

## Wolverhampton City Council

**OPEN INFORMATION ITEM**

|                              |  |   |
|------------------------------|--|---|
| Committee / Panel            | <b><u>PLANNING COMMITTEE</u></b>         | Date 3 <sup>rd</sup> January 2012   |
| Originating Service Group(s) | <b>EDUCATION AND ENTERPRISE</b>          |   |
| Contact Officer(s)/          | <b>CHRIS HOWELL<br/>(Section Leader)</b> | <b>STEPHEN ALEXANDER<br/>(Head of Development Control and<br/>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**

| <b>Appeal Site / Ward / Appellant</b>  | <b>Application No / Proposal</b>  | <b>Type of Appeal / Date Submitted</b>                        | <b>Summary of Reasons for Refusal / Requirements of Enforcement Notice</b>  |
|--|---|---|---|
| 115 Wynn Road,<br>Wolverhampton<br><br>Penn<br><br>Mr Paul                       | 11/00586/FUL<br><br>Two storey side and<br>single storey rear<br>extension and canopy to<br>front elevation | Planning<br><br>Fastrack Householder Appeal<br><br>05.12.2011 | Impact on street scene and host dwelling from<br>authorised canopy and roof tile materials off the<br>side extension.<br><br>Insufficient information.<br><br>Policies UDP D9, BCCS, ENV 3 and SPG4<br>Instigate enforcement proceedings. |
| 295 Great Brickkiln<br>Street, Wolverhampton<br><br>Graiseley<br><br>Mr M Zahiri | 11/00473/RP<br><br>Retrospective -<br>Retention of hand car<br>wash and valeting facility                   | Planning<br><br>Written representation<br><br>08.12.2011      | Detrimental to neighbour amenity and highway<br>safety.<br><br>Insufficient details to assess on site drainage.<br>Contrary to UDP Policies ENV3, EP1, EP5, B5,<br>AM12, AM15 and EP9   |

| Appeal Site / Ward / Appellant   | Application No / Proposal   | Type of Appeal / Date Submitted                                    | Summary of Reasons for Refusal / Requirements of Enforcement Notice  |
|--|---|--|--|
| <p>42 Lower Prestwood Road</p> <p>Wednesfield</p> <p>Mrs Jane Hammond Bood</p> | <p>ENF/11/0055</p> <p>Unauthorised change of use, from residential to a mixed use as residential and the keeping of cats.</p> | <p>Enforcement</p> <p>Written representation</p> <p>05.12.2011</p> | <p>Detrimental to neighbour amenity by way of unpleasant odours, excessive faeces. Neighbours are prevented from using their back garden in a reasonable manner.</p> <p>The notice required that the number of cats kept at the property was reduced to 5.</p> <p>The appeal is made on ground c – that there has not been a breach of planning control. Ground f – That the steps required to comply with the notice are excessive and Ground g – That the time allowed is too short.</p> |

## **ONGOING APPEALS**

|    | <b><u>Appeal Site / Ward</u></b>  | <b><u>Appellant</u></b>                |
|----|---|--|
| 1. | Land Fronting Murco Filling Station<br>60 Codsall Road<br>Wolverhampton | Cornerstone - 02 And<br>Vodafone       |
|    | <b>Tettenhall Regis</b>   |  |
| 2. | Land On The Corner Of<br>Long Lake Avenue<br>Wolverhampton              | Vodafone Ltd &<br>Telefonica 02 UK Ltd |
|    | <b>Tettenhall Wightwick</b>   |  |
| 3. | Land On South Corner Of Mount Road<br>Penn Road<br>Wolverhampton        | Vodafone Ltd &<br>Telefonica 02 UK Ltd |
|    | <b>Penn</b>   |  |
| 4. | 3 Long Knowle Lane<br>Wolverhampton                                     | Mr Surinder Kumar                      |
|    | <b>Fallings Park</b>  |  |
| 5. | Land Fronting The Westacres<br>Finchfield Hill<br>Wolverhampton         | Vodafone Ltd &<br>Telefonica 02 UK Ltd |
|    | <b>Tettenhall Wightwick</b>   |  |
| 6. | Land At Front<br>Ashmore Park Library<br>Griffiths Drive                | Vodafone Ltd &<br>Telefonica 02 UK Ltd |
|    | <b>Wednesfield North</b>  |  |
| 7. | 1 Carisbrooke Gardens<br>Wolverhampton                                  | Mr M Evanson                           |
|    | <b>Bushbury North</b>   |  |

**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>43 Birches Barn Road,<br/>Wolverhampton<br/><br/>Graiseley<br/><br/>Mr O S Multani</p> | <p>Appeal against The erection of a single storey front extension canopy and new brick cladding at the property (the extension the canopy the brick canopy) on the land</p> | <p>Enforcement<br/><br/>Written representation<br/><br/>06.05.2011</p> | <p>The single storey front extension, canopy and new brick cladding at ground floor level by virtue of its design and construction is considered to be visually unacceptable, out of character and detracts from the appearance and balance of the existing dwelling.<br/>Therefore the development is contrary to the retained Wolverhampton UDP Policies: D6 (Townscape and Landscape), D8 (Scale Massing), D9 (Appearance). The development is also contrary to the adopted Black Country Core Strategy Policies: CSP4 (Place-Making) ENV3 (Design Quality) and adopted SPG No.4 Extensions to Houses.</p> | <p>Appeal Allowed<br/><br/>08.12.2011</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>Academy Painting And Dec Ltd The Yard, Olive Avenue, Wolverhampton</p> <p>Blakenhall</p> <p>Mr L Smith</p> | <p>11/00266/FUL</p> <p>Appeal against condition 8 (Relating to doors not being permitted on the car ports) of approved application 11/00266/FUL - Demolition of existing commercial buildings and erection of two semi-detached dwellings with detached garages.</p> | <p>Planning</p> <p>Written representation</p> <p>15.08.2011</p> | <p>The appellants are arguing that Condition no 8 on the planning consent, which restricts garage doors being put on the front of the approved car ports, should be removed. The reason the condition was added to the consent was for the purposes of highway and pedestrian safety. Garages with a closed front were originally proposed, but would have only provided a parking space of 4.2m length (0.6m less than required standards). This would potentially result in vehicles overhanging the footway and thereby compromising pedestrian safety.</p> | <p>Appeal Dismissed</p> <p>25.11.2011</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>45 Avenue Road,<br/>Wolverhampton<br/><br/>Park<br/><br/>Mr Kunal Mehta</p>   | <p>11/00719/FUL<br/><br/>Two storey side and rear extension and front canopy.</p>  | <p>Planning<br/><br/>Fastrack Householder Appeal<br/><br/>14.10.2011</p> | <p>Unacceptable loss of gap at first floor level. BCCS policy ENV3 and UDP policies D9 &amp; D4<br/>Unacceptable overbearing impact and reduction in light/outlook presently enjoyed by neighbouring garden/house. BCCS policy ENV3 and UDP policies D7 &amp; D8</p>   | <p>Appeal Dismissed<br/><br/>15.12.2011</p> |
| <p>Land To Rear Of ,<br/>61 Wrottesley Road,<br/>Wolverhampton<br/><br/>Tettenhall Regis<br/><br/>D. K.<br/>Benton/Roberts</p> | <p>11/00486/RC<br/><br/>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</p> | <p>Planning<br/><br/>Fastrack Householder Appeal<br/><br/>24.10.2011</p> | <p>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.</p> | <p>Appeal Allowed<br/><br/>12.12.2011</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>10 Yeadon Gardens, Wolverhampton</p> <p>Merry Hill</p> <p>Mr K Dawson</p> | <p>11/00597/FUL</p> <p>Two storey front and side extension.</p> | <p>Planning</p> <p>Fastrack Householder Appeal</p> <p>04.11.2011</p> | <p>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 ocerbearing impact, reduce the amount of sunlight.</p> <p>Contrary to saved UDP Policies D7, D8 &amp; BCCS Policy ENV3</p> | <p>Appeal Allowed</p> <p>15.12.2011</p> |





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## Appeal Decisions

Site visit made on 29 November 2011

by **Alan M Wood MSc FRICS**

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

Decision date: 8 December 2011

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### **Appeal Ref: APP/D4635/C/11/2152487 (Appeal A) 43 Birches Barn Road, Wolverhampton, WV3 7BL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr O S Multani against an enforcement notice issued by Wolverhampton City Council.
- The Council's reference is ENF/11/0019.
- The notice was issued on 28 March 2011.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey front extension, canopy and new brick cladding at the property ("the Extension, the Canopy, the Brick Cladding") on the land.
- The requirements of the notice are to demolish the Extension, the Canopy, remove the Brick Cladding and make good the front elevation so that it is restored to how it was before the breach. Permanently remove all material arising from the demolition from the land.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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### **Appeal Ref: APP/D4635/C/11/2152488 (Appeal B) 43 Birches Barn Road, Wolverhampton, WV3 7BL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs S K Multani against an enforcement notice issued by Wolverhampton City Council.
- This appeal concerns the same notice as Appeal A.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: As planning permission has been granted under Appeal A, it is unnecessary to consider grounds (f) and (g).**

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## Reasons

### Appeal A

#### *Ground (a)/the deemed application for planning permission*

1. The ground of appeal is that planning permission should be granted. The main issue is the effect of the development described above on the character and appearance of the dwelling and the surrounding area. Although there are a variety of house types in Birches Barn Road, the appeal site is situated within a row of semi-detached dwellings. The individual pairs of dwellings generally have fairly uniform front elevations. No 45, which is attached to No 43, has a rendered front elevation with a bay window at ground floor level. Whilst the front extension at No 43 has a mono-pitched roof which contrasts with the neighbouring bay window, the extension is modest in scale and I observed that mono-pitched roof elements exist at Nos 27 to 37. The roof finishes however are out of keeping with the existing dwelling.
2. Moreover, the brick cladding which encompasses a significant part of the front elevation at ground floor level is a discordant and over dominant feature which detracts from the appearance of the dwelling and unacceptably contrasts with No 45. It also appears entirely at odds with the prevailing street scene. The development as constructed therefore unduly harms the character and appearance of the existing dwelling and the surrounding area. Accordingly it conflicts with Policies D6 and D9 of the Wolverhampton Unitary Development Plan (2006). These policies seek to ensure that development makes a positive contribution to the locality in terms of appearance and preserves the qualities of the townscape. The development is also contrary to the Council's Supplementary Planning Guidance No 4: *Extensions to Houses* (1996) which requires domestic extensions and alterations to be sympathetic to the character of the area.
3. The appellant has however brought forward a scheme of works indicated as 'Proposal 1' on Drawing No 1324/P10 dated 22 August 2011 which would remove the brick cladding and introduce a rendered finish, replace the roof finishes with tiles which would complement the existing, and reinstate the brick plinth to the front gable. In my judgement, these changes would satisfactorily mitigate the concerns set out above and would result in a development which would sufficiently integrate with and be complementary to the street scene in this part of Birches Barn Road.
4. The implementation of the scheme would therefore overcome the harm identified above and would remove the conflict with the policies and guidance previously referred to. The scheme of works can be brought into effect by the imposition of a condition. The condition requires the implementation of the scheme within six months, failing which the whole development will have to be removed within a further three months. I note that, from the evidence before me, the Council has raised no objections to the proposed scheme.

## Overall Conclusions

5. For the reasons given above, I conclude that the Appeal A should succeed on ground (a) and planning permission will be granted. The description of the development in the Formal Decisions below differs from that in the enforcement notice as the brick cladding is to be removed. In relation to Appeal B, it is unnecessary for me to consider whether the appeals on grounds

(f) and (g) should succeed as the enforcement notice will be quashed in consequence of my decision to allow Appeal A on ground (a). I shall, therefore, take no further action on these grounds of appeal.

### **Formal Decisions**

6. Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey extension and canopy on land at 43 Birches Barn Road, Wolverhampton, WV3 7BL referred to in the notice subject to the following condition:
  - 1) Unless within six months of the date of this decision, the brick cladding is removed and replaced with a rendered finish; the roof finish is replaced with tiles which would complement the existing; and the brick plinth is reinstated to the front gable, all in accordance with Drawing No 1324/P10 'Proposal 1' then, within a further period of three months the single storey extension and canopy shall be demolished, the brick cladding shall be removed and the front elevation shall be restored to its previous condition before the development was commenced, and all the material arising from the demolition shall be removed from the site.
7. No further action is to be taken in respect of Appeal B.

*Alan M Wood*

Inspector



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# 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: 25 November 2011**

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**Appeal Ref: APP/D4635/A/11/2158955**

**Academy Painting & Dec' Ltd, The Yard, Olive Avenue, Parkfields,  
Wolverhampton, WV4 6BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr L Smith against the decision of Wolverhampton City Council.
  - The application Ref 11/00266/FUL, dated 14 March 2011, was approved on 6 July 2011 and planning permission was granted subject to conditions.
  - The development permitted is demolition of existing commercial buildings and erection of two semi-detached dwellings with detached garages.
  - The condition in dispute is No. 8 which states that: *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), the car ports hereby permitted shall not have doors fitted which would result in them being a secure unit.*
  - The reason given for the condition is: *In the interests of maintaining the car ports as open fronted structures for the purposes of avoiding vehicles parked in front of the doors over-hanging the pavement. Relevant UDP policy AM15.*
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## Decision

1. The appeal is dismissed.

## Main Issue

1. The main issue is whether the condition is necessary having regard to highway safety.

## Reasons

2. The application for the development originally included two garages. These were amended to carports following consultation with the Highways Department. I saw during my site visit that there is considerable pressure on space for car parking in the area. Olive Avenue is narrow, with houses on the south side close to the road and footpath. It appears to be common practice here, and in Buller Road to the east, to park half on the footpath at properties where there is no hardstanding. Where there is hardstanding, cars are typically parked at an angle, in some cases overhanging the footpath.
  3. Both these practices obstruct the footpath and, in my judgement this poses a risk to the safety of road users, particularly pedestrians. Although some
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modern cars are very short, many are longer than the space proposed in front of the carports as approved. The carports themselves are not spacious. I consider that there is cause for concern if, as the appellant suggests, the security gained by adding doors is partly for the protection of other items stored inside. This would reduce the room available for parking cars and would increase the likelihood of them being parked in front of the doors. I am not persuaded by the appellant's argument that examples of short parking spaces elsewhere justify their provision here.

4. I conclude that Condition 8 is necessary and reasonable having regard to the safety of road users in the vicinity of the appeal site, in accordance with policy AM15 of the Wolverhampton Unitary Development Plan 2001-2011, which relates to the provision of car parking.
5. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

*PAG Metcalfe*

INSPECTOR



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# Appeal Decision

Site visit made on 12 December 2011

**by K E Down MA(Oxon) MSc MRTPI MBS**

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

**Decision date: 15 December 2011**

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**Appeal Ref: APP/D4635/D/11/2162908**

**45 Avenue Road, Wolverhampton, West Midlands, WV3 9JS**

- 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 Kunal Mehta against the decision of Wolverhampton City Council.
  - The application Ref 11/00719/FUL, dated 14 July 2011, was refused by notice dated 6 September 2011.
  - The development proposed is improved appearance of refused planning app. 11/00094/FUL.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. The description of development used on the appeal form which is "Two storey side and rear extension and front canopy" describes more clearly the proposed development than the description on the original application which is set out above. I have therefore used it in my consideration of the appeal.

## Main Issues

3. There are two main issues. Firstly, the effect of the proposed extension on the character and appearance of the appeal dwelling and the street scene of Avenue Road; and secondly, the effect of the extension on the living conditions of occupiers of 47 Avenue Road with respect to light and outlook.

## Reasons

4. Avenue Road in the vicinity of the appeal site forms part of a well established, modern estate. Dwellings are laid out behind open front gardens and there are generous verges and other open spaces within the layout. The houses generally lie close to one another but gaps between them above ground floor level are characteristic and achieved either above single storey garages or through the orientation and steep roof design of the chalet bungalow style dwellings. These gaps allow long views between the dwellings and contribute positively to the feeling of spaciousness in the area.
  5. The proposed extension would be above an existing single storey garage and would close most of the gap at first floor level between No 45 and its
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neighbour, No 47. Owing to the limited gap that would remain between the two buildings and to the design of No 47 which has a dominant, asymmetric roof that slopes down steeply on the front elevation to just above the ground floor, the extension would appear squeezed in between the dwellings, giving the impression of a cramped development. The loss of the gap would unbalance the appeal dwelling within the street scene since at present it has gaps on either side which contribute positively to its setting. Moreover, the closing of most of the gap would be detrimental to the openness of the area and if repeated on other dwellings would lead successively to a materially harmful enclosing effect on the street and wider estate.

6. The appellant points out that the existing gap between the garage and No 47 would be increased by about 0.1m and the dwelling would remain distinct from its neighbour. However, this would not compensate for the loss of the wider gap above the garage. It is also suggested that similar extensions have been allowed by the Council elsewhere, including on the same estate. I saw that a very small number of similar extensions have been built close by but the Council states that at least one of these was permitted before the current Wolverhampton Unitary Development Plan 2001-2011 (UDP) was adopted in 2006 and would now be resisted.
7. In my view these examples appear cramped and out of keeping in the street scene and illustrate why the proposed extension would be unacceptable. Extensions permitted in the wider area and drawn to my attention by the appellant may close gaps at first floor level but this is not harmful in every case. Each proposal must be judged on its own merits, in the context of its location and relationship with other buildings in the surrounding area. Thus it is not inconsistent to find one proposal acceptable and another unacceptable even when judged against the same policies.
8. The appellant also points out other development elsewhere in Avenue Road where there are no gaps between dwellings. However, these examples are of different types of building, exhibiting their own distinct design and are not readily comparable with the appeal proposal.
9. I conclude on the first main issue that the proposed extension, owing to its proximity to No 47 and the resulting closure of most of the gap at first floor level between Nos 45 and 47, would comprise a cramped form of development that would be detrimental to the character and appearance of the appeal dwelling and to the street scene of Avenue Road. In consequence the proposal would conflict with Policies D9 and D4 of the UDP which, taken together, expect new development to respond positively to the established pattern of development and the form of existing buildings, including layout, spaces, rhythm, balance and framing. It would also conflict with Policy ENV3 of the adopted Black Country Core Strategy which expects proposals to be of a high quality of design that respects the local context.
10. Turning to the effect of the proposed extension on the living conditions of occupiers of No 47, the limited projection beyond the rear wall of No 47, together with the lower ridge height and hipped roof of the extension, would ensure that it had no materially detrimental effect on the outlook from that property. Nor would it appear overbearing. With respect to light, the rear elevation and rear garden of No 47 faces north and there are a number of large

trees both in the garden and in the surrounding area. This results in the rear windows of the dwelling and the garden receiving a reduced level of light. However, the proposed extension, owing to its limited height and modest rearward projection would not noticeably worsen the current situation.

11. I therefore conclude on the second main issue that the proposed extension would have no materially harmful effect on the living conditions of occupiers of 47 Avenue Road with respect to outlook or light. In consequence there would be no conflict with UDP Policies D7 and D8 which seek to ensure that new development is of an appropriate scale such that it does not adversely affect the amenities of people with respect to matters including outlook and light.
12. The appellant argues that the proposed extension would improve the quality of the existing dwelling because it would be built to higher standards, including better levels of insulation. That may be so. However, this would not outweigh the harm I have identified with respect to the effect of the extension on the character and appearance of the area.
13. The appellant is critical of the Council for not making clear at an earlier stage that a two storey extension above the garage at the appeal dwelling would not be supported. However, I have limited evidence regarding previous applications at the site or discussions that may have taken place with Council officers and in any case this is not a matter for me to judge or on which the appeal turns.
14. Notwithstanding my findings regarding the lack of harm to the living conditions of occupiers of No 47, this would not outweigh my conclusions regarding the detrimental effect on the character and appearance of the area that would result from the proposed extension. Therefore, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*KE Down*  
INSPECTOR





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# Appeal Decision

Site visit made on 28 November 2011

**by Jane Miles BA (Hons) DipTP MRTPI**

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

**Decision date: 12 December 2011**

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**Appeal Ref: APP/D4635/D/11/2163200**

**Land to the rear, 61 Wrottesley Road, Wolverhampton WV6 8SG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by D/K Benton/Roberts against the decision of Wolverhampton City Council.
  - The application ref: 11/00486/RC, dated 17 May 2011, was refused by notice dated 8 September 2011.
  - The application sought planning permission for erection of a detached dwelling without complying with a condition attached to the previous permission, ref: 09/00746/FUL, dated 5 November 2009.
  - The condition in dispute is condition 11, which states: "Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order 2008 (or any Order revoking, replacing and re-enacting the Order with or without modification) the first floor windows on the southern elevation shown on the approved drawing to be obscurely glazed, shall be obscurely glazed and to be fixed non open able type before the dwelling hereby approved is occupied and shall be thereafter retained as such".
  - The reason given for the condition is: "In the interests of residential amenity of surrounding dwellings. Relevant UDP Policy H6".
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## Decision

1. The appeal is allowed and planning permission is granted for erection of a detached dwelling on Land to the rear, 61 Wrottesley Road, Wolverhampton WV6 8SG, in accordance with the application ref: 11/00486/RC, dated 17 May 2011, without compliance with condition 11 previously imposed on planning permission ref: 09/00746/FUL, dated 5 November 2009, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

## Preliminary Matters

2. The 2009 permission for a two storey dwelling has been implemented, the new house is now occupied, and the purpose of the appeal application is, in effect, to remove condition 11. The Council has clarified in writing that the 'approved drawing' referred to in this condition is drawing no. 1046:01B. A note on this plan stating 'rear facing dressing room and bedroom 4 and 5 to be obscure glazed' is reinforced by the notation 'obscure' next to these rear-facing windows on the first floor layout plan. I have therefore determined the appeal on the basis that condition 11 relates to these four windows (two in the walls of

the gable features and two roof lights) and not to the projecting landing window which straddles the ground and first floor levels.

### Reasons

3. The **main issue** in this appeal is the effect that removing the condition would have on living conditions at neighbouring properties, 38A, 38B and 38C Redhouse Road, in terms of overlooking and loss of privacy.
4. During my visit I saw that the two roof lights, to the central first floor room at the rear of the new house, are set well above eye level. As the 'view' from these windows is upwards to the sky above, there is no need for them to be obscure glazed or non-opening.
5. The other two windows have opening casements and are fitted with obscure glazing of differing types and effectiveness. However the distance from these windows to the boundary with the Redhouse Road properties (that is, the depth of the new dwelling's rear garden, measured horizontally along the ground) is of the order of 17-19m. The distances to the bungalows themselves are even greater, well over the 22m minimum window to window distance referred to in the Council's 'Supplementary Planning Guidance No. 3' document.
6. Even allowing for the spaciousness which the Council considers an important characteristic of this locality, the degree of separation between the new house and the neighbouring properties to the rear is generous. Moreover there are established trees along the rear boundary which have a screening effect even, albeit to a lesser extent, in winter. Therefore, whilst I note neighbours' views to the contrary, I find that there is sufficient separation to prevent any harmful overlooking and to protect privacy at the neighbouring properties, without requiring the windows to be obscure glazed and non-opening.
7. I understand that a condition requiring obscure glazing was imposed by a previous Inspector in relation to a previous scheme albeit, as acknowledged in the Council officers' report, the reason for this is not readily apparent given his finding that the dwelling in that case would not substantially overlook adjacent properties. In any event, unlike the previous Inspector, I had the benefit of being able to see for myself the windows in question in this case, and the views from them towards nos. 38A, 38B and 38C Redhouse Road.
8. I have had regard to all other matters raised but have found nothing sufficient to outweigh my conclusion that removing the condition would not result in material harm to living conditions at neighbouring properties. I further conclude that its removal would not conflict with relevant development plan policies, most notably Policy H6 of the Wolverhampton Unitary Development Plan 2001-2011. It follows that the appeal should succeed and that a new permission should be granted, without condition 11 but subject to the other conditions previously imposed, so far as these are still subsisting and capable of taking effect.

*Jane Miles*

INSPECTOR



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# Appeal Decision

Site visit made on 12 December 2011

**by K E Down MA(Oxon) MSc MRTPI MBS**

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

**Decision date: 15 December 2011**

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## **Appeal Ref: APP/D4635/D/11/2163997**

### **10 Yeadon Gardens, Wolverhampton, WV3 8BL**

- 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 K Dawson against the decision of Wolverhampton City Council.
  - The application Ref 11/00597/FUL, dated 15 June 2011, was refused by notice dated 22 August 2011.
  - The development proposed is a 2 storey front and side extension.
- 

## **Decision**

1. The appeal is allowed and planning permission is granted for a 2 storey front and side extension at 10 Yeadon Gardens, Wolverhampton, WV3 8BL in accordance with the terms of the application, Ref 11/00597/FUL, dated 15 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: 415-01, 415-09, 415-10 D, 415-13.
  - 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 (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no windows or other openings, other than those expressly authorised by this permission, shall be inserted above ground floor level into the side elevation, facing 11 Yeadon Gardens, of the extension hereby permitted.

## **Main Issue**

2. There is one main issue which is the effect of the proposed extension on the living conditions of occupiers of 11 Yeadon Gardens with respect to sunlight and outlook.
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## Reasons

3. The appeal property is a modern detached house with an attached single storey garage and kitchen which lie adjacent to the boundary with No 11, a bungalow. It is built on land slightly higher than No 11 and so the eaves of the existing garage are noticeably higher than the eaves of the bungalow. The proposed side extension would be above the existing garage and kitchen. Although the Council refers to it as being flush with the existing rear elevation, the plans show clearly that a single storey element, about 1.6m deep, would remain to the rear of the two storey extension. Thus the two storey element would project about 0.9m beyond the rear elevation of No 11 which is on a building line set forward of No 10.
4. The rear elevations of Nos 10 and 11 face south. The proposed extension would be to the east of No 11. Its limited projection beyond the rear of the bungalow and its set back from the existing two storey rear elevation of the appeal dwelling, coupled with the relative orientation of the two buildings, would ensure that it did not result in any material loss of sunlight to either the house or garden of No 11.
5. With respect to the outlook from No 11, owing to the difference in levels between the two dwellings and the limited projection of the extension beyond the rear elevation of the bungalow it would hardly be noticeable when seen from windows in the rear elevation of the bungalow. It would be seen clearly from windows facing the shared boundary but would be viewed against and in the context of the existing side elevation of the house. This, coupled with the distance between the windows and the extension, would ensure that it did not appear oppressive or overbearing.
6. The garden of No 11 is small and is almost surrounded by built development, including the bungalow itself on two sides, the end gable of another bungalow to the south and, in part, by the existing single storey garage/kitchen of No 10. I agree with the Council that its aspect is poor. I note that the Council has recently permitted a first floor extension above the garage at No 10 but this finishes in line with the rear elevation of the bungalow. The principle of infilling above the garage has therefore been established. The proposed extension, although clearly visible from the garden of No 11, would not, owing to its position, scale and limited projection, have a materially greater effect on outlook from the garden than the permitted scheme and would not be unduly oppressive or overbearing.
7. I conclude on the main issue that the proposed extension would have no materially harmful effect of the living conditions of occupiers of 11 Yeadon Gardens with respect to sunlight and outlook. In consequence there would be no conflict with Policies D4, D7 and D8 of the Wolverhampton Unitary Development Plan 2001-2011 or Policy ENV3 of the adopted Black Country Core Strategy which, taken together, seek to ensure that new development exhibits a high standard of design and is of a scale and design which complements the surrounding buildings and spaces and does not adversely affect the amenities of people nearby.
8. With respect to planning conditions, I agree with the Council that, in order to protect the appearance of the area, materials used in the proposed extension

should match those used in the existing building. It is also necessary to restrict the introduction of new side windows, facing No 11, other than the one shown on the submitted plan, in order to prevent overlooking and loss of privacy. Finally, in the interests of proper planning and for the avoidance of doubt, a condition is necessary to ensure that the development is carried out in accordance with the approved plans.

9. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should be allowed.

*KE Down*  
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.



## **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.