

Wolverhampton City Council

OPEN INFORMATION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date 22 nd May 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)/	STEPHEN ALEXANDER (Head of Planning)	
Telephone Number(s)	(01902) 555610	
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
<p>30 Church Hill, Wolverhampton</p> <p>Penn</p> <p>Mr Richard Poole</p>	<p>11/00686/FUL</p> <p>Two storey rear extension and loft conversion with dormer window on both sides.</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>04.04.2012</p>	<p>The proposed extension would, by reason of its height, bulk and position relative to the house and gardens on the adjoining properties at 32 Church Hill and 28 Church Hill have an unacceptable overbearing impact and loss of privacy and reduce the amount of light and sunlight, on the outlook presently enjoyed by the neighbouring houses.</p> <p>Relevant UDP Policies: D7 & D8 and BCCS Policy ENV3.</p> <p>The proposed dormer windows would, by reason of their height, size, scale and position in relation to the adjoining properties at 32 Church Hill and 28 Church Hill, result in an unacceptable loss of privacy, and would result in a significant amount of overlooking, upon the amenities in respect of immediate outlook and privacy currently enjoyed by the residents of these properties.</p> <p>Relevant UDP Policy: D8</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>7 Foley Avenue, Wolverhampton</p> <p>Tettenhall Wightwick</p> <p>Mr Graham Sharkey</p>	<p>11/01110/FUL</p> <p>Ground and first floor residential extension - change single storey residence into two storey residence.</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>05.04.2012</p>	<p>The proposed extension would result in a dwelling of an inappropriate scale and design for the context of the site, which would fail to respect the existing pattern of development, and as a result would detract from the existing character and appearance of the property and the street scene.</p> <p>Relevant UDP Policies: D4, D8 & D9/Relevant BCCS Policies ENV3</p> <p>The proposed dwelling, as extended, would, by reason of its height, bulk and position relative to the house/gardens of numbers 5 and 9 Foley Avenue, have an unacceptable overbearing impact and reduce the amount of light/sunlight presently enjoyed by the neighbouring properties.</p> <p>Relevant UDP Policies: D7 & D8</p> <p>The proposed extension, by filling in the existing gap between the dwelling and adjoining dwelling at number 5 Foley Avenue at first floor level, would result in a poor relationship and a loss of spaciousness between both properties, and so would detract from the existing character and appearance of the street scene.</p> <p>Relevant UDP Policies: D4, D7 & D8</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
59 Tynninghame Avenue, Wolverhampton, Tettenhall Regis Mr M Rock	11/01190/FUL Two storey side extension	Planning 23.04.2012	<p>The proposed two storey side extension would, by reason of its prominent corner location, not respond positively to the established building line and spatial character of which 59 Tynninghame Avenue forms a part of. The two storey side extension would extend the property towards the highway which would significantly detract from the open and spacious character of the neighbourhood.</p> <p>Contrary to UDP policies D4, D8 and BCCS policy ENV3.</p>

ONGOING APPEALS

	<u>Appeal Site / Ward</u>	<u>Appellant</u>
1.	1 Carisbrooke Gardens Wolverhampton	Mr M Evanson
	Bushbury North	
2.	42 Lower Prestwood Road Wolverhampton	Mrs Jane Hammond Bood
	Wednesfield North	
3.	Midland Snacks Bridge Street Heath Town	Midlands Snacks Ltd
	Bushbury South And Low Hill	
4.	53 Mount Road Tettenhall Wood Wolverhampton	Mr P Stafford
	Tettenhall Wightwick	
5.	Land Fronting 291 Tettenhall Road Wolverhampton	Vodafone (UK) Ltd And O2 (UK) Ltd
	Park	
6.	Unit 4 Springhill Lane Wolverhampton	Seven Counties Construction Ltd
	Penn	
7.	Ladbrokes Racing Limited 2 North Street Wolverhampton	Wilf Gilbert (Staffs) Ltd
	St Peters	
8.	Land Fronting The Firs PH Windmill Lane Wolverhampton	Vodafone Ltd & Telefonica O2 UK Ltd
	Tettenhall Wightwick	

APPEALS DETERMINED SINCE LAST MEETING

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>Penn Manor Medical Centre, Manor Road, Penn</p> <p>Penn</p> <p>Mr Nigel Ford</p>	<p>11/00181/FUL</p> <p>Construction of single storey extension to existing medical centre to form integrated pharmacy</p>	<p>Planning</p> <p>Written representation</p> <p>10.01.2012</p>	<p>The proposed extension would increase trip generation to the site and exacerbate the already poor parking facilities and is therefore contrary to highway safety and the free flow of traffic. The extension would result in the loss of the last significant green area at the site adversely affecting the spatial character and appearance of the streetscene.</p> <p>Contrary to BCCS policies ENV3 and UDP policies D4, D6, D9, AM12 and AM15</p>	<p>Appeal Allowed</p> <p>25.04.2012</p>



Appeal Decision

Site visit made on 22 March 2012

by Elizabeth Hill BSc(Hons), BPhil, MRTPI

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

Decision date:

Appeal Ref: APP/D4635/A/11/2167582

Penn Manor Medical Centre, Manor Centre, Penn, Wolverhampton, WV4 5PY

- 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 Medical Centre Developments GB Ltd against the decision of Wolverhampton City Council.
- The application Ref 11/00181/FUL, dated 25 February 2011, was refused by notice dated 1 July 2011.
- The development proposed is a single storey extension to the existing medical centre to form an integrated pharmacy.

Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to the existing medical centre to form an integrated pharmacy at Penn Manor Medical Centre, Manor Centre, Penn, Wolverhampton, WV4 5PY in accordance with the terms of the application, Ref 11/00181/FUL, dated 25 February 2011, subject to the conditions in the attached schedule.

Preliminary Matters

2. The parties to the appeal were consulted on the further parking survey submitted as part of the appellants' written statement. The main parties were also consulted on the effect of the National Planning Policy Framework (NPPF) which was issued by Government after the site visit had taken place. Whilst policy AM12 of the Wolverhampton Unitary Development Plan (2006) (UDP) makes reference to the now replaced Planning Policy Guidance Note 13: Transport, there is nothing to suggest that this policy, or any of the other policies referred to in the decision notice from the UDP and the Black Country Core Strategy (2011) (BCCS) are in conflict with the NPPF. Therefore they have full weight in this decision.

Main Issues

3. The main issues in this case are the effect of the proposed development on:
 - 1) highway safety; and,
 - 2) the character and appearance of the area.

Reasons

Highway safety

4. The proposed development would be within the Penn Manor Local Centre, as identified in the UDP, which comprises local shops, with shoppers' parking, together with the medical centre. The proposal would relocate the existing pharmacy from the nearby parade of shops to the medical centre. The existing car park to the medical centre has 32 spaces, although 2 of these are for people with disabilities, 5 are reserved for doctors and 4 are tandem spaces, which can only effectively be used by staff. Therefore, there are only 21 spaces for general visitors/patients.
5. The area has a good level of accessibility by public transport, but is not a Highly Accessible location, as defined by policy AM12 of the UDP. The medical centre is adjacent to a residential area and so there is some potential for visitors to arrive on foot or bicycle. However, it is not disputed that most visitors arrive by car. When I visited, during surgery hours, there were 2 cars parked in front of the medical centre on the nearest side of Manor Road and one parked on Amanda Avenue outside the premises. At this time there were a number of empty spaces on the car park.
6. The appellants' transport statement (TS) used a one-day interview survey at the existing site of the pharmacy to assess likely parking demand at the proposed extended medical centre. The results of the survey show that most people (94%) using the existing pharmacy used the medical centre first. In their written statement the appellants say that the proposed relocation of the pharmacy might lead to one further vehicle parking every 22 minutes in the medical centre car park. The Council also undertook a survey of the use of the existing pharmacy, although this was limited to a 30 minute observation. From this survey, they concluded that during the observation period four customers, who had not used the surgery, arrived by car to use the pharmacy.
7. Whilst the Council's survey might show an underestimate of potential use of the medical centre car park, it covers only a short period on one day, which is less likely to be representative of parking demand generally. The appellants' parking survey has been repeated, showing fewer cars parked on Manor Road/ Amanda Avenue. (In the original survey there was a maximum of 20 cars parked on these roads, which fell to 13 in the subsequent survey). The subsequent survey also showed the numbers of cars parked off-site quickly dropped away from the peak between 0900 and 1015 hours. Furthermore, even if the pharmacy were to move, people might continue to park on the shoppers' car park, which is only a short walk away from the medical centre, if they were also visiting shops in the local centre.
8. The parking on Manor Road and Amanda Avenue is not controlled at present but in the vicinity of the medical centre the roads are of a sufficient width to accommodate parking on one side. The Council's concerns are that parking sometimes takes place on both sides of Manor Road, causing problems with traffic flow and visibility around junctions. This is also an area in which pedestrians are likely to be crossing to reach the park opposite the medical centre and where footway availability and width is noted to be a problem by the Council. However, the applicants' surveys show that there are few times when demand is such that parking on both sides of Manor Road would be necessary.

9. The Council has concerns that the duration of stay on the medical centre car park might be extended by the new development. However, having co-located facilities might shorten the length of stay on the car park as a walk to the shops would be avoided. In addition, some customers might choose to drive round to the shoppers' car park if they were using other shops rather than continuing to park by the medical centre. Therefore there would be likely to be little change in the parking duration from the present situation.
10. The Council comment that the use of the road for parking, when there are spaces on the car park, might indicate that the design of the car park makes it unattractive to visitors. The plans show that some spaces are a little short, compared to a 2.4x4.8m standard, and require an overhang of the front of the space but there is no convincing evidence as to the reason why the car park spaces are left unused.
11. The appellants have proposed a legal agreement with the owners of the Roebuck public house which is on the opposite side of Penn Road, as staff parking. Whilst this proposal might free a few more spaces on the medical centre car park, the agreement has not been finalised and submitted as part of the appeal evidence and has little weight.
12. Therefore I conclude that the proposed development would not have a harmful effect on highway safety and would be in accordance with saved UDP policies AM12 and AM15, which cover parking provision and highway safety, respectively.

