would still be a significant shortfall and the suggested amenity provision would remain unduly compromised by restricted outlook, narrow proportions, shading and their orientation. The proposal would, overall, fail to secure adequate and good quality residential accommodation to serve future occupiers in terms of inadequate levels of outlook as well as amenity space.
14. The proposal would fail to constitute high quality design which would be in conflict with Policies CS Policy ENV3, CSP4 and HOU2 respectively as well as being contrary to DS Policy S6 which seeks to support sustainable development and Policy L1 which seeks to avoid harm to neighbouring occupants. Furthermore, DS Policy L1 is clear in the requirement to provide a suitable level of amenity for future occupants, and avoid harm to neighbouring amenity, which is reiterated within the approach within the guidance set out within the Design SPD. The proposal would also be contrary to paragraph 135 of the Framework which seeks to ensure proposals would achieve a high standard of amenity for both existing and future occupiers.

Accessibility and highway safety

15. The sole access to the proposal would be via the existing access track off Furnace Lane. The access point is narrow and prevents direct visibility along its length. Whilst utilising an existing access route the passing traffic along the access would currently be limited compared to the proposal which would see intensification of use of the access. With no ability to pass along the access route itself, I find this has the potential to result in hazardous reversing activities which could compromise highway safety.
16. This would be combined with a lack of pedestrian refuge areas to demonstrate that there would be no conflict between pedestrians, including people with mobility issues, and vehicular traffic along the access. No tracking details have been provided within the submission to demonstrate that suitable tracking and manoeuvrability would be available within the site to allow vehicles to access and egress in a forward gear and that acceptable levels of visibility would be maintained within the site to prevent reversing movements onto the highway and maintaining highway safety along the access itself as well as the wider highway network.
17. Whilst my site visit is evidently only a snapshot in time, I also found that Furnace Lane was extremely busy with vehicular movements and parking (despite the double yellow lines) due to associated activity with Halesowen College within the immediate locality. The site access is located close to the brow of a hill and a slight bend on Furnace Lane where I find visibility is reduced for vehicles approaching the appeal site from either direction on Furnace Lane. This is exacerbated by on-street parking during busy times where vehicles are, for example, often on the wrong side of the road overtaking parked vehicles which I find would add to overall concern due to intensification with sub-standard visibility.
18. The appellant suggests that the site would be served by three parking spaces to be provided as part of the proposal, thereby meeting with the Council's minimum parking standards requirements. Despite this it is clear that the requirement is for a parking standard of four units and that additional visitor parking would also be required to serve the needs of the development, in accordance with the Council's Parking Standards Supplementary Planning Document (2017) (Parking SPD).
19. This fails to have been provided as part of the current proposal and overall, I am not satisfied that it has been demonstrated that the proposal would have an acceptable effect on highway safety, having regard to the access itself as well as parking provision. I do not find that, for example, the site being served by bus routes is sufficient, in this case, to overcome the issues identified nor that there would be safe delivery, emergency vehicle and refuse collection access. Whilst there may be a bus service, the site is not in a town centre location and is remote and as outlined, by the highway engineer, a reduction in parking would not be acceptable with the proposal needing to comply with adopted parking standards. Parking in the area is limited and any displacement from the site would have further implications for the highway and general safety.
20. The proposal would be contrary to DS Policy L1 which requires that housing developments include suitable parking provision without harm to highway safety and free flow of traffic as well as being contrary to CS Policy TRAN2 which advises against granting planning permission where proposals are likely to result in significant transport issues unless proposals achieve a suitable level of accessibility

and safety for all transport modes. The proposal would also be contrary to DS Policy S17 which requires proposals to demonstrate suitable and safe site access and would not be consistent with the requirements of the Framework which seek to ensure that proposals provide safe and suitable access and avoid unacceptable impacts on highway safety and would be unable to meet the parking standards which are outlined within the Parking SPD.

