



Appeal Decision

Site visit made on 7 January 2026

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2026

Appeal Ref: APP/G4620/W/25/3373170

104 Walsall Road, West Bromwich, Sandwell B71 3HN

- 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 Deepak Verma against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/25/70710.
 - The development proposed is change of use from a class C3 Dwellinghouse to accommodate an upstairs flat and downstairs sweetshop with kitchen at the rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site is a suitable location for the proposed use with particular regard to the policies of the local plan;
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties; and
 - whether the proposal makes adequate provision for off-street parking with particular regard to the safety and convenience of users of the highway.

Reasons

Location

3. The appeal site is located within a row of existing residential properties, outside of but relatively close to the Stone Cross Local Centre to the north. A small grouping of existing commercial uses is also present to the south, separated from the appeal site by a pair of semi-detached houses. It is proposed to use the first floor of the appeal property as a flat and to use the ground floor as a sweet and desserts shop which would be available to takeaway or to eat at the premises. The existing outbuilding would be used as a kitchen for food preparation.
4. Policy CEN1 of the Black Country Core Strategy (adopted February 2011) (BCCS) sets out a strategy of focussing higher order activities in the main strategic centres, balanced by a network of Town, District and Local Centres providing for town centre uses including meeting day-to-day shopping needs. Policy CEN5 of the BCCS seeks to support the provision of appropriately scaled retail, office and leisure uses within District and Local Centres.

5. Policy CEN6 of the BCCS states that new small-scale facilities outside defined centres of up to 200 square metres will be permitted subject to certain criteria. The Policy justification states that these criteria complement the regeneration strategy for centres.
6. The appeal proposal is relatively small in scale and is within safe, convenient walking distance from local populations in the surrounding residential areas. However, there are several food and drink businesses within the small grouping of commercial uses to the south of the appeal site and an even greater range in the Stone Cross Local Centre to the north of the appeal site, including dessert and cake shops. As such, it has not been adequately demonstrated that the proposal would meet a specific day-to-day need or that there is a deficiency of such uses in the local area.
7. The appellant considered available vacant units within the Stone Cross Local Centre and concluded that none were suitable as they were too large, under offer or lacked rear servicing. Sites in other Local Centres would be too far from the anticipated customer base. However, details of the premises considered have not been provided and it has not been explained why the use could not operate without rear servicing. As such, it has not been adequately demonstrated that provision could not be better met by investment in a nearby centre. The proposal would therefore not fulfil the criteria of Policy CEN6 of the BCCS and would conflict with its strategy of focussing development on existing centres.
8. I therefore conclude that the appeal site is not a suitable location for the proposed use with particular regard to the policies of the local plan. It therefore conflicts with Policies CEN1, CEN5 and CEN6 of the BCCS.

Living Conditions

9. The existing outbuilding to the rear of the appeal site would be used as a kitchen in association with the proposed use of the ground floor. In their final comments the appellant states that cooking on a commercial level would not occur with product being brought in and resold. Nevertheless, this element is included on the plans and in the description of development and as such were the appeal allowed, it would be open to future operators to use the kitchen for commercial purposes, even if this is not the intention of the appellant.
10. The activities associated with a commercial kitchen would be likely to generate noise and odours. The outbuilding is in relatively close proximity to the adjacent dwellings and associated garden areas at 102 and 106 Walsall Road as well as properties to the rear accessed via Stonelea Close. The occupiers of these properties would be likely to experience noise and odours as a result of the proposed use of the outbuilding.
11. The proposed use of the appeal site would generate noise as a result of the comings and goings of visiting customers and servicing activities including the use of the proposed bin storage area at the rear. This would result in disturbance to adjoining properties, in particular 102 Walsall Road, the side elevation of which is in very close proximity to the access which would be likely to be regularly used for servicing, deliveries and refuse collection. Furthermore, the appeal property shares a wall with 106 Walsall Road and the proposed commercial floorspace on the ground floor would directly adjoin the ground floor accommodation of this

dwelling. The occupiers of this dwelling would be likely to experience noise when within indoors as a result of the noise and activity of visiting customers.

12. The appellant has expressed a willingness to carry out an assessment and to implement any suggested mitigation to address noise and odour issues. However, in the absence of such an assessment, or any proposed mitigation it has not been demonstrated that the effects of the proposal could be successfully addressed. Given the degree of uncertainty that an effective solution is possible I do not consider it appropriate to leave these matters for consideration via conditions.
13. Whilst there are other commercial activities present nearby, the proposal would introduce a new commercial use which would generate noise and smells into a residential enclave between commercial areas and in very close proximity to dwellings, the occupiers of which would be adversely affected by the noise, disturbance and odours associated with the proposed use.
14. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties. No development plan policies were cited in the first reason for refusal however the proposal would conflict with Policies CEN1, CEN5 and CEN6 of the BCCS insofar as they seek to direct commercial development to existing centres.

Parking

15. There is sufficient space to park two vehicles at the front of the appeal property, off the road. The Council contend that a total of 6 off-street parking spaces would be required for the proposed use of the building, including the flat. However, I have not been referred to any policy or guidance which sets out how these figures have been calculated.
16. In the vicinity of the appeal site, Walsall Road is a two-lane road with markings indicating some areas intended for on-street parking on both sides of the street. Existing driveways mean that sections of the street are not available for parking, however I noted several on-street parking spaces available near to the site.
17. I recognise that my site visit represents a snap-shot in time and that there may be certain times of day when parking is more limited. However, given that the availability of on-street parking in the area and the presence of a local population who could easily walk to the appeal site, I do not consider that the proposal would result in excessive parking pressure nor consequential inappropriate parking in the area. Accordingly, the proposal would not result in a significant detrimental impact on highway safety or in inconvenience to road users.
18. I therefore conclude that the proposal makes adequate provision for off-street parking with particular regard to the safety and convenience of users of the highway. No development plan policies were cited in the second or third reasons for refusal however I conclude that the proposal would accord with the Framework which seeks to ensure that developments function well and create places that are safe.

Other Matters

19. The proposal would result in some benefits in respect of job creation, the re-use of a vacant building and the creation of a local facility. Given the small scale of the proposal, I afford these matters modest positive weight. However, I give significant

negative weight to the conflict with the development plan and the harmful effect that the proposal would give rise to in respect of the living conditions of the occupiers of neighbouring properties. The lack of harm in respect of parking matters is a neutral factor. As such the adverse impacts of granting planning permission would significantly outweigh the benefits.

Conclusion

20. The proposal would conflict with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be determined other than in accordance with it. Therefore, the appeal is dismissed.

E Pickernell

INSPECTOR