

## Wolverhampton City Council

**OPEN INFORMATION ITEM**

Committee / Panel	<b><u>PLANNING COMMITTEE</u></b>	Date 8 <sup>th</sup> November 2011
Originating Service Group(s)	<b>EDUCATION AND ENTERPRISE</b>	
Contact Officer(s)/	<b>CHRIS HOWELL (Section Leader)</b>	<b>STEPHEN ALEXANDER (Head of Development Control and Building Control)</b>
Telephone Number(s)	<b>(01902) 551126</b>	<b>(01902) 555610</b>
Title/Subject Matter	<b>PLANNING APPEALS</b>	

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**1.0 Purpose of Report**

- 1.1 To provide the Committee with an analysis of planning appeals in respect of decisions of the Council to either refuse planning or advertisement consent or commence enforcement proceedings.

**2.0 Planning Appeals Analysis**

- 2.1 The Appendix to this report sets out the details of new planning appeals, ongoing appeals and those which have been determined by the Planning Inspectorate in respect of the decisions of the Council to either refuse planning or advertisement consent or commence enforcement proceedings.
- 2.2 In relation to the most recent appeal decisions of the Planning Inspectorate i.e. those received since last meeting of the Committee, a copy of the Planning Inspector's decision letter, which fully explains the reasoning behind the decision, is attached to this report. If necessary, Officers will comment further on particular appeals and appeal decisions at the meeting of the Committee.

**3.0 Financial Implications**

- 3.1 Generally, in respect of planning appeals, this report has no specific financial implications for the Council. However, in certain instances, some appeals may involve the Council in special expenditure; this could relate to expenditure involving the appointment of consultants or Counsel to represent or appear on behalf of the Council at Public Inquiries or, exceptionally, if costs are awarded against the Council arising from an allowed planning/enforcement appeal. Such costs will be drawn to the attention of the Committee at the appropriate time.

**4.0 Equal Opportunities/  
Environmental Implications**

- 4.1 None.

**NEW APPEALS**

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>233A Hordern Road, Wolverhampton</p> <p>St Peters</p> <p>Mr Iqbal Zahid</p>	<p>11/00802/FUL</p> <p>Proposed two storey side extension, Single storey rear extension and front canopy to front of house</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>22.09.2011</p>	<p>The proposed two storey side extension would, by reason of its size and siting, have an unacceptable overbearing, oppressive and overshadowing impact to the residential amenities of neighbouring property 233 Hordern Road and result in a tunnelling effect and unacceptable loss of outlook, sunlight/daylight presently enjoyed by this garden/house. Relevant UDP Policies D7 &amp; D8, SPG4 and BCCS policies ENV3 &amp; CSP4</p>
<p>Land At Front , Ashmore Park Library, Griffiths Drive</p> <p>Wednesfield North</p> <p>Vodafone Ltd &amp; Telefonica 02 UK Ltd</p>	<p>11/00536/TEL</p> <p>Telecommunication - Vodafone/02 - Installation of 12.5m high Streetpole enclosing two antenna and associated equipment and housing.</p>	<p>Planning</p> <p>Written representation</p> <p>23.09.2011</p>	<p>The proposal would result in unnecessary visual clutter creating an undesirable visually prominent, obtrusive and incongruous feature. As such the proposed streetpole would impact the skyline, have serious adverse effect on visual amenity and is detrimental to the streetscene and locality. The proposal would also result in the reduction of the footway to the detriment of pedestrian safety. Contrary to UDP Policies D6, D7, D9, EP20 and AM15 BCCS Policies CSP4, ENV3 and The Interim Telecommunications Policy</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>64 Wergs Road, Wolverhampton, West Midlands</p> <p>Tettenhall Regis</p> <p>Miss BK Bbreach</p>	<p>11/00138/FUL</p> <p>Detached outbuilding (AMENDED PLANS RECEIVED).</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>27.09.2011</p>	<p>The proposed detached outbuilding relative to the rear garden space would by reason of its massing and footprint, would result in an overdevelopment of the plot especially in relation to the surrounding locality, being out of character, and failing to create a sense of place in respect of scale in the urban form. Relevant UDP Policies: D4/D7/D9 and BCCS Policy ENV3</p> <p>The proposed extension would, by reason of its height, bulk and position relative to the house/garden on the adjoining property at 24 Birchfield Avenue, have an unacceptable overbearing impact, and on the outlook presently enjoyed by that garden/house. Relevant UDP Policies: D7 &amp; D8</p>