Trees and ecology

21. The appeal site is located adjacent to an established Green Network and is located immediately adjacent to an urban forest planted and as such the appeal site is likely to have ecological merit within the borough. The submission documents identify that significant pruning would be required to hedgerows either side of the access, but the ecological impacts of these works are unknown, and no ecological appraisal is provided. There is, therefore, still a degree of uncertainty and the potential for unacceptable impacts on this, and the tree, (as discussed below) would not be appropriately dealt with by condition as the impacts would have potential to hinder implementation of the proposal as submitted.
22. The proposal is supported by a Tree Survey/Arboricultural Impact Assessment which acknowledges the presence of the Tree Preservation Order (TPO tree) that is sited along the southern boundary of the site. The assessment does not, however, acknowledge the presence of any other trees sited to the north of the application site with the Tree Constraints Plan showing only those to the southern boundary as appendix 3 to that report. The Tree Assessment Plan (24_5837_08_48) shows an excessive incursion into the Root Protection Area (RPA) which does not respect the future wellbeing of the tree which is protected by a TPO. The principle of development, as submitted, therefore has significant potential to compromise the longevity of the protected tree.
23. Whilst it is accepted that there is compaction of the ground within the identified RPA, works should be outside of this unless it can be demonstrated with the sufficient level of confidence that the works will not result in long-term harm to trees. Based upon the evidence before me the roots of the protected Lime Tree would likely extend into the site and would likely result in considerable direct damage which would be both direct and indirect as a result of the development. I acknowledge that the methodology of works proposed within the report identifies the need for a low impact foundation design to be sought to mitigate the impact, however, no further details have been provided within the submission to demonstrate that this can be secured. Even if I had agreed that this detail could have been secured, by condition, the appeal would still have failed due to the issues identified against the other main issues within this decision letter.
24. In addition to potential impact to the roots of the tree itself, the tree is in the region of 20 metres in height and is sited to the south of the proposed development. No shading plan has been provided to demonstrate the full impact of the relationship to the proposed development. Given the proximity, height and location, there is further potential for shading to be an issue which could result in potential conflict, going forward, and further pressure in terms of retention of the tree alongside the proposed development. No tree protection measures have been provided to demonstrate that the tree could be adequately protected during construction which would add to further risk of encroachment from heavy material or storage of materials within the RPA's which, given the heavily constrained nature of the site,

will reasonably need consideration prior to determination of any planning permission. Again, even if I had considered this appropriate to be secured by condition, the appeal would still have failed for the issues which I set out.

25. Overall, insufficient information has been provided as part of the appeal in order to fully assess the possible impacts of the development on adjacent trees (though construction as well as in terms of residential amenity and shading) and ecological infrastructure, in terms of the hedgerows, meaning the proposal would be contrary to DS Policy S8 which requires development to be responsive to the character and visual amenity of the local area as well as taking account of the locally distinctive character of the area and should respect and respond to its positive attributes which, in this case, include the trees as previously noted and identified.
26. The proposal would also be contrary to DS Policy S19 which requires sites located within the Green Network to have a design and layout which would complement and enhance the intended functions of the network including strengthening and supporting existing wildlife corridors through habitat creation and restoration, DS Policy S21 which seeks to safeguard and enhance designated nature conservation sites, habitats and features through the development process and DS Policy S22 which ultimately seeks to avoid adverse impact on trees where applicants are required to provide full details of any impact. The proposal would also be contrary to the overarching objectives of the guidance set out within the Nature Conservation Supplementary Planning Document 2016.

Planning Balance

27. DS Policy S1 reiterates the Framework's presumption in favour of sustainable development. The Council's delegated report confirms that applying the tilted balance, as set out within the Framework, means that the assessment shifts from a neutral balance where the consideration is whether the harm outweighs the benefits to a tilted balance where the harm would have to significantly and demonstrably outweigh the benefits to justify the refusal of the housing development in question (the presumption in favour of sustainable development).
28. Based upon consideration of the key issues above, I find that the proposal would present as an overly intensive, large, cramped and contrived form of development, demonstrated by the shape of the proposal to fit the site - contrary to the established pattern and built form of development locally. I find that this would be detrimental to the character of the area and, in addition, the proposal would fail to provide an appropriate standard of amenity for existing and future occupiers of the proposal combined with issues with regard to parking, accessibility and highway safety. Insufficient information has been provided to demonstrate the works would be appropriate in terms of ecological matters and there is further concern, as outlined, as to impact upon the tree on site which is protected by a TPO.
29. In the context of a planning balance, I attach strong weight to the provision of residential development which would, evidently, boost housing supply even as a small scheme. There would be social and economic benefits associated with the construction and occupation of the dwellings in question but in this case there are numerous, cumulative, issues with the proposal in relation to character of the area, highway safety, accessibility, residential amenity as well as ecological and tree based concerns which cumulatively means that I find the proposal would result in failure to secure a sustainable form of development. In the context of a planning

balance, the combined harm identified as a result of the proposals would, in terms of adverse impacts, significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

30. Overall, therefore, notwithstanding acknowledgement of the need to boost housing supply, and the Council's stated housing supply I do not find that in this case the provision of housing is sufficient to overcome the adverse impacts associated with development of the site as is currently proposed within this submission. The cumulative impacts of the proposal would therefore be sufficient to warrant refusal and on this basis, I find that the appeal should be dismissed.

Other Matters

31. I note there have been a large number of objections to the proposal received during the application period. I have dealt with matters raised within these objections in the context of the four main issues which, cumulatively, deal with the five refusal reasons which were stated by the Council. Loss of views, is not, itself, a material planning consideration.
32. I also note that letters of support have been provided, however, I do not find that the revised scheme has overcome the previous reasons for refusal as outlined nor that it would provide improvements in terms of parking for residents and visitors and, overall, I find the issues with this current proposal to be sufficient to warrant refusal. I note that the area is in need of housing, in general, and I have considered the proposal in the context of the presumption in favour of sustainable development set out within the Framework.

Conclusion

33. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Marshall

INSPECTOR