

Wolverhampton City Council

OPEN INFORMATION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date 6 th December 2011
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)/	CHRIS HOWELL (Section Leader)	STEPHEN ALEXANDER (Head of Development Control and Building Control)
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Title/Subject Matter	PLANNING APPEALS	

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
45 Avenue Road, Wolverhampton Park Mr Kunal Mehta	11/00719/FUL Two storey side and rear extension and front canopy.	Planning Fastrack Householder Appeal 14.10.2011	Unacceptable loss of gap at first floor level. BCCS policy ENV3 and UDP policies D9 & D4 Unacceptable overbearing impact and reduction in light/outlook presently enjoyed by neighbouring garden/house. BCCS policy ENV3 and UDP policies D7 & D8
Land To Rear Of , 61 Wrottesley Road, Wolverhampton Tettenhall Regis D. K. Benton/Roberts	11/00486/RC Application for removal of Condition 11 (Windows on southern elevation to be obscurely glazed and to be fixed non openable type) of planning permission 09/00746/FUL	Planning Fastrack Householder Appeal 24.10.2011	The proposal would have a detrimental effect on the amenity of residents that the neighbouring properties of 38a, 38b and 38c Redhouse Road, can reasonably expect to continue to enjoy by reason of actual or perceived overlooking from the first floor windows on the rear elevation into these properties. The proposal is therefore contrary to Planning Policy BCCS ENV 3 and retained UDP Policy H6 and the advice contained within section 7 of SPG No.3.
10 Yeadon Gardens, Wolverhampton Merry Hill Mr K Dawson	11/00597/FUL Two storey front and side extension.	Planning Fastrack Householder Appeal 04.11.2011	The proposed extension would be reason of its height; bulk and position relative to the house/garden on adjoining property at 11 Yeadon Gardens have an unacceptable overbearing impact, reduce the amount of sunlight. Contrary to saved UDP Policies D7, D8 & BCCS Policy ENV3

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>1 Carisbrooke Gardens, Wolverhampton</p> <p>Bushbury North</p> <p>Mr M Evanson</p>	<p>11/00384/CPL</p> <p>Outbuilding</p>	<p>Planning</p> <p>Written representation</p> <p>21.11.2011</p>	<p>It is considered that the proposed out building is not permitted development. Therefore, a planning application for the erection of the outbuilding is required. This is because the outbuilding is located in front of the principal elevation of the house.</p> <p>The Technical Guidance for Permitted Development for Householders states that in most cases, the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house. The main highway will be the one that sets the postcode for the house.</p> <p>Carisbrooke Gardens is the main highway serving the property for the three reasons listed below:</p> <ol style="list-style-type: none"> 1) The principal elevation is the part of the house that fronts (directly or at an angle) the major highway serving the house. 2) The main highway is the one that sets the postcode for the house. 3) The larger part of the site fronts Carisbrooke Gardens and the main access to the property is gained via Carisbrooke Gardens.

ONGOING APPEALS

	<u>Appeal Site / Ward</u>	<u>Appellant</u>
1.	277 Wolverhampton Road East Wolverhampton Blakenhall	Mr Ajmir Singh
2.	Academy Painting And Dec Ltd The Yard Olive Avenue Wolverhampton Blakenhall	Mr L Smith
3.	Land Fronting Murco Filling Station 60 Codsall Road Wolverhampton Tettenhall Regis	Cornerstone - 02 And Vodafone
4.	Land On The Corner Of Long Lake Avenue Wolverhampton Tettenhall Wightwick	Vodafone Ltd & Telefonica 02 UK Ltd
5.	Land On South Corner Of Mount Road Penn Road Wolverhampton Penn	Vodafone Ltd & Telefonica 02 UK Ltd
6.	3 Long Knowle Lane Wolverhampton Fallings Park	Mr Surinder Kumar
7.	Land Fronting The Westacres Finchfield Hill Wolverhampton Tettenhall Wightwick	Vodafone Ltd & Telefonica 02 UK Ltd
8.	Land At Front Ashmore Park Library Griffiths Drive Wednesfield North	Vodafone Ltd & Telefonica 02 UK Ltd

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
15 To 17 Wellington Road, Wolverhampton, WV14 6AH Bilston North Mr Andrew Lund	10/00989/FUL Demolition of garage and erection of three townhouses.	Planning Written representation 15.07.2011	Insufficient supporting information, justifying loss of land associated with office parking to the rear of 15-12 Wellington Road. Overdevelopment of the site, cramped layout and inadequate surveillance of parking court Contrary to UDP Policies H6, AM12, AM15, D4, D5, D10 and BCCS Policy ENV3	Appeal Dismissed 10.11.2011