## **ONGOING APPEALS**

	<b><u>Appeal Site / Ward</u></b>	<b><u>Appellant</u></b>
1.	277 Wolverhampton Road East Wolverhampton  <b>Blakenhall</b>	Mr Ajmir Singh
2.	15 To 17 Wellington Road Wolverhampton WV14 6AH  <b>Bilston North</b>	Mr Andrew Lund
3.	Land Rear Of 21 Perton Grove Wolverhampton  <b>Tettenhall Wightwick</b>	Mr & Mrs T Smith
4.	Hanbury Tennis Club Hanbury Crescent Wolverhampton  <b>Penn</b>	Hanbury Tennis Club
5.	Academy Painting And Dec Ltd The Yard Olive Avenue Wolverhampton  <b>Blakenhall</b>	Mr L Smith
6.	4 Amanda Avenue Wolverhampton  <b>Penn</b>	Mr G Tukhar
7.	146 Coalway Road Wolverhampton  <b>Graiseley</b>	Mr Harry Patel
8.	230 Stafford Road Wolverhampton  <b>Bushbury South And Low Hill</b>	Mr E Watson
9.	Land Fronting Murco Filling Station 60 Codsall Road Wolverhampton  <b>Tettenhall Regis</b>	Cornerstone - 02 And Vodafone

10. Land On The Corner Of  
Long Lake Avenue  
Wolverhampton

Vodafone Ltd &  
Telefonica 02 UK Ltd

**Tettenhall Wightwick**

11. Land On South Corner Of Mount Road  
Penn Road  
Wolverhampton

Vodafone Ltd &  
Telefonica 02 UK Ltd

**Penn**

12. 3 Long Knowle Lane  
Wolverhampton

Mr Surinder Kumar

**Fallings Park**

13. Land Fronting The Westacres  
Finchfield Hill  
Wolverhampton

Vodafone Ltd &  
Telefonica 02 UK Ltd

**Tettenhall Wightwick**

**APPEALS DETERMINED SINCE LAST MEETING**

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>3 Raynor Road, Wolverhampton</p> <p>Bushbury South And Low Hill</p> <p>Mrs Nachhattar Kaur</p>	<p>10/00827/VV</p> <p>Variation of condition 4 of previous approval (09/00179/FUL) to allow opening from 0800 hours to 2300 hours on Monday to Sundays.</p>	<p>Planning</p> <p>Written representation</p> <p>16.05.2011</p>	<p>The proposed extension of hours is likely to give rise to an unacceptable degree of disturbance to nearby residents from increased traffic noise, customer noise and the presence of cooking odours, this would adversely affect neighbour amenity to an unacceptable degree. Contrary to UDP Policies: SH14 and EP5.</p> <p>The proposed extension of hours would increase demand on the existing parking provision to the point of saturation. This would lead to increased parking on the adjacent highways which would be detrimental to pedestrian safety and create unnecessary traffic hazards.Relevant UDP Policies: AM 15 &amp; AM 12.</p>	<p>Appeal Dismissed</p> <p>05.10.2011</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>Wentworth Lodge Residential Home, Wentworth Road, Wolverhampton</p> <p>Bushbury North</p> <p>Mrs Sandra Dell</p>	<p>11/00121/FUL</p> <p>First floor rear extension creating five new bedrooms.</p>	<p>Planning</p> <p>Written representation</p> <p>07.07.2011</p>	<p>Scale and character</p> <p>Neighbouring and existing resident amenity Parking</p> <p>Contrary to UDP Policies D4, D7, D8, D9, ENV3, AM12, AM10 and AM15.</p>	<p>Appeal Dismissed</p> <p>17.10.2011</p>
<p>80 Lowe Street, Wolverhampton</p> <p>St Peters</p> <p>Mr Azim Ullah</p>	<p>11/00319/FUL</p> <p>First floor rear extension.</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>12.08.2011</p>	<p>Neighbouring amenity</p> <p>Contrary to UDP Policies D7, D8 and ENV3.</p>	<p>Appeal Dismissed</p> <p>07.10.2011</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
26 Hanbury Crescent, Wolverhampton  Penn  Mr B Gadou	11/00487/FUL  Single storey extension and two storey extension at the side	Planning  Fastrack Householder Appeal  15.08.2011	Detrimental impact on amenity of neighbours at 25 and 27 Overbearing, loss of sunlight/daylight contrary to UDP Policies D7 and D8 and BCCS policy ENV3.	Appeal Dismissed  20.10.2011
146 Coalway Road, Wolverhampton  Graiseley  Mr Harry Patel	11/00427/FUL  Proposed single storey rear extension to create kitchen and dining area with double storey side extension to create garage, utility and bedrooms at first floor	Planning  Fastrack Householder Appeal  22.08.2011	Loss of gap in streetscene Loss of sunlight/daylight/outlook Contrary to UDP Policies D7, D8, D9 and ENV 3.	Appeal Dismissed  24.10.2011





