

Wolverhampton City Council

OPEN INFORMATION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date 7 th August 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
Lidl Food Store, 27 Blackhalve Lane, Wolverhampton Fallings Park Donna Commock	12/00182/VV Variation of condition 13 of planning permission 04/2196/FP/M to allow for the application of vinyl coverings to windows on the Blackhalve Lane frontage.	Planning Written representation 23.07.2012	Detrimental to the appearance of the street scene and building. Contrary to BCCS policies CSP4, and ENV3.

ONGOING APPEALS

	<u>Appeal Site / Ward</u>	<u>Appellant</u>
1.	53 Mount Road Tettenhall Wood Wolverhampton	Mr P Stafford
	Tettenhall Wightwick	
2.	Unit 4 Springhill Lane Wolverhampton	Seven Counties Construction Ltd
	Penn	
3.	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>Midland Snacks, Bridge Street, Heath Town</p> <p>Bushbury South and Low Hill</p> <p>Midlands Snacks Ltd</p>	<p>11/00816/FUL</p> <p>Change of use to B2 and/or B8 Use.</p>	<p>Planning</p> <p>Written representation</p> <p>29.12.2011</p>	<p>The proposed speculative B8 use could result in significant intensification of commercial vehicle movement associated with the application site. This would be detrimental to highway safety particularly for pedestrians and cyclists along Bridge Street, due to poor visibility at the restricted site access and the lack of available turning space within the site to enable vehicles to enter and exit in forward gear.</p> <p>Relevant UDP policies AM12 and AM15</p> <p>The scale and nature of the operations, and the traffic generation of the proposed speculative B8 use are unknown, and could therefore undermine the BCCS policy objectives which seek to facilitate housing growth through an identified Urban Village.</p> <p>Relevant BCCS policy DEL2</p>	<p>Appeal Allowed</p> <p>19.06.2012</p> <p>Application for award of costs refused</p> <p>19.06.2012</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>30 Church Hill, Wolverhampton, Penn Mr Richard Poole</p>	<p>11/00686/FUL Two storey rear extension and loft conversion with dormer window on both sides.</p>	<p>Planning Fastrack Householder Appeal 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>	<p>Appeal Dismissed 21.06.2012</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>7 Foley Avenue, Wolverhampton, Tettenhall Wightwick Mr Graham Sharkey</p>	<p>11/01110/FUL Ground and first floor residential extension - change single storey residence into two storey residence.</p>	<p>Planning Fastrack Householder Appeal 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,</p>	<p>Appeal Dismissed 20.06.2012</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>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 Decision

Site visit made on 17 April 2012

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 19 June 2012

Appeal Ref: APP/D4635/A/11/2167220

**Unit 6, Park Village Industrial Estate, Bridge Street, Wolverhampton
WV10 9DX**

- 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 Midland Snacks Ltd against the decision of Wolverhampton City Council.
 - The application Ref 11/00816/FUL, dated 17 August 2011, was refused by notice dated 7 November 2011.
 - The development proposed is change of use for B2 and/or B8 use.
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Decision

1. The appeal is allowed and planning permission is granted for change of use for B2 and/or B8 use at Unit 6, Park Village Industrial Estate, Bridge Street, Wolverhampton WV10 9DX in accordance with the terms of the application, Ref 11/00816/FUL, dated 17 August 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: Drawing No 2011/06/04 and 1:100 Scale Site Plan and Elevations.

Preliminary Matters

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.
3. The relevant Wolverhampton Unitary Development Plan 2001-2011 (WUDP) policies have been saved and the plan was adopted in 2006, after the Planning and Compulsory Purchase Act took effect. Therefore, under the transitional arrangements for the National Planning Policy Framework (Framework), these policies remain as part of the adopted development plan. Taking account of the submissions on this matter, I am satisfied that the relevant WUDP policies are generally in accordance with those in the Framework. Accordingly, I have given them significant weight in my determination of this appeal.

Main Issues

4. The main issues are the effect of the proposal on highway safety on Bridge Street; and its effect on housing growth through an identified Urban Village.