Character and appearance

12. The plot for the medical centre is densely developed with the area to the front being hard-surfaced for car parking. The proposed site for the pharmacy is currently open and grassed and the Council says that this incidental open space has merit in providing relief to the built form of the medical centre. However, it is a small area relative to the whole site and is barely seen from public views from Manor Road and is of limited, incidental value in terms of its visual impact and potential recreational use. The medical centre is part of the local centre which is more densely developed and differs in character from the surrounding residential area, which has mainly detached houses with surrounding gardens. The site is opposite Penn Park, which is a large green open area, providing not only a green visual break in the development along Penn Road but also a recreational resource for local residents and the staff and users of the medical centre and the local centre more generally.
13. The proposed design of the extension would be in keeping with the design of the rest of the building and would follow established building lines in the area. As a single storey extension it would not be dominant or add unduly to the bulk of the main building and its scale would be in keeping with the surrounding residential development and have an acceptable relationship to it. There would also be an opportunity for additional landscaping to be incorporated into the proposed and existing development which would be beneficial to the appearance of the site.
14. Therefore I conclude that the proposed development would not be harmful to the character and appearance of the area and would be in accordance with policy ENV3 of the BCCS, saved policies D4, D6 and D9 of the UDP and

paragraph 58 of the NPPF, which seek to ensure a high quality of design, in keeping with the character and appearance of the area.

Other matters

15. The transfer of the pharmacy would keep a suitable use within the local centre and would support continued employment locally. There would be some benefit in co-locating the pharmacy within the medical centre, which would help to serve the healthcare needs of the local community in terms of it being a one-shop stop, with access to clinical records, and allowing for collaborative working.
16. Local residents have said that the proposal would lead to a decline in house prices, due to the parking issues, litter, vandalism and potential crime from burglary at the pharmacy. Parking is unlikely to take place on local roads in connection with the use of the medical centre late in the evening or at week-ends when comings and goings might create disturbance for local occupiers and there is little evidence that the proposal would give rise to litter, vandalism and crime. Any changes in house prices are not matters to be addressed through the planning system which does not exist to protect the interests of one individual against another. In addition, the proposed extension would be sufficiently far away from 5 Amanda Avenue not to have an adverse impact on daylight and sunlight to that property. Similarly, it would be sufficiently distant from 4 Amanda Avenue not to have a harmful visual impact on its occupiers.

Conditions

17. I have considered the suggested conditions in the light of the advice in Circular 11/95: The Use of Conditions in Planning Permissions. The appellants have requested a condition that commencement of development should be within 5 years. No justification has been given for any variation from the standard 3 year limit and I intend to impose the standard limit. A condition would be necessary requiring the development to be built in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions would also be necessary to control the use of materials and for the submission and approval of a landscaping scheme and its maintenance to protect the character and appearance of the area. A condition requiring parking spaces for cycles and motorcycles would be necessary to ensure proper provision for these forms of transport. In order to protect the living conditions of local occupiers a condition would be necessary to limit the hours of construction and the movement of construction traffic.
18. The Council has suggested a condition restricting permitted development rights to protect soft landscaping. Paragraph 87 of Circular 11/95 says that such conditions should only be imposed in exceptional circumstances. As the exceptional circumstances have not been explained in this case, I do not intend to impose this suggested condition. Although not on the Council's list of suggested conditions, the Council's highway engineer suggested that hours for servicing the pharmacy should be the same as the consulting hours to prevent any further impact on parking. However, the small pharmacy proposed would only be likely to be serviced by light vehicles during working hours and therefore any impact would be limited. Therefore I consider that this condition would not be necessary.

19. The Council has suggested that a Traffic Regulation Order (TRO) should be implemented on Manor Road and Amanda Avenue, funded by the appellants through the imposition of a condition. However, I have concluded above that there would be little impact on highway safety as a result of the relocation of the pharmacy. In any event, the suggested condition would require the payment of money to fund the TRO, which cannot be sought by condition, as set out in paragraph 83 of Circular11/95.

Conclusions

20. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed, subject to conditions.

E A Hill

INSPECTOR

Schedule of 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: INC-SA [00] 0001 P02, [20] 0001 P01, [21] 0001 P00, [21] 0011 P00, [21] 0010 P04, [20] 0010 P04.
- 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) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved within a timetable to be agreed in writing by the local planning authority. The details shall include hard surfaces, boundary treatment and a scheme for the protection of the existing trees.
- 5) 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.
- 6) No development shall commence until the details of a scheme for the parking of cycles and motorcycles has been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved scheme.
- 7) During the construction phase of the development hereby permitted no construction work nor any movement of commercial vehicles to or from the site shall take place outside the hours of 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturday and at no time on Sundays, Bank or Public Holidays.