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# Appeal Decision

Site visit made on 12 September 2011

**by Simon Berkeley BA MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 October 2011**

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**Appeal Ref: APP/D4635/A/11/2151889**

**The Royal Chicken, 3 Raynor Road, Wolverhampton WV10 9QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Nachhattar Kaur against the decision of Wolverhampton City Council.
  - The application reference 10/00827/VV, dated 21 July 2010, was refused by notice dated 4 November 2010.
  - The application sought planning permission for the change of use from Use Class A1 (retail) to Use Class A5 (hot food takeaway) without complying with a condition attached to planning permission reference 09/00179/FUL, dated 10 November 2009.
  - The condition in dispute is No 4 which states that: The use hereby permitted shall not be open to customers outside the following times 0800 hours to 2100 hours on Mondays to Saturdays. The premises shall remain closed, for the use hereby permitted, on Sundays and Bank or Public Holidays
  - The reason given for the condition is: In the interests of the amenity of the area.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. The planning application describes the proposal as being to "*extend time 11pm, previously being proved 8 – 21.00pm*". The days of the week for which these hours relate are not specified. It is evident that the Council took this to mean 0800 hours to 2300 hours on Mondays to Sundays. I have been given no explanation as to why Sundays and, by omission, bank and public holidays were included within this interpretation. The appellant's description refers to extending those hours previously approved, which excludes these days. Consequently, I have determined the appeal on the basis that opening hours of 0800 hours to 2300 hours are proposed on Mondays to Saturdays only.
3. The appeal form says that the opening hours sought are 10.00 to 23.00 hours Mondays to Thursdays, 10.00 to 00.00 hours Fridays and Saturdays and 12.00 to 21.00 Sundays and Bank Holidays. These hours are significantly different to those originally proposed and have not been considered by the Council. To avoid any injustice being caused, I shall not take these hours into account.

## **Main issues**

4. The main issues are the effect that varying the condition would have on neighbours' living conditions in terms of noise and odours, and on highway safety.

## **Reasons**

5. The appeal building is situated within a parade of commercial premises in the Fallings Park District Centre, which includes a number of other hot food takeaways. A pharmacy lies between it from the house at 2a Mandale Road. Nonetheless, the rear of the appeal property is angled towards that home, and is quite close to it.
6. At present, from the evidence, it is apparent that cooking odours from the appeal premises are reaching number 2a, and complaints about it have been made to the Council. The Council's Food and Environmental Safety officer says that during a visit to that home, the level of odour witnessed was found to be strong. It is evident that this is having a significant and negative impact on the living conditions experienced there. The appellant does not refute any of this.
7. I note that the Council's Food and Environmental Safety officer has advised that works are required to improve the extraction system. However, I have no more detailed evidence about this, or the timescales involved in securing the remedial measures necessary. In the meantime, extending the opening hours as proposed would prolong the occurrence of unacceptable odours for an additional two hours every Monday to Saturday. I see no reason why this should be allowed, even for a limited period.
8. I do not doubt that people visiting the takeaway create some degree of noise, including from their car engines and doors, and from talking in the street. However, this is against the background of traffic and other street activity on Raynor Road and Cannock Road (the A460). These were busy at the time of my visit. While they may be less busy between 2100 hours and 2300 hours, it is probable that they are the source of noticeable levels of noise then, and are not silent. In this context, the additional noise created by most customers to the takeaway during these hours would not be excessive, and would generally be limited.
9. Overall, I consider that this appeal proposal would not lead to a significant degree of disturbance. Nevertheless, I conclude that varying the condition would harm the living conditions of the occupiers of 2a Mandale Road in terms of odours. As such, it would conflict with Policy SH14 of the Wolverhampton Unitary Development Plan (UDP). This does not permit proposals for catering outlets where significant harm would be caused to the amenities of residential accommodation in the vicinity, including by reason of smell.
10. There are a number of off-street parking spaces to the front of the appeal property. The Council's concern is that the proposed opening hours would increase the demand for them to the point of saturation. The number of cars parked in association with the takeaway at any one time could increase, if the demand for its services is greater during the later hours. It is possible that these spaces alone may not be sufficient.
11. However, Mandale Road and other streets in the vicinity are not subject to parking restrictions. Though I saw some cars parked on them on my site visit,