Reasons

5. The appeal site consists of an industrial building and a vehicular access way along the side leading to a storage area at the end, which is shown on the application plans as being used for car parking. I understand that part of the building, including that which is closest to the highway, was constructed following planning permission that was granted in 2005. The site is located towards the end of a cul-de-sac within an established employment area.
6. At my site visit, I observed that a nearby site that is accessed from the end of the cul-de-sac is vacant and that a residential development is accessed adjacent to the appeal site entrance. The Council has accepted that this residential development is unauthorised and has indicated that it is taking enforcement action. I have not been given the result of this action.
7. I accept that the entrance to the site has poor visibility due to the building on the site and a boundary wall separating it from the access to the residential development. However, it is an existing access that can be used for vehicles to deliver raw materials and collect products from the site and is the same access that was identified on the plans for the 2005 planning permission.
8. The use of the access is limited by its width, the area of the site that is available for vehicles, and the space that is required for vehicles to turn into and out of the site. As such, it is unlikely to be used by large commercial vehicles. An alternative for vehicles to stop outside the site to be loaded or unloaded is restricted by on-street parking, the size of the frontage, and the area available for turning. The siting of the access near to the end of the cul-de-sac is likely to mean that vehicles travel at relatively low speeds in its vicinity. Furthermore, the Council has not suggested that there have been any accidents as a result of the use of the access and no records have been provided.
9. The current lawful use of the site is Class B2 and at my site visit I observed that it is fully utilised, including the space shown for car parking that has storage containers and portacabins sited on it. The appellant has suggested that generally 10 staff operate from the site. The Council has not disputed the appellant's claim that the building has a floor space of 530 sqm, of which permitted development rights would allow use of up to 235 sqm for Class B8 purposes. However, the appellant has agreed with the Council that it would be unlikely to be used as both Class B2 and Class B8 at the same time due to its restricted size.
10. Whilst the Council has claimed that a Class B8 distribution and storage use of the site would generate a greater level of vehicle movements to and from the site than a Class B2 use, it has not supported this by any reference to analyses or trip data, such as TRICS. The appellant has referred to the 'Employment Densities Guide' which indicates that a Class B8 use generally has about half the number of employees on a site of similar floor space than a Class B2 use.
11. Based on the above evidence provided and the limitations due to the size and layout of the site, the Council has failed to demonstrate that the proposed change of use would result in any significant increase in vehicle movements using the site access or that the use of the access is a highway and pedestrian safety hazard. Therefore, I find that the proposal would not have a harmful effect on highway safety on Bridge Street. As such, it would accord with WUDP

- Policy AM12, as the levels of servicing would address safety issues; and Policy AM15, as it would not cause any significant harm to road safety and personal security.
12. With regard to the effect on housing growth, Black Country Core Strategy (BCCS) Policy DEL2 refers to Appendix 2 in relation to the broad locations where employment use is proposed to be retained. Appendix 2 indicates that the appeal site forms part of the Bluebird and Fallings Park Industrial Estates Urban Village, which is within Regeneration Corridor 2- Stafford Road. It suggests that 560 new homes will be provided in this Corridor with local employment land being retained. It mentions the preparation of the Stafford Road Corridor Area Action Plan to allocate sites in the light of more detailed evidence and local consultation, but I have not been provided with any evidence to show that such an Action Plan has been prepared. Without, this plan, there is insufficient evidence to show that the proposed change of use of the appeal site would have any significant harmful effect on the proposed Urban Village.
13. The Council has not provided sufficient evidence to show that the proposed change of use would restrict the regeneration of the area by virtue of the scale and nature of operations, traffic generation or other amenity considerations. Therefore, taking account of the above, I find that the proposal would not have a significant harmful effect on housing growth and would accord with BCCS Policy DEL2.
14. For the reasons given, I have found that the proposal would not have an adverse effect on highway safety on Bridge Street or on housing growth through an identified Urban Village. As such, the proposal would accord with the development plan and national policy given in paragraph 14 of the Framework. Therefore, having regard to all matters raised, I conclude that the appeal should succeed.

Conditions

15. The Council has not suggested any conditions should the appeal be allowed, and I agree that a condition to restrict the number and type of commercial vehicles entering and exiting the site would not be appropriate given the characteristics of the site. I have included a condition regarding the standard time for commencement of development and a condition to ensure compliance with the plans for the avoidance of doubt and in the interests of proper planning. I am satisfied that these conditions are reasonable and necessary and have worded them to reflect the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*.

M J Whitehead

INSPECTOR



Appeal Decision

Site visit made on 13 June 2012

by **P Jarvis Bsc (Hons) DipTP MRTPI**

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

Decision date: 21 June 2012

Appeal Ref: APP/D4635/D/12/2173433
30 Church Hill, Wolverhampton, WV4 5PN

- 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 Richard Poole against the decision of Wolverhampton City Council.
 - The application Ref 11/00686/FUL was refused by notice dated 13 January 2012.
 - The development proposed is a rear extension and loft conversion.
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Decision

1. The appeal is dismissed.

Main issue

2. The effect on the living conditions of the occupiers of neighbouring properties.

Reasons

3. The appeal property comprises a modest hipped roof bungalow located on a narrow plot between Nos. 28 and 32 Church Hill. As the name suggests the site is located on a hill with No. 28 on lower ground and No. 32 on higher ground. Both of these adjoining properties are two storey, No. 28 being one half of a semi-detached pair fronting the road and No. 32 being a substantial detached property which is oriented towards the appeal site. The proposal would not increase the height of the roof but would alter and extend the existing roof at both the front and rear to form a full gable with flat-roofed dormers proposed in both sides of the roofslope.
4. In relation to No. 32, bearing in mind its relationship with the appeal site as described above and that it is set away from the boundary, I do not consider that the proposal would have a significantly overbearing or overshadowing impact. The proposed side dormer will increase the bulk of the property close to the boundary but not to an unacceptable degree.
5. The proposed window in the dormer would however look directly towards the front elevation of the property at No. 32 which as noted above has its main windows facing towards the appeal site. Although there is a difference in levels, it appeared to me having visited the neighbouring property that the proposed window would introduce a loss of privacy due to the level of 'inter-looking' that would be possible. The proposed dormer window would serve a bedroom and whilst the use of obscure glazing might prevent overlooking, it would be inappropriate to require its only window to be obscurely glazed as this would create a poor level of amenity for its occupiers.

6. In relation to No. 28, I saw that there is a difference in levels of around a metre between the two properties. The closest and most affected windows in my view are the dining room window in the rear elevation and the kitchen window which faces directly towards the appeal site. In addition, the area immediately to the side and rear of the dwelling is used as a patio area, with the main lawned garden area extending to the rear.
7. Notwithstanding that it is single-storey, the existing dwelling on the appeal site already has somewhat of an overbearing impact on this property due to the level difference and its close proximity to the boundary. At present, although there are openings in the flank elevation, they are at ground floor level and screened to an extent by an existing boundary fence.
8. The proposed dormer and rear extension would in my opinion introduce large and bulky additions to the dwelling on the appeal site which would add significantly and unacceptably to this overbearing relationship. I consider that this would result in a harmful impact on the outlook of this adjoining property, particularly from the side kitchen window.
9. The additional bulk would also be likely to decrease the amount of sunlight enjoyed by this property, though given the existing relationship it seems to me that this would not be to an unacceptable degree. I note that the windows in the proposed dormer would serve a bathroom and landing and as such a condition to require the use of obscure glazing would be appropriate and would prevent any overlooking or loss of privacy.
10. The appellant has provided details to demonstrate that the bulk of the works could in fact be undertaken as permitted development. Whilst it would appear that the Council agree that the dormers could be installed as permitted development, subject to certain conditions relating to the use of obscure glazing and non-opening windows, there is no clarification regarding the additional extensions. These further roof extensions may have implications for the cubic content of the resulting roofspace and, as far as I could see, no lawful development certificate in this respect has been sought or granted.
11. In addition, it would appear that the appellant accepts that the rearmost part of the proposed rear extension could not be erected as permitted development and this element, even if taken on its own, would for the reasons set out, have a harmful impact on the outlook of the neighbouring property, particularly in relation to the windows referred to above and in respect of the patio area which appears well used by the residents of the property.
12. I therefore find that the proposal would have a harmful impact on the living conditions of the occupiers of the neighbouring properties. As such it would conflict with saved policies D7 and D8 of the Wolverhampton City Unitary Development Plan (2006) and with Policy ENV3 of the Black Country Core Strategy (2011) which seek to ensure that development relates to the scale of its surroundings so as to not appear overbearing, or adversely affect amenities in terms of outlook and privacy.

P Jarvis

INSPECTOR



Appeal Decision

Site visit made on 13 June 2012

by **P Jarvis Bsc (Hons) DipTP MRTPI**

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

Decision date: 20 June 2012

Appeal Ref: APP/D4635/D/12/2173225
7 Foley Avenue, Wolverhampton, WV6 8LT

- 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 Sharkey against the decision of Wolverhampton City Council.
 - The application Ref 11/01110/FUL was refused by notice dated 1 February 2012.
 - The development proposed is ground and first floor residential extensions – to change a single storey residence into a two storey residence.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposal on (a) the character and appearance of the area and (b) the living conditions of the occupiers of neighbouring properties.

Reasons

3. The appeal site is located in a residential road comprising of detached properties generally set back from the road frontage behind pleasant planted front gardens. The dwellings mainly two-storey in height with some single-storey dwellings, including that on the appeal site. There is a wide grass verge just beyond the appeal site with a number of dwellings set further back beyond it which give the road a spacious character. The spacing between dwellings varies somewhat but generally there are discernible gaps to the side boundaries such that overall the street has an open character.

Effect on character and appearance

4. Taking into account the overall character of the locality and the previous permissions, I do not consider that a two-storey dwelling would be entirely inappropriate on this site. However, the proposal would result in a dwelling of considerable size, which when compared to its immediate neighbours, both of which are two-storey, would in my view appear disproportionately large.
5. In addition, the proposed two-storey flank elevation would be sited right on the boundary with the adjoining dwelling at No. 5, which is itself sited close to this boundary. Taking into account this close proximity and the overall scale of the proposed dwelling, I consider that this would result in a cramped form of development on the site. This would detract from the relatively spacious character of the road as described above.

6. The proposal would include a two-storey front projection which would be sited forward of the existing dwelling. Whilst noting the appellant's comments on the relative positioning of the adjoining dwellings, from what I could see on site, this would extend considerably to the front of No. 9 and would be at least in line with the front of the dwelling at No.5. I saw that there are similar features on other nearby dwellings, but that proposed on the appeal site would, in my opinion, appear disproportionate in size and width and due to this and its siting, would be unduly prominent within the streetscene.
7. Overall I find that the proposed dwelling, by reason of its siting, scale, proportions and height, would fail to harmonise with the established streetscene. I find that it would have a harmful effect on the character and appearance of the area and would thus conflict with saved Policies D4, D8 and D9 of the Wolverhampton Unitary Development Plan (2006) (UDP) and Policy ENV3 of the Black Country Core Strategy (2011) (CS) which seek to ensure that development responds positively to the established pattern and spatial character of its surroundings, is of appropriate size and massing and provides high quality design which responds to the identity of place.

Effect on living conditions

8. As noted above the proposal would introduce a two-storey element right on the boundary with No. 5 where currently there is a garage. However, it would not extend further to the rear than the single-storey rear extension to that property, nor significantly beyond the main rear elevation of this adjoining dwelling. Whilst it would be close, given its siting and taking into account the relative orientation of the properties, I do not consider that it would introduce a harmful relationship in terms of outlook or overshadowing. The proposed two-storey rear projection would be sited towards the other boundary and in my view would not impact significantly due to the distance from this property.
9. In relation to no. 9, as noted above, a two-storey rear projection would be introduced, which would extend beyond the main rear elevation of that dwelling and its single-storey rear extension. There is also a patio adjacent to the rear single-storey extension at No. 9 with windows from what appeared to be the lounge area opening onto it. Whilst there would be a gap retained between the dwellings, taking into account the relative orientation of the properties, the additional depth proposed and that it would be of two-storey height, I consider that the proposal would result in a loss of sunlight to the patio area as well as introducing an overbearing form of development.
10. I therefore find for the reasons set out above that the proposal would have a harmful effect on the living conditions of the occupiers of No. 9 Foley Avenue. This would be in conflict with saved UDP Policies D8 and D9 which seek to ensure that buildings are of human scale, do not appear overbearing or adversely affect the amenities of their surroundings.

Conclusions

11. I therefore conclude that the appeal should be dismissed.

P Jarvis

INSPECTOR