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>Land Rear Of 21 Perton Grove, Wolverhampton, Tettenhall Wightwick</p> <p>Mr & Mrs T Smith</p>	<p>10/01325/FUL</p> <p>Erection of dormer bungalow dwelling</p>	<p>Planning</p> <p>Written representation</p> <p>19.07.2011</p>	<p>The proposed new dwelling would appear as a cramped addition to the locality at odds to the established built form, in a less spacious curtilage and thereby, failing to create a strong sense of place or respond positively to the character and appearance of the area. This would, together with the proximity of the proposed dwelling to No.21 Perton Grove, adversely affect the living conditions of existing and future residents by virtue of loss of light, outlook, overbearing impact on enjoyment of garden space and on the existing property at No.21 Perton Grove. The proposal is therefore contrary to BCCS Policies ENV3, CSP4, HOU2, retained UDP Policies D4, D6, D7, D8, D9, D13, H6 and advice contained within SPG No.3 and PPS3.</p>	<p>Appeal Dismissed</p> <p>27.10.2011</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>Hanbury Tennis Club, Hanbury Crescent, Wolverhampton</p> <p>Penn</p> <p>Hanbury Tennis Club</p>	<p>10/01263/FUL</p> <p>Erection of six floodlights on court number two</p>	<p>Planning</p> <p>Written representation</p> <p>22.07.2011</p>	<p>Proposal would seriously harm the living conditions at neighbouring dwellings through light pollution and excessive noise nuisance/disturbance to the detriment at residents amenities Contrary to UDP Policies EP1, EP4 and EP5</p>	<p>Appeal Dismissed</p> <p>10.11.2011</p>
<p>4 Amanda Avenue, Wolverhampton</p> <p>Penn</p> <p>Mr G Tukhar</p>	<p>11/00589/FUL</p> <p>First floor side extension</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>16.08.2011</p>	<p>Detrimental impact to neighbour amenity, loss of outlook and over bearing impact. Contrary to UDP Policies D7, D8 and ENV3</p>	<p>Appeal Allowed</p> <p>15.11.2011</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>146 Coalway Road, Wolverhampton</p> <p>Graiseley</p> <p>Mr Harry Patel</p>	<p>11/00427/FUL</p> <p>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</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>22.08.2011</p>	<p>Loss of gap in street scene Loss of sunlight/daylight/outlook Contrary to UDP Policies D7, D8, D9 and ENV 3</p>	<p>Appeal Dismissed</p> <p>24.10.2011</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>230 Stafford Road, Wolverhampton</p> <p>Bushbury South And Low Hill</p> <p>Mr E Watson</p>	<p>10/01104/FUL</p> <p>Change of use from C3 (dwelling houses) to C2 (residential institutions) residential care home.</p>	<p>Planning</p> <p>Written representation</p> <p>26.08.2011</p>	<p>It is considered that due to the possible level of support required, the usage would be considerably different to that of a domestic residence (Use Class C3), and although there would be no physical changes to the dwelling, due to the complexity of the use it is considered that it would not operate in the same way as a typical single dwelling household and would therefore be out of character with the surrounding area contrary to The Black Country Core Strategy Policy ENV3 Design Quality.</p> <p>By virtue of the close proximity of the proposed residential care home, to the immediately adjacent children's care home there is a significant concern that this may result in an increase in the fear of crime amongst people within the area generally, contrary to UDP Policies D10 and H11.</p>	<p>Appeal Dismissed</p> <p>18.11.2011</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>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.</p> <p>Relevant UDP Policies D7 & D8, SPG4 and BCCS policies ENV3 & CSP4</p>	<p>Appeal Dismissed</p> <p>22.11.2011</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>64 Wergs Road, Wolverhampton</p> <p>Tettenhall Regis</p> <p>Miss BK Breach</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 & D8</p>	<p>Appeal Allowed</p> <p>04.11.2011</p>



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: 8 November 2011

Appeal Ref: APP/D4635/A/11/2156814
15-17 Wellington Road, Bilston WV14 6AH

- 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 A Lund (Rees Page Solicitors) against the decision of Wolverhampton City Council.
 - The application Ref 10/00989/FUL, dated 23 August 2010, was refused by notice dated 15 March 2011.
 - The development proposed is the demolition of a disused garage and erection of a block of three town houses.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of a disused garage and erection of a block of three town houses on land at 15-17 Wellington Road, Bilston WV14 6AH, in accordance with the terms of the application, Ref 10/00989/FUL, dated 23 August 2010, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans referenced 910110/6A, 7A, 9, 10 and 11.
 3. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. The scheme shall include details of existing and proposed finished levels, means of enclosure and car parking layouts.
 4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

5. No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
6. No work on site, including access for construction vehicles, shall take place outside the hours of 08.00 to 18.00 on Mondays to Fridays and 08.00 to 13.00 on Saturdays, with no working on Sundays or Bank and Public Holidays.
7. Notwithstanding the details shown on the approved plans, before any dwelling is first occupied arrangements shall be put in place to permit direct access from the rear gardens of each of the three dwellings to the associated car-parking area.

Main Issues

2. The main issues in this case are (a) the adequacy of the proposed parking provision for the site as a whole; and (b) the effect of the development on the character and appearance of the area.

Reasons

3. The appeal site lies close to Bilston town centre in an area of mixed residential and commercial (mainly office) uses. It is a landscaped area of car-parking, rectangular in shape, to the rear of offices which front on to Wellington Road. It is not marked out for parking, and access to it is taken from Regent Street. Part of the existing boundary is occupied by a single-storey garage block which would be demolished.
4. The Council have no objection in principle to the development of the site for housing. However, they are not satisfied that there would be sufficient parking provision for both the existing offices (in use by a firm of solicitors) and the future occupiers of the housing units. They also consider that the block would appear cramped and not in keeping with the character of the area.

(a) Car parking

5. "Saved" Unitary Development Plan (UDP) policy AM12 and its supporting material suggest that the Council will adopt a flexible approach to car-parking throughout the Borough. In the present case, they accept that the five spaces proposed for the three dwellings would, in its own terms, be sufficient to meet the demand. This is something with which I agree, especially bearing in mind that the site, as the Council say, is highly accessible by public transport.
6. The issue in dispute is whether or not sufficient parking would remain to serve the offices at the front of the site. The submitted plan indicates that an area of parking would be retained immediately to the rear of nos 15-17, although no layout is shown. In his statement, the appellant says that six spaces are

proposed in this location, and that he considers these to be sufficient to meet the operational needs of the business.

7. Neither party has provided any calculations of floor-space which might enable me to reach a more informed judgement; but I have no clear reason to conclude that the area to be retained would be insufficient to accommodate the demand. I note, in addition, that subject to some minor matters which could be dealt with by condition, the Council's highways officers had no objection to the proposals. Moreover, even if I were to agree with the Council's reason for refusing permission on these grounds, there is no evidence which suggests that any overflow on to Regent Street (which has plenty of unrestricted parking available) would compromise pedestrian or highway safety.
8. I have therefore concluded, on the first issue, that the proposed parking provision for the site as a whole would be satisfactory.

(b) Character and appearance

9. The properties along Regent Street are very mixed in character, in terms of their design, mass, scale, the materials used and their positioning in relation to the highway edge. A wide range of boundary treatments adds to the overall lack of coherence. I fully accept that there are several characterful Victorian houses nearby, and it is easy to see from the plans of the area that there were at one time many large houses set in generous plots. However, because of the scale of change over the years, I do not agree with the Council's assessment that (when seen from Regent Street) the area as a whole has retained any "special" character. In any event, the Council accept that a scheme in the location proposed would have the potential to improve the street-scene, an assessment with which I agree.
10. I recognise that the roughly 11m deep by 5m wide rear gardens to the townhouses would be small in comparison to the historic plot sizes; but this would not be apparent from the public realm and the point contributes little to an argument for dismissing the appeal. Moreover, the Council accept that the overall size of the gardens meets their normal guidelines. I have taken into account UDP policy D4 in coming to my conclusions on this aspect of the case: the Council's references to additional conflict with policies D7, D8 and D9 are not supported by any evidence, and none is apparent to me.
11. The only other matter raised by the Council relates to the quality of natural surveillance available for the five parking spaces at the rear of the new residential block. Again, however, I consider their case against the scheme on these grounds to be weak. The arrangement proposed is not unusual, and some natural surveillance would be possible from the offices (when open) and from the dwellings themselves. I also agree with the appellant that the front of the development would provide more "eyes on the street" than is presently the case, and that some weight should be given to this when assessing the scheme against the requirements of UDP policy H10.
12. I have concluded that the effect of the development on the character and appearance of the area would be acceptable.

(c) Conclusion and conditions

13. I have therefore decided to allow the appeal. In that eventuality, the Council have asked for a number of conditions to be imposed. Those relating to details of materials, landscaping, site levels, the protection of trees to be retained and hours of working on the site are all relevant to the circumstances of the case and, with some editing and amalgamation, I have imposed them. I have not imposed a potentially onerous condition relating to ground contamination, since I have been given no reason to suppose that a problem exists. I have, however, added a further condition which is referred to in the Council's statement about direct access from the parking area to the rear gardens of the dwellings. Finally, for the avoidance of doubt and in the interests of proper planning, I have imposed a condition which links the permission to the approved plans.

David Kaiserman

INSPECTOR



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: 27 October 2011

Appeal Ref: APP/D4635/A/11/2157090

21 Perton Grove, Wightwick, Wolverhampton WV6 8DH

- 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 and Mrs T Smith against the decision of Wolverhampton City Council.
 - The application Ref 10/01325/FUL, dated 3 December 2010, was refused by notice dated 20 April 2011.
 - The development proposed is the erection of a dormer bungalow.
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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 character and appearance of the area; and
 - (ii) The effect of the proposal on the amenity of future occupiers of the proposed dwelling and occupiers of the adjoining dwelling, No 21, by reason of loss of light/sunlight, loss of outlook and impact on the enjoyment of garden areas.

Reasons

(i) Effect on character and appearance

3. The appeal site lies at the entrance of Perton Grove, a short cul-de-sac which serves a small estate of bungalows and houses of individual design. The estate has a sense of spaciousness but this is derived not so much from the gaps at the side of properties but more from the sizeable front gardens which set properties well back from the edge of the street. The sense of space also owes much to the presence of a number of mature trees and the well stocked nature of many gardens.
4. The appeal site forms much of the back garden of No 21, a large detached bungalow occupying a spacious corner plot within the estate. The front elevation of No 21 is set well back from the street behind an expanse of lawn in which sits a magnificent specimen tree, a Wellingtonia, whilst a side elevation is separated from the street by shrubs and a narrower strip of lawn.

5. The proposal is to subdivide the back garden leaving the terrace and a strip of the back garden with the existing bungalow and erecting an L-shaped detached dormer bungalow in the remaining part of the back garden. The proposed property would be separated by only a narrow gap from the existing bungalow. The front of the proposed bungalow would be on the same building line as the side elevation of the existing bungalow. In this position, the proposed bungalow would be closer to the street than many of the properties in the estate.
6. From the street, the proposed bungalow and the side of the existing bungalow would appear together as a substantial built element within the estate. If erected, the proposed dormer bungalow would significantly reduce the sense of space within the estate. I recognise that the properties on the opposite side of the street, Nos 2 to 5, are built virtually up to their side boundaries, but they occupy a staggered building line which assists in them being seen as not being close together. In addition, these properties are set well back from the street imparting a degree of space.
7. I conclude that the proposal would adversely affect the character and appearance of the area by dint of the diminution in the degree of spaciousness within the development around Perton Grove. As such, the proposal would be contrary with adopted Wolverhampton Unitary Development Plan (UDP) Policies D6, D8, D9 and H6, adopted Black Country Core Strategy (BCCS) Policy CSP4 and Supplementary Planning Guidance 3 insofar as they relate to the importance of relating development to its context.

(ii) Effect on residential amenity

8. The proposed bungalow would be sited approximately four metres from the rear elevation of the existing bungalow. There are windows on the rear elevation of the existing bungalow as well as those elevations which face onto a terrace. The existing bungalow lies to the north of the appeal site. Given the height, mass and proximity of the proposed bungalow there would be a significant reduction in the amount of sunlight reaching the windows at the rear of the existing bungalow, such that rooms would be deprived of the warmth and light that the sun brings. The diminution in the amount of light/sunlight would be at its most acute in the closest window.
9. Notwithstanding the small fall in ground level between the existing bungalow and the appeal site, when seen from windows at the rear of the existing bungalow the closeness, height and scale of the proposed bungalow would dominate the outlook from these windows.
10. If the appeal was successful, the existing bungalow would be left with a terrace and a narrow slither of back garden. Setting aside whether this would meet the needs of those occupying a large bungalow, the usefulness and attractiveness of the remaining strip of back garden and also the terrace would be much reduced. There would be a reduction in the amount of sun that they receive and the garden area and terrace would be physically and visually dominated by the proposed bungalow.
11. The closeness of the proposed bungalow to the existing property would also ensure that there would be a loss of light/sunlight reaching the north facing dining room window of the proposed bungalow. The outlook from this window

would also be dominated by the existing bungalow which occupies slightly higher ground levels.

12. The appellants suggest that the occupants of the existing bungalow would have more than sufficient garden space available when the areas in front and at the side of No 21 are taken into account. However, these areas do not provide for a secluded or private places to sit out in; they are open to public view from the street.
13. I conclude that the proposal would adversely affect the amenity of future occupiers of the proposed dwelling and occupiers of the adjoining dwelling, No 21, by reason of loss of light/sunlight, loss of outlook and impact on the enjoyment of garden areas. As such, the proposal would be contrary to UDP Policy H6 and Supplementary Planning Guidance 3 insofar as they relate to the safeguarding of residential amenity.

Other Matters

14. The appellants claim that the proposed development is to meet the reduced mobility of one of them, who is suffering from the long term effects of illness. It is pointed out that the existing back garden, which is reached via a number of steps, is not readily accessible to those who have reduced mobility. A reduction in the size of back garden would also make the property much more manageable. Whilst I have sympathy for the appellants' circumstances, these have to be set against the compelling objections to the appeal proposal.

Conclusions

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

Alan D Robinson

Inspector



Appeal Decision

Site visit made on 12 October 2011

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 10 November 2011

Appeal Ref: APP/D4635/A/11/2157317

Hanbury Lawn Tennis Club, Hanbury Crescent, Penn, 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 Hanbury Tennis Club Ltd against the decision of Wolverhampton City Council.
 - The application Ref 10/01263/FUL, dated 5 November 2010, was refused by notice dated 2 February 2011.
 - The development proposed is erection of six floodlights on existing court number two.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed illumination of the tennis court on the living conditions of neighbouring residents with regard to its visual impact and its potential to lead to additional noise and disturbance.

Reasons

3. The appeal site is a triangular parcel of land bordered on two sides by the rear gardens of interwar housing and on its eastern side by more recent development. It is occupied by a small tennis club in a manner characteristic of many such tranquil suburbs dating from the era, offering a long established local opportunity for residents to participate in the sport. The constraints of this particular site are such that it would be unlikely to develop its facilities beyond the two courts and small club house. The lighting is proposed on the northernmost of the two courts. This abuts the rear garden of No 158 Windsor Avenue and is contiguous with the rear gardens of Nos. 24 – 26 Hanbury Crescent, from which a narrow vehicular access drive runs between Nos. 23 and 24, albeit there is no car park within the club grounds. The rear garden of No 5 Kingswood Gardens, one of the more recent houses, lies to the east of the pedestrian continuation of the access to the club house, to one end of court number two, from which it is currently separated by substantial boundary vegetation. Although there are a number of mature trees elsewhere around the site, the screening these would provide would be limited, especially in winter. A previous application for lighting to a different specification from that now proposed has been refused by the Council in the past.

4. As far as noise and disturbance is concerned, the main impact of the proposed lighting scheme would be to facilitate play in the evening at times of year when the lack of daylight would otherwise render that impractical. However, the impact of noise from play and associated activities during light summer evenings, when surrounding residents are most likely to wish to enjoy their gardens, is a long established element of the neighbourhood environment. I therefore consider that noise and disturbance associated with the limited use of one of the two courts in darker and generally cooler conditions, when residents are more likely to be indoors with their windows shut, would not, in itself, give rise to an unacceptable additional impact on the level of amenity they currently enjoy.
5. The main impact on residents' living conditions would be the visual impact of the illumination intended for the court. In view of the height of the proposed lighting columns, which would not in themselves be unduly intrusive, and the relatively open nature of the environment around the court, the intensity and spread of the proposed illumination is the major determinant of its potential impact within the surrounding residential area; and it is necessary to bear in mind the intentions of the development plan regarding light pollution.
6. The most authoritative evidence available to me is comprised of the technical calculation performed by LTL Contracts on behalf of the appellant and the analysis of its implications by reference to accepted standards by the Council's Food and Environmental Safety Division.¹ This reflects my observations at my site visit that the house most likely to be adversely affected would be No 5 Kingswood Avenue. The direct effect of illumination from the elevated lights would be largely confined to the rear gardens of other adjacent properties.
7. It is demonstrated that the vertical illumination levels at the rear façade of No 5 Kingswood Avenue would be within the Institute of Lighting Engineers guideline figures for urban or small town locations subject to an appropriate "curfew". However, that of itself is not decisive bearing in mind the prospect of a greater illumination of the rear garden and the area alongside it than previously experienced. While the mitigating effect of trees would potentially be greatest at this location, I have no definitive evidence as to how effective that would be, or the likely permanence of the tree screen.
8. Moreover, it is of course the case that mere accordance of illumination levels with recommended standards at property windows is not the sole determinant of acceptability from a residential amenity viewpoint. Residents frequently cherish a tangible increase in darkness to the rear of their houses by comparison with the street to the front, albeit that must be balanced against the reasonable expectations of established neighbouring users to deploy technology to extend the scope of their activities. Within appropriate limits, compromise between opposing interests is generally the key to tolerable co-existence in such circumstances.
9. In this case, the detailed set of conditions recommended by the Council's Food and Environmental Safety Division ostensibly provides the basis for such compromise, with recommended restrictions on lighting to no more than three weekday evenings and variable "curfew" hours according to season. However, I am conscious that the Division considers it necessary, in order to meet the minimum standard considered appropriate, to limit the light spill level at the

¹ Memorandum dated 25 November 2010

boundary fence of any adjacent garden to a maximum of 50 lux; whereas figures 3.4 and 3.5 of the LTL Contracts calculation illustrate that the 50 lux threshold would be exceeded at the garden boundaries of Nos. 24, 25 and 26 Hanbury Crescent, 158 and 160 Windsor Avenue and 5 Kingswood Avenue. On that basis, it would appear that the recommended condition could not be complied with if the currently proposed scheme were to be implemented; and I have no evidence to suggest that it could be met by a scheme of lighting that would be operationally acceptable to the tennis club.

10. It would not therefore be appropriate to impose such a condition. Moreover, whilst the need to omit it is not in itself decisive, the anticipated departure from the recommended minimum performance does lend weight to the proposition that the envelope of light within the otherwise dark and tranquil area to the rear of the existing houses would be harmfully intrusive. I note that Council's planning officer effectively concludes this would be so, ultimately recommending refusal on the basis of conflict with the intentions of saved policies EP1, EP4 and EP5 of the Wolverhampton Unitary Development Plan.
11. For the reasons previously given, I do not consider that there would be decisively significant conflict with the intentions of policy EP5 concerning noise pollution. Policies EP1 and EP4, on the other hand, combine to safeguard environmental quality and residential amenity from, amongst other things, the harmful effects of light pollution. I am not satisfied, on the basis of the evidence before me, including the recommended condition that would not be met, that the scheme of lighting as currently conceived would be sufficiently subdued, in this essentially suburban environment, to ensure that neighbouring residents' amenity in respect of light pollution in the area behind their houses would not be unacceptably harmed, albeit this could be confined to specified limited periods. I therefore conclude that, on the balance of probability, there would be significantly harmful conflict with the intentions of the development plan concerning light pollution.
12. I acknowledge that other sports clubs in the area have floodlighting but I am obliged to consider the site-specific circumstances of the proposed development as I find them. I appreciate that the tennis club has endeavoured to engage positively with its neighbours in the formulation of its proposals and has already altered its initial technical specification. I also appreciate that the Draft National Planning Policy Framework encourages inclusive communities well served by a variety of facilities including sports facilities, albeit the weight that may be accorded to the document is limited by its status as a consultative draft.
13. However, bearing in mind the established night time ambience of the area which residents, from the representations before me, clearly appear to value, the relative openness of the area of rear gardens around the tennis court under consideration, and its close relationship to those adjacent gardens, I am not persuaded that the material considerations concerning the aspirations of the tennis club to extend the scope of its useable hours are sufficient to outweigh the conflict with the intentions of the development plan I have identified. On balance, having taken account of all other matters raised, I therefore conclude that the appeal should be dismissed.

Keith Manning

Inspector



Appeal Decision

Site visit made on 9 November 2011

by Penelope Metcalfe BA(Hons) MSc DipUp DipDBE MRTPI IHBC

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

Decision date: 15 November 2011

Appeal Ref: APP/D4635/D/11/2159005

4 Amanda Avenue, Penn, Wolverhampton, West Midlands, WV4 5PP

- 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 G Tukhar against the decision of Wolverhampton City Council.
 - The application Ref 11/00589/FUL, dated 13 June 2011, was refused by notice dated 12 July 2011.
 - The development proposed is first floor bedroom extensions over garage.
-

Decision

1. The appeal is allowed, and planning permission granted for first floor bedroom extensions over garage at 4 Amanda Avenue, Penn, Wolverhampton, West Midlands, WV4 5PP in accordance with the terms of the application Ref 11/00589/FUL, dated 13 June 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan one of two – 1/500 site location plan and proposed elevations and floor plans; Plan two of two – 1/1250 site location plan and existing plans and elevations.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be constructed above ground level on the north elevation of the extension hereby permitted.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of No. 3 Amanda Avenue in terms of outlook.

Reasons

3. The appeal site is a two storey detached house in a modern residential area. All the houses on the estate are built according to one of a small number of
-

designs. The proposal is to provide a first floor extension over the existing garage, raising the eaves on the northern flank wall to allow a full height storey to accommodate an increase in floor area to two of the bedrooms.

4. No. 4 is located to the south of No. 3, the neighbouring property, close to the common boundary and at a slightly higher level. However, I consider that the proposal would not result in any significant adverse impact on the sunlight or daylight at the back of the latter, since there would be no overall increase in the height of No. 4.
5. I do not consider that the extension would appear unduly dominant in the outlook from within No. 3, compared with the existing situation, because of the bulk of the detached double garage on the western side of the garden and the juxtaposition of the two houses where there is very little overlap between the north flank wall of No. 4 and the rear south wall of No. 3. The latter also has a relatively open southerly aspect across neighbouring gardens.
6. I saw during my visit that the occupiers of No. 3 clearly use the southeast corner of their garden to enjoy the late afternoon sun. This area is already overlooked by the existing first floor bedroom window in No. 4. The proposal would introduce an additional window to the bedroom closer to the boundary. I consider that this would result in some further reduction in the privacy of this part of the garden. However, the garden as a whole is of a reasonable size and, because of its southerly aspect, offers scope elsewhere within it for enjoying sunshine at various times of the day without being overlooked.
7. The overall pattern of development within the estate is such that there is considerable mutual overlooking of rear gardens between properties. Indeed, the first floor rear windows of No. 3 itself look directly towards the garden of No. 4. Most of the garden of No. 3 is visible only at an oblique angle from No. 4 and, in my judgement, the reduction in the existing level of privacy in one part of it is insufficient, in itself, to warrant dismissing this appeal.
8. I conclude that the proposal would not result in an unacceptable adverse effect on the living conditions of the occupiers of No. 3 in terms of outlook and that it would not conflict with saved policies D7 and D8 of the Wolverhampton Unitary Development Plan 2006 which relate to the scale and mass of development.
9. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Conditions

10. It is necessary that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning, and I shall impose a condition to this effect. To ensure that the development would be in keeping with its surroundings, it is necessary to use matching materials and a condition is also necessary to prevent the formation of any openings in the side elevation to safeguard the privacy of the occupiers of No. 3.

PAG Metcalfe

INSPECTOR



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

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 Oxbarn 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



Appeal Decision

Site visit made on 27 October 2011

by **P G Horridge BSc(Hons) DipTP FRICS MRTPI**

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

Decision date: 18 November 2011

Appeal Ref: APP/D4635/A/11/2159012

230 Stafford Road, Wolverhampton WV10 6JT

- 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 E Watson against the decision of Wolverhampton City Council.
 - The application Ref 10/01104/FUL, dated 29 September 2010, was refused by notice dated 4 March 2011.
 - The development proposed is change of use from dwelling to care home.
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Decision

1. The appeal is dismissed.

Main issues

2. At issue are the effects of the proposal on the character of the area and on the living conditions of neighbouring residents, having regard to the compatibility between the proposed care home and the adjoining children's home, and whether this would give rise to a fear of crime (including anti-social behaviour) in the area.

Reasons

3. The appeal property is a 3-storey semi-detached house located on the east side of the A449 Stafford Road in a mainly residential area to the north of the centre of Wolverhampton. The proposal is to provide supported accommodation for adults of all ages, some of whom may have learning difficulties or be disabled. There would be 4 bedrooms utilised for this use, providing 4 potential placements, which are expected to last between 1 week and several months.
 4. The surrounding area is largely residential, although there are a number of other uses including an off licence two doors away, a primary school to the rear of adjoining houses, and a golf course on the opposite side of Stafford Road. The local environment is also dominated by the main road, which is a 4 lane dual carriageway. The house to the north is a children's care home providing accommodation for 4 young people between the ages of 13 and 18. The latter has no outward manifestations of this use, and the same is likely to be true of the appeal proposal. Even if it were not, and though the proposed use would operate in a different way to the mainly single family dwellings in the locality, it
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- would be a residential use in a mainly residential area. There is no reason why it should cause harm to the character of the area contrary to Policy ENV3 of the Black Country Core Strategy (adopted 2011) dealing with Design Quality.
5. Policy H11 of the Wolverhampton Unitary Development Plan (UDP) (adopted 2006) deals with residential schemes designed for people with special needs. One criterion for judging proposals is their compatibility with adjacent land uses. For the appellant it is said that he has been providing foster care placements for several years without any conflicts with the adjoining children's home. However, the proposed care home would introduce a different client group. The council's Children & Young People's Service expresses concern that having vulnerable adults next door to vulnerable teenagers could result in stability issues for both sets of people. Notwithstanding that the appellant would liaise with the children's home to seek to resolve any conflicts, this raises significant questions as to whether the two uses are compatible neighbours and whether the proposal would therefore be in accordance with UDP Policy H11.
 6. Policy D10 of the UDP says that proposals for development should take full account of the need to prevent crime, reduce the fear of crime, and promote community safety through the design process. Fear of crime can make an area a less pleasant place in which to live. Increased fears of crime have not been identified as an issue by any local residents, and the police do not appear to have been consulted on the application. However, the council's Children & Young People's Service suggests that having 2 care homes next door to each other, both catering for vulnerable sectors of society, may cause problems within the community in terms of anti-social behaviour, criminal damage, drugs and alcohol. At present the children's care home is said to have a very good relationship with the local area. However, one neighbouring resident does refer to verbal abuse from its residents.
 7. Drawing these threads together, the concerns about the compatibility of the two uses (the existing children's home and the proposed care home) and the risk that this could lead to an increase in anti-social behaviour in the area do cast doubt over the wisdom of locating a care home for adults in need of support next door to a similar institution catering for teenagers. On the balance of probability, there are sufficient concerns on these points to conclude that there is a likelihood of conflict between the uses and that this could pose a risk of increased fear of crime (particularly anti-social behaviour) in the area which would harm the living conditions of neighbouring residents.
 8. Overall the proposal would not adversely affect the residential character of the area, but any compliance with development plan policy in this respect is outweighed by the conflict with other policies seeking to ensure the compatibility of special needs accommodation with adjoining land uses and promoting community safety and reducing the fear of crime.

Peter Horridge

INSPECTOR



Appeal Decision

Site visit made on 31 October 2011

by John Bentley BSc(Econ) DipTP MRTPI

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

Decision date: 22 November 2011

Appeal Ref: APP/D4635/D/11/2161283

233A Hordern Road, Wolverhampton, WV6 0HQ

- 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 Iqbal Zahid against the decision of Wolverhampton City Council.
 - The application Ref 11/00802/FUL, dated 17 August 2011, was refused by notice dated 16 September 2011.
 - The development proposed is two storey side extension, single storey rear extension and front canopy to front of house.
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Decision

1. The appeal is dismissed.

Main Issue

2. Neither the Council nor the adjoining occupier takes any issue with the proposed rear extension or the front canopy. Neither element would detract from the character and appearance of the area, or from the living conditions of the adjoining occupiers. I therefore have no reason to disagree. Accordingly, the main issue in this case is the effect of the proposed two storey side extension on the living conditions of the adjoining occupiers at No 233 Hordern Road with particular regard to outlook, daylight/sunlight and privacy.

Reasons

3. The appeal property is one half of a pair of semi-detached houses. Whilst neighbouring properties are mostly positioned close to the road, the appeal property, and its adjoining neighbour, are set approximately 13m back from the footway.
 4. It is proposed, among other things, to erect a two-storey extension to the side of the appeal property. It would extend the full depth of the existing dwelling at ground floor, but the first floor would be set back slightly, behind the front elevation. As confirmed by the appellant, a gap of just over 1m would remain between the side of the extension and the boundary between the appeal property and its neighbour to the northwest, No 233 Hordern Road
 5. No.233 is an end-of-terrace property, with ground floor and first floor windows facing the appeal site. The property extends back some considerable distance from the road with a rear outrigger, which is inset slightly. Three windows and
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a rear door in the rear outrigger section face onto a narrow side yard and look directly towards the flank wall of the appeal property. In addition there are rear-facing windows, midway along the side, situated on the back of the recess in front of the rear outrigger section.

6. The gable wall of the two storey extension proposed would lie directly opposite to the outrigger. The only side facing windows in the proposed extension are at ground floor level. There would be no harm therefore, to the living conditions of the adjoining occupiers in terms of any overlooking or loss of privacy. However, the side of the proposed extension would be some 4m away from, and to the southeast of, the neighbouring side and rear facing windows. In such close proximity, the development would greatly reduce the amount of sunlight and daylight to the rooms lit by those windows, and to the yard.
7. Furthermore, the height and bulk of the extension would result in a form of development that I would regard as having an unacceptably overbearing, if not overwhelming, visual impact, dominating the outlook from the adjacent windows and yard. The extension would, therefore, cause material harm to the living conditions of the adjoining occupiers in these regards.
8. On the main issue I conclude that the proposal would have a harmful effect on the living conditions of the adjoining occupiers at 233 Hordern Road. This would be contrary to the objectives of Policies D7 and D8 of the Wolverhampton Unitary Development Plan and the Council's Supplementary Planning Guidance (SPG4 'Extensions to Houses'), which seek to protect residential living conditions, particularly in terms of loss of outlook, sunlight and daylight. The Council's refusal notice also refers to Black Country Core Strategy Policies ENV3 and CSP4, but it seems to me that these policies are more concerned with design than living conditions.
9. While other houses and extensions in the area may be sited more closely together than is the case here, that does not justify the significant harm that I have identified and that would be a consequence of the development proposed. In this particular case, the juxtaposition of these two properties, combined with the scale and positioning of the extension, would create unacceptable living conditions for the occupants of No.233.
10. Although no issue is taken with the rear extension or canopy proposed, I have found significant harm in relation to loss of sunlight/daylight and outlook. Since the various elements of the proposal are not readily severable, a split decision would not be appropriate in this case. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

John Bentley

INSPECTOR



Appeal Decision

Site visit made on 27 October 2011

by P G Horridge BSc(Hons) DipTP FRICS MRTPI

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

Decision date: 4 November 2011

Appeal Ref: APP/D4635/D/11/2161640

64 Wergs Road, Tettenhall, Wolverhampton WV6 8TD

- 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 Miss B K Brreach against the decision of Wolverhampton City Council.
 - The application Ref 11/00138/FUL, dated 14 February 2011, was refused by notice dated 7 July 2011.
 - The development proposed is a detached outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a detached outbuilding at 64 Wergs Road, Tettenhall in accordance with the terms of the application, Ref 11/00138/FUL, dated 14 February 2011, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: 7/11 (Rev A dated 1/4/11) and 7a/11 (Rev A dated 1/4/11).
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 4. Unless otherwise approved in writing by the local planning authority, the windows in the building shall be non-opening.
 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order), no window or door openings other than those shown on the approved plans shall be inserted into the building without the prior permission in writing of the local planning authority.
 6. The building hereby approved shall be used solely for purposes incidental to the enjoyment of the dwellinghouse as such, and shall not be used as a separate unit of accommodation.
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Main issues

2. At issue are the effects of the proposed building on the character and appearance of the area and on the living conditions of residents of the neighbouring property at 24 Birchfield Avenue.

Reasons

3. The building would measure 8.325m x 4.05m with an approximate height to eaves of 2.5m and to ridge of 4m. It would have brick walls and a hipped, tiled roof. These reflect the materials used in the main house, a recently-constructed two-storey property. The grounds of the property are of sufficient size to accommodate this building without the appearance of over development. In any case, the building would be located in the rear garden where it would have little impact on the public realm. Although there are concerns about the effect of the building on the roots of the Corsican pine tree in the grounds of 24 Birchfield Avenue, to the rear of the site, the council's Tree Officer has raised no objection in this respect. Overall the building would have no detrimental impact on the character and appearance of the area.
4. The building would be situated 3m from the boundary with 24 Birchfield Avenue. The two properties are separated by a timber fence so, other than from some first floor views, only the upper parts of the new building would be visible from the adjoining property. The position of the windows in the building and the presence of the boundary fence mean that there would be no overlooking from the new building. Nor would there be any effect on the daylight and sunlight reaching the adjoining property. While neighbouring residents question the inclusion of a toilet, such a facility is not inappropriate given the building's intended main use as a gym. The building would bring indoor domestic activity closer to the neighbouring property. However, given the distances involved, the intervening fence, and the limited number and position of the door and window openings in the proposed building, and subject to appropriate conditions as noted below, this would not be such as to materially harm the living conditions of its residents.
5. In summary, the building would not adversely affect the character and appearance of the area or the living conditions of neighbouring residents. As such, there would be no conflict with relevant policies of the Unitary Development Plan (2006), notably Policies D4, D7, D8 and D9, or with Policy ENV3 of the Black Country Core Strategy (2011).
6. In granting permission, conditions have been imposed along the lines suggested by the council in order to protect the living conditions of neighbouring residents. These include conditions requiring the windows to be fixed, limiting future window and door openings, and restricting the use of the building to purposes incidental to the main dwellinghouse.

Peter Horridge

INSPECTOR



The Planning Inspectorate

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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.



INVESTOR IN PEOPLE

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

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

Website www.planning-inspectorate.gov.uk

Enquiries

Phone: 0117 372 6372

E-mail: 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

The Parliamentary & Health Service Ombudsman

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