there were many spaces available close to the site. I accept that matters may be different at other times, and that the takeaway's customers and local residents might experience inconvenience as a result of any additional on-street parking brought about by the proposed opening hours. Nevertheless, in my view, this would not amount to a safety problem for drivers or pedestrians. I have not been made aware of any accidents having been recorded by the Council, and the manoeuvres required to park on these streets would not be out of the ordinary.

12. It may be that some people park their cars inconsiderately in the neighbourhood, including across driveways. But this should not be regarded as a predictable outcome of extending the takeaway's opening hours as proposed here. To conclude that the takeaway's customers would park irresponsibly in numbers sufficient to cause material harm would be unwarranted.
13. I therefore conclude that varying the condition as proposed would not result in harm to highway safety. As such, it would not conflict with the underlying objectives of UDP Policies AM12 and AM15. The former sets maximum parking standards and aims to ensure that parking does not lead to detriment to pedestrian safety and the safe and free flow of road traffic. The latter says that all development proposals should be designed to contribute towards improving road safety and personal security.
14. Local residents and business people have raised other concerns, and I have taken account of all the evidence, including the comments about vermin, litter and anti-social behaviour. But to my mind, opening for an additional two hours on the days proposed would have little effect on the presence or otherwise of pests. Neither littering nor rowdiness are inevitable outcomes of extending the takeaway's opening hours. Rejecting the appeal on these grounds would be unjustified.
15. Ensuring that the appeal premises does not open outside the hours permitted is a matter for the Council. That these may not have been adhered to is not a strong reason to resist the proposal.
16. The appellant points to the other takeaways in the area and their permitted hours of opening. But I have been given no reason to suppose that these premises are causing significant problems for neighbours. That cannot presently be said of The Royal Chicken. Consequently, this argument does not persuade me that the appeal should be supported, even taking account of the economic benefits of allowing the hours sought.

### **Conclusion**

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Simon Berkeley,*

INSPECTOR



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# Appeal Decision

Site visit made on 10 October 2011

**by David Kaiserman BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 October 2011

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**Appeal Ref: APP/D4635/A/11/2156422**

**Wentworth Lodge Care Home, Wentworth Road, Bushbury,  
Wolverhampton WV10 8EH**

- 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 Mrs S Dell against the decision of Wolverhampton City Council.
  - The application Ref 11/00121/FUL, dated 1 February 2011, was refused by notice dated 26 March 2011.
  - The development proposed is the construction of a first-floor rear extension creating five new bedrooms.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the proposal (a) on the character and appearance of the host building; (b) on the living conditions of nearby residents; and (c) on the adequacy of car-parking provision.

## Reasons

3. The appeal property is a substantial, two-storey modern care home occupying a prominent corner plot in an established residential area. Most of the surrounding property consists of modest semi-detached houses, probably dating from the period between the Wars; immediately to the west of the site, however, there is a short cul-de-sac of more modern bungalows (Denstone Gardens).
  4. The proposal involves the construction of a flat-roofed first floor extension, some 17m wide, at the rear / side of the existing home. About half of the existing rear elevation of the building incorporates a single-storey extension with a mono-pitch roof: this site comfortably under the cill line of the first-floor windows. The remaining half of the rear elevation contains more disparate and somewhat disjointed elements, including a deeper, flat-roofed, single-storey extension (upon which the appeal proposal would be erected) with a further conservatory projection beyond.
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5. In my opinion, when seen from Denstone Gardens, the appeal proposal would appear as a bulky and incongruous addition to the rear of the home, owing little to the original design, and overwhelming the visible part of the rear elevation, at the same time cutting across the profile of the pitched roof gables of the first floor and projecting beyond the main side wall. Some visual harm would also result (albeit from a greater distance) in views from Pendrill Road, to the north.
6. On the first issue, therefore, I consider that the scheme would represent an unsympathetic and substantial over-development of the existing building, clearly at odds with "saved" Unitary development Plan policy D9.
7. There would also be a specific impact of the proposal on the aspect from no 6 Denstone Gardens, whose side elevation and rear garden share a common boundary with the appeal site. This small bungalow is already dominated by the care home, with the tall boundary fence between the properties adding to a somewhat oppressive sense of enclosure. While most of the proposed extension would not be directly visible from the garden of no 6, due to the fence and the fact that it would broadly align with the side elevation of the bungalow itself, it would certainly be seen from the north-west corner, being only 5.5m away from the boundary. The scheme would exacerbate the uncomfortably close and overbearing relationship between the properties.
8. I am not convinced by the Council's assertion that the proposed angled windows would compromise the privacy of some existing residents of the care home; nevertheless, for the reasons I have given, I have concluded on the second issue that the scheme would conflict with UDP policies D7 and D8 in that it would unacceptably harm the living conditions of the occupiers of no 6 Denstone Gardens.
9. As to the question of car-parking, the Council provide little detail to explain their concerns (although I have noted a number of representations by local residents about the issue). The block plan accompanying the application indicated a layout to accommodate 10 spaces; and while I accept that little further detail was shown, I have been given no reason to believe that the area available for parking and manoeuvring would be inadequate, or that the matter could not be satisfactorily resolved by condition. This objection, therefore, is one to which I have not attached a great deal of weight.
10. Notwithstanding my conclusion on the third issue, I have decided to dismiss the appeal for the reasons set out above. I should add that I have given no weight to a number of personal observations made in representations from the appellant and some of her neighbours.

*David Kaiserman*

INSPECTOR



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# Appeal Decision

Site visit made on 4 October 2011

**by Mary Travers BA (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7 October 2011**

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**Appeal Ref: APP/D4635/D/11/2158283**

**80 Lowe Street, Whitmore Reans, Wolverhampton WV6 0QG**

- 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 Azim Ullah against the decision of Wolverhampton City Council.
  - The application ref 11/00319/FUL dated 30 March 2011 was refused by notice dated 19 May 2011.
  - The proposed development is the erection of a first floor bedroom extension.
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## Decision

1. The appeal is dismissed.

## Reasons

2. The appeal property is a mid-terrace dwelling with a part two-storey, part single-storey projection to the rear that partially encloses a small yard. This built form is generally characteristic of the adjacent dwellings. The proposal to extend at first floor level above the single-storey projection would add to the existing tunnel effect and give rise to unacceptable overshadowing and over-dominance of the adjoining dwelling, No 81, particularly in respect of its ground floor windows/doors that give light to habitable rooms from the yard. Given the orientation of the dwellings, this impact would be especially marked in the afternoon and early evening. The development would therefore significantly harm amenities that occupiers of No 81 could reasonably expect to enjoy. The dwellings are small and a need for more spacious accommodation is understood, but this does not outweigh the importance of protecting residential amenities in the public interest. It has been indicated that No 79 would be extended in similar fashion, but this would not avoid the impact on No 81. Any comparable development that has taken place in the neighbourhood is not a sufficient reason to allow this appeal. The proposal would therefore undermine the policy objectives of the Black Country Core Strategy and the Wolverhampton Unitary Development Plan to safeguard residential amenities and secure a high standard of design in new development. Accordingly the appeal does not succeed.

*Mary Travers*

INSPECTOR



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# Appeal Decision

Site visit made on 10 October 2011

**by David Kaiserman BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 October 2011**

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**Appeal Ref: APP/D4635/D/11/2158920**  
**26 Hanbury Crescent, Wolverhampton WV4 4BW**

- 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 B R Gadou against the decision of Wolverhampton City Council.
  - The application Ref 11/00487/FUL, dated 12 May 2011, was refused by notice dated 25 July 2011.
  - The development proposed is the construction of a single-storey extension and two-storey extension at the side.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. I have adopted the spelling of the appellant's name as it appears on the application from and the Council's notice of refusal.

## Main Issue

3. The main issue is the effect of the proposal on living conditions of the occupiers of nos 25 and 27 Hanbury Crescent.

## Reasons

4. The appeal property is a two-storey semi-detached house situated close to the end of a mature residential cul-de-sac. The proposal has a number of components: I agree with the Council's assessment that the 3m single-storey extension and the 0.95m bedroom extension above it, both on the common boundary with no 25 (the adjoining half of the pair) would have an acceptable impact on that dwelling. I also agree with them, however, that the pitched roof two-storey extension to the rear would result in harm to each of the dwellings on either site of the appeal site.
  5. This element of the scheme would project about 3.7m beyond the existing first floor rear elevation. It would be about 1m off the property boundary and 3.2m from the nearest part of no 27 itself. I am satisfied that this full-height addition would have a significantly overbearing impact on the amenity area immediately to the rear of no 27, and also (despite being at an oblique angle) that it would
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create an unacceptable sense of enclosure from a principal first-floor bedroom window. In addition, due to the orientation, there would be an appreciable loss of daylight and morning sunlight.

6. Since there would be around 3.5m between the eastern flank of the extension and the boundary with no 25, the impact here would be more limited. Nevertheless, even though the appellant calculates that a "45 degree" guideline would be respected in relation to adjacent windows, the extension would still appear as a bulky and prominent element in the general aspect from no 25, and would result in a loss of late afternoon sunlight. This adds to my conclusion that the proposal as a whole conflicts with "saved" Unitary Development Plan policy D8.
7. I have noted the absence of any objection to the scheme from the occupiers of no 25, but this does not outweigh the harm which I have described and which has led me to dismiss the appeal.

*David Kaiserman*

INSPECTOR





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# Appeal Decision

Site visit made on 17 October 2011

**by A D Robinson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 October 2011**

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**Appeal Ref: APP/D4635/D/11/2159475**

**146 Coalway Road, Wolverhampton WV3 7NF**

- 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 Harry Patel against the decision of Wolverhampton City Council.
  - The application Ref 11/00427/FUL, dated 27 April 2011, was refused by notice dated 18 July 2011.
  - The development proposed is a single storey rear extension to create a kitchen and dining area and a two storey side extension to create a garage and utility room with bedroom at first floor.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are:
  - (i) The effect of the proposal on the streetscene; and
  - (ii) The effect of the proposal on the amenity of those living in the adjoining property, No 144, by reason of visual intrusion and loss of sunlight.

## Reasons

### (i) Effect on the streetscene

3. The appeal property is one of a number of modestly sized semi-detached houses along the northern side of this stretch of Coalway Road. The front elevations of the houses have a mix of half timbering, brickwork and areas of render which give them a distinctive appearance. This stretch of the road is also characterised by the regular spacing of the properties. Although most of the houses from the appeal property westwards towards the junction of Coalway Road with Oxbarrow Avenue possess side garages, there are no two storey side extensions. The space at first floor level at the side of the houses provides an important degree of separation between properties and introduces an element of spaciousness into the streetscene.
4. Currently, there is a lean to wooden garage cum store at the side of the appeal property. The proposal which would see the demolition of the existing structure and its replacement with a two storey side extension under a pitched roof would interrupt the rhythm of spacing between the properties along this

stretch of Coalway Road and would detract from the sense of space and separation provided by the gaps at the side of properties at first floor level.

5. I conclude that the proposal would adversely affect the streetscene. As such, the proposal would not accord with Unitary Development Plan (UDP) Policies D7, D8 and D9 and Black Country Core Strategy (BCCS) Policy ENV3.

#### **(ii) Effect on amenity of neighbours**

6. Facing the side elevation of the appeal property across the driveways between the houses is the neighbouring property, No 144. At the side of the adjoining property at first floor level is the sole window of the third and smallest bedroom. The proposal would involve constructing a two storey side extension within a short distance of this window. When seen from this window the height and depth of the proposed side extension would be visually intrusive to the extent that the outlook from the window would be substantially diminished.
7. In addition, the side bedroom window of the neighbouring window faces west and only receives sunlight in late afternoon and in the early evening. The proximity and scale of the proposed extension would significantly reduce the amount of sunlight received in the neighbouring third bedroom. The diminution of sunlight and the reduced outlook would make this bedroom unduly gloomy and unattractive.
8. I acknowledge the appellant's point that the distance between the side bedroom windows of these properties already falls well below what would be currently expected in new development. However, the proposal would significantly reduce further the distance separating the adjoining property from the appeal property to an unacceptable extent.
9. I conclude that the proposal would adversely affect the amenity of those living in the adjoining property, No 144, by reason of visual intrusion and loss of sunlight. As such, the proposal would not accord with UDP Policies D7 and D8 and BCCS Policy ENV3.

#### **Other Matters**

10. I recognise the appellant's wish to improve the level of accommodation that is on currently on offer in the property, but this has to be set against the harm to the streetscene and the amenity of neighbours. Such harm would, in my assessment, be substantial.

#### **Conclusions**

11. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

*Alan D Robinson*

**Inspector**



# The Planning Inspectorate

v7.3

An Executive Agency in the Department for Communities & Local Government and the Welsh Assembly Government

## Our Complaints Procedures

### **Introduction**

#### **We can:**

- review your complaint and identify any areas where our service has not met the high standards we set ourselves.
- correct some minor slips and errors provided we are notified within the relevant High Court challenge period (see below).

#### **We cannot:**

- change the Inspector's decision.
- re-open the appeal once the decision has been issued.
- resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission.; we can only deal with planning appeal decisions.

The **High Court** is the only authority that can ask for the Inspector's decision to be reconsidered. Applications to the High Court must be made within 6 weeks from the date of the decision letter for planning appeals, and in most instances 28 days for enforcement appeals.

### **Complaints**

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

### **How we investigate complaints**

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held.

The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear,

straightforward language, avoiding jargon and complicated legal terms.

We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

### **What we will do if we have made a mistake**

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.

### **Who checks our work?**

The Government has said that 99% of our decisions should be free from error. An independent body called the Advisory Panel on Standards (APOS) monitors this and regularly examines the way we deal with complaints. We must satisfy it that our procedures are fair, thorough and prompt.



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## **Taking it further**

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary and Health Service Ombudsman, who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

## **Frequently asked questions**

*“Can the decision be reviewed if a mistake has happened?”* – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

*“So what is the point of complaining?”* – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

*“Why did an appeal succeed when local residents were all against it?”* – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

*“What do the terms ‘Allowed’ and ‘Dismissed’ mean on the decision?”* – ‘Allowed’ means that Planning Permission has been granted, ‘Dismissed’ means that it has not. In enforcement appeals (s.174), ‘Upheld’ means that the Inspector has rejected the grounds of appeal and the enforcement notice must be complied with; ‘Quashed’ means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

*“How can Inspectors know about local feeling or issues if they don’t live in the area?”* – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have made on the appeal.

*“I wrote to you with my views, why didn’t the Inspector mention this?”* – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

*“Why did my appeal fail when similar appeals nearby succeeded?”* – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

*“I’ve just lost my appeal, is there anything else I can do to get my permission?”* – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

*“What can I do if someone is ignoring a planning condition?”* – We cannot intervene as it is the council’s responsibility to ensure conditions are complied with. You could contact the council as it has discretionary powers to take action if a condition is being ignored.

## **Further information**

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see ‘Contacting us’). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or at [www.apos.gov.uk](http://www.apos.gov.uk)

## **Contacting us**

### **Complaints & Queries in England**

Quality Assurance Unit  
The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square, Temple Quay  
Bristol BS1 6PN

Phone: 0117 372 8252

E-mail: [complaints@pins.gsi.gov.uk](mailto:complaints@pins.gsi.gov.uk)

Website [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

### **Enquiries**

Phone: 0117 372 6372

E-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

### **Complaints & Queries in Wales**

The Planning Inspectorate  
Room 1-004  
Cathays Park  
Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: [Wales@pins.gsi.gov.uk](mailto:Wales@pins.gsi.gov.uk)

### **The Parliamentary & Health Service Ombudsman**

Millbank Tower, Millbank  
London SW1P 4QP

Helpline: 0845 0154033

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

E-mail: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

Please see Wales leaflet for information on how to contact the Wales Public Services Ombudsman.