



## Appeal Decision

Site Visit made on 26 October 2021

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 November 2021**

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**Appeal Ref: APP/G4620/W/21/3275450**

**91 Lewisham Road, Smethwick B66 2DD**

- 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 R Aggarwal against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/20/64780, dated 29 September 2020, was refused by notice dated 5 March 2021.
  - The development proposed is a single storey extension at rear to create a studio flat.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:
  - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to outlook, light, ventilation and noise; and, the effect of the proposal on;
  - The character and appearance of street scene,
  - Highway safety; and,
  - The safety of future occupiers.

### Reasons

#### *Living Conditions of Future Occupiers*

3. The appeal site contains a large multi-use building with a pharmacy and opticians on the ground floor and residential flats above. A tunnel through the building provides access to parking at the rear of the site. The proposal includes the conversion and extension of the building, behind the opticians, in order to provide a studio flat. An existing doorway within the tunnel would serve the property as the front door. To the rear of the site a garden and car parking space would also be provided.
4. The flat would be served by two windows; one adjacent to the front door and a larger window next to the garden door. The window by the front door would be within the tunnel where it would have a poor and restricted outlook of the inside of the tunnel. Likewise, the window would receive a poor level of natural light by way of its position within the tunnel. Conversely, the garden window, given its larger size and its siting, would provide a good level of natural light to the property and would afford a more pleasant and open outlook. Nevertheless,

given the depth of the flat, the benefits of the light to, and outlook from this window would be unlikely to reach the parts of the property furthest from it. As such, the bedroom and associated sitting area would be dark and oppressive spaces that would require future occupiers to rely on artificial lighting.

5. Given its siting in the tunnel, the window by the front door would also be susceptible to high levels of noise from passing motor vehicles. This would be especially noticeable at night when occupiers are asleep. Given this and likely exhaust fumes from passing vehicles, it is unlikely that future occupiers would open this window. Therefore, and given the length of the flat, I find it likely that the garden window and door would not be sufficient to suitably ventilate the whole property. This would be especially noticeable on hot days, or should fumes from the tunnel enter the property, and would result in it being a less pleasant place for future occupiers.
6. Whilst the floorspace of the flat, and the proposed garden, may be sufficient to accommodate the likely needs of future occupiers this does not outweigh the above harm.
7. Therefore, in light of the above, the proposal would not provide a suitable level of accommodation for future occupiers and the poor living conditions would conflict with Policies CSP4 and ENV3 of the Black Country Core Strategy (BCCS) and Policy SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (SADDPD), they require that development is of a high quality and promote well-being. The proposal would also conflict with Paragraph 130 (f) of the National Planning Policy Framework (the Framework) which requires that development has a high standard of amenity for existing and future users. Whilst the Council have also referred to the Revised Residential Design Guide Supplementary Planning Document (RDG) the extract provided is not relevant to this issue.

#### *Character and Appearance*

8. The proposal would result in a new dwelling which would not be accessed from the front of the existing building. As such, the property and any associated activities would not be directly read in connection with the surrounding properties that front on to Lewisham Road. However, I noted a number of doors to the rear of the site which appear to provide access to the shops and flats, while these may not be main, or front, doors I find movement and activity is present across the whole site and as such it is already somewhat different to its surroundings. Moreover, given the small scale of the development in relation to the site, and the existing uses present, it would not result in an unacceptable intensification of use on site.
9. As such the proposal would not harm the character of the host dwelling or its surroundings and would comply with BCCS Policy ENV3 and Policy SAD EOS 9 of the SADDPD. These require that development is of a high quality design that is appropriate and compatible with its surroundings. The proposal would also comply with the guidance on design set out within the RDG.

### *Highway Safety*

10. I understand that the appeal site currently contains two commercial properties below a number of residential flats and that the existing parking serves all of these uses. I also noted that there is on-street parking available along Lewisham Road as well as on nearby roads. At the time of my visit there were some spaces available both on and off-site. I am not aware of any minimum requirements for car parking provision.
11. The proposal would result in the complete loss of two parking spaces while a further space would be for use only by the future occupiers of the proposed studio flat. It is likely that this loss of three shared spaces would result in some displacement of vehicles to nearby roads. However, it has not been demonstrated that this would result in any unacceptable impact on highway safety as a result. I therefore find, from my observations on site and the evidence before me, that Lewisham Road and other nearby roads could accommodate the likely small displacement of vehicles without harming the safe and efficient operation of the highway.
12. As such the proposal would not cause an unacceptable impact on highway safety as a result of the reduced parking provision, and would comply with the highway safety aims of the Framework.

### *Safety of Future Occupiers*

13. As outlined above, the tunnel provides access to the car park which is used by both the commercial and residential units, the front door of the proposed flat would be opposite the rear doors serving the flats and pharmacy. As such it is likely that there would be a level of movement and activity through the site during both the day and night. I noted during my site visit that there is an existing security light within the tunnel.
14. I have not been provided with any evidence that the site experiences anti-social or criminal behaviour or any substantive evidence that the proposal would have an unacceptable impact on such behaviour. Moreover, I find that activity and movement on site, the security light, and views from the street and existing building would help limit any fear of crime.
15. Therefore, the proposal would not result in development where crime, or the fear of crime, undermine the quality of life or community cohesion and resilience and as such would comply with the aims of Paragraph 130 of the Framework. Whilst the Council have referred to Secured by Design, I have not been provided with a copy of this document and so it has not been determinative in my consideration of the appeal.

### **Conclusion**

16. The Government's objective is to significantly boost the supply of housing and the proposal would provide a dwelling in an accessible location. However, given the small scale of the proposal, the provision of the additional house attracts only modest weight. The proposal would not result in harm to the character and appearance of the area or highway safety, and would ensure a good level of safety for future occupiers. However, these matters are not benefits and as such I attach them neutral weight.

17. In contrast the proposal would provide a poor level of accommodation for future occupiers to the detriment of their living conditions. This matter attracts significant weight and outweighs the benefit associated with the proposed development.
18. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. As such, for the reasons given above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR