

Report to the Planning Committee

7 September 2022

Subject:	Decisions of the Planning Inspectorate
Director:	Director – Regeneration and Growth Tony McGovern
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1 Recommendations

- 1.1 That Planning Committee notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

2 Reasons for Recommendations

- 2.1 This report is submitted to inform the Committee of the outcomes of appeals that have been made to the Planning Inspectorate by applicants who were unhappy with the Committee's decision on their application.

3 How does this deliver objectives of the Corporate Plan?

		We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.
		Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
		Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

4 Context and Key Issues

- 4.1 Applicants who disagree with the local authority's decision on their planning application may submit an appeal to the Planning Inspectorate. An appeal may also be made where the local authority has failed to determine the application within the statutory timeframe.
- 4.2 Appeals must be submitted within 3 months (householder proposals) six months (commercial developments) of the date of the local authority's decision notice.
- 4.3 Decisions on the following appeals are reported, with further detailed set out in the attached decision notice:-

Application Ref	Site Address	Inspectorate
DC/22/66566	59 Valentine Road Oldbury B68 9AH	Appeal Allowed with conditions
DC/21/66097	10 - 12 Park Hill Wednesbury WS10 0PL	Appeal Allowed with conditions Cost application refused

DC/22/66247	160 Lightwoods Road Smethwick B67 5AZ	Appeal Dismissed Cost application allowed
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5 Alternative Options

5.1 There are no alternative options.

6 Implications

Resources:	There are no direct implications in terms of the Council's strategic resources. If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.
Legal and Governance:	The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe
Risk:	There are no risks associated with this report.
Equality:	There are no equality implications associated with this report.
Health and Wellbeing:	There are no health and wellbeing implications associated with this report.
Social Value	There are no implications linked to social value with this report.

7. Appendices

Appeal decision – 59 Valentine Road, Oldbury

Appeal decision – 10-12 Park Hill Stores, Wednesbury

Costs decision – 10-12 Park Hill Stores, Wednesbury



Appeal Decision

Site visit made on 28 June 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Appeal Ref: APP/G4620/D/22/3299121

59 Valentine Road, Oldbury, West Midlands B68 9AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Iram Yasmeen against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/66566, dated 25 January 2022, was refused by notice dated 25 February 2022.
 - The development proposed is described as proposed 'single storey rear extension'.
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Decision

1. The appeal is allowed and planning permission is granted for proposed single storey rear extension at 59 Valentine Road, West Midlands B68 9AH in accordance with the terms of the application, Ref DC/22/66566, dated 25 January 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved drawings Nos N2 08/21 A100 Rev 1, N2 08/21 A101 Rev 1, N2 08/21 A200 Rev 2, N2 08/21 A201 Rev 2, N2 08/21 A204 Rev 2.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The main issues are the effect of the proposal on a.) the living conditions of the occupants of neighbouring properties with particular regard to light levels; and b.) the character and appearance of the area.

Reasons

Living Conditions

3. The ground floor window to the rear elevation of the neighbouring property 57 Valentine Road sits between a single storey extension and the existing extension to the appeal property. Levels of daylight and sunlight to this room are restricted by these existing extensions and the north-facing aspect of this window. The proposed extension would be sited to the northeast of this window.
4. Due to the orientation of the property any loss of light would be limited and would predominantly occur in the early mornings during summer months. 61

Valentine Road is located to the east and sits at an angle to the appeal property. Consequently, any loss of light arising from the proposed extension would not be significant and would be limited to the late evenings in summer months. Assessing the scheme against the existing and proposed site circumstances show that the changes would not result in significant shading effects which would harm the living conditions of the occupants of 57 and 61 Valentine Road.

5. I therefore conclude that the proposed development would not have an unacceptable effect on the living conditions of the occupants of neighbouring residential properties with regards to levels of light. The proposal does not therefore conflict with those aims of Policies ENV3 of the Black Country Core Strategy (2011) or SAD EOS 9 of the Sandwell Metropolitan Borough Council Site Allocations and Delivery Development Plan Document (2012) which seek to deliver high quality design. I also find no conflict with Revised Residential Design Guide Supplementary Planning Document (2014) which indicates, amongst other matters, that extensions which impact unduly on neighbouring properties will be resisted.

Character and Appearance

6. The appeal property is situated on a tapered plot in a dense urban area where dwellings are tightly packed. Some of the properties which border the appeal site, including the neighbouring property 57 Valentine Road, have been extended to the rear elevation. Views of the proposed extension would be limited to the private rear gardens of the neighbouring properties and the proposed rear extension would not be visible from the street.
7. The proposed extension would attach to an existing extension and would span the entire width of the property leaving a tapered area of amenity space to the rear. The proposed extension would be of modest proportions and would be read within the context of the appeal property and the existing extensions and would readily assimilate with the host dwelling.
8. Many properties neighbouring the site have small, narrow and tapered rear gardens, and some of these properties had been extended. The amount of amenity space remaining for the appeal property would not be inconsistent with the character of the surrounding area. The extension would be seen within the context of the dense urban setting, in which neighbouring properties have been altered and extended. The scale and massing of the extension would not appear out of character with the host and surrounding properties and the proposed extension would not therefore appear unduly prominent or result in the over-intensification of the appeal property.
9. For these reasons the proposal would not harm the character and appearance of the area. Accordingly, I find no conflict with those aims of Policies ENV3 of the Black Country Core Strategy (2011) or SAD EOS 9 of the Sandwell Metropolitan Borough Council Site Allocations and Delivery Development Plan Document (2012) which seek to deliver high quality design compatible with its surroundings. I also find no conflict with the Revised Residential Design Guide Supplementary Planning Document (2014) which, amongst other matters, indicates that extensions should be in proportion with the scale of the existing dwelling.

Other Matters

10. The granting of planning permission does not give the right for any party implementing such access to third party land. This and any damage to property thereon is a private matter to be resolved between the parties involved.

Conditions

11. I have imposed 3 conditions. These include the standard condition for the implementation of the planning permission and the approved plans for certainty. In the interests of a suitable finish, I have required materials to match the existing dwelling.

Conclusion

9. The appeal scheme would accord with the development plan. The appeal should therefore be allowed.

Nichola Robinson

INSPECTOR



Appeal Decision

Site visit made on 5 July 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Appeal Ref: APP/G4620/W/22/3294026

10-12 Park Hill, Wednesbury WS10 0PL

- 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 Balachandran Thiyagarajah against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66097, dated 7 September 2021, was refused by notice dated 10 December 2021.
 - The development proposed is described as "conversion of (existing) residential accommodation to provide a self-contained ground floor flat alongside a 7-bed HMO."
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Decision

1. The appeal is allowed and planning permission is granted for proposed change of use of residential accommodation at ground floor to self-contained flat, and a 7-bed HMO on first and second floors, with associated car parking (amendment to refused application DC/19/63440) at 10-12 Park Hill, Wednesbury WS10 0PL in accordance with the terms of the application, Ref DC/21/66097, dated 7 September 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Balachandran Thiyagarajah against Sandwell Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of the proposed development in the banner heading above is taken from the planning application form. It differs from that on the appeal form and the decision notice which is 'proposed change of use of residential accommodation at ground floor to self-contained flat, and a 7-bed HMO on first and second floors, with associated car parking (amendment to refused application DC/19/63440).' My decision is based on this description, since it more accurately described the proposal. The appellant has confirmed in writing that they are agreeable to the wording of this amended description.
4. Policies from the Council's adopted Local Plan did not form part of the Council's reasons for refusal on the Decision Notice. I have therefore applied the relevant national policies from the National Planning Policy Framework (Framework) (2021) to this appeal decision.

Main Issues

5. The main issues are the effect of the proposal on:
 - The living conditions of neighbouring occupants, with regard to noise and disturbance.
 - Highway safety.

Reasons

Living Conditions

6. The appeal site is a traditional 2.5 storey property on Park Hill (No 10-12). The appeal property is of mixed-use, comprising a retail convenience store at ground floor level and a 9-bedroom dwelling situated across the ground, first and second floors. It is located within an established residential area consisting of predominantly semi-detached dwellings.
7. The proposal seeks permission for the conversion of the existing residential accommodation to create a self-contained ground floor unit (Use Class C3), alongside a single HMO (Sui Generis), comprising a total of 7 single person bedrooms.
8. The Council is concerned that the proposal would result in a material increase in noise and disturbance for neighbouring occupants. It is claimed that this would be caused by an intensification of activity at the appeal property which would lead to increased comings and goings.
9. In its existing form, the appeal property currently consists of 9 bedrooms. It could therefore be used as a dwelling to accommodate a reasonably large family that could consist of several adults and teenagers. Such a family could generate considerable activity in the form of comings and goings. Although the proposal would create 2 individual residential units, the total number of bedroom spaces on the site would be reduced from 9 bedrooms to 8 bedrooms. In addition, the proposed bedrooms would be for single occupancy use only, whereas the bedrooms in the existing property could have double occupancy. Therefore, the number of persons living at the appeal property is likely to be less than what could potentially live at the appeal property in its existing form.
10. I accept that the occupants would live independently of one another, which is different to a single dwelling house. However, the level of activity generated by the occupant's comings and goings for work, leisure, and shopping purposes etc, and the number of visitors and deliveries to the property would not be significantly different to that generated by one large family household or an HMO of up to 6 residents. Furthermore, I note the Council's Pollution Control (Noise) team has not raised any objections to the proposal in terms of noise.
11. I acknowledge that the property has a retail convenience store on ground floor level, however, the proposal before me makes no change to the retail premises. Therefore, the comings and goings to the retail premises would be similar to that experienced currently.
12. Consequently, the proposal would not result in a significant intensification of the appeal site or lead to noise and disturbance over and above the existing use of the appeal property as a 9-bedroom dwelling. In addition, the Council has not provided substantive evidence as to how the proposal would have an

unacceptable impact on the living conditions of neighbouring residents with regard to noise and disturbance.

13. I therefore find that there is insufficient evidence to substantiate the Council's concerns that the proposal would increase noise and disturbance in the local area. In addition, there are separate protections to address noise and the local authority and Police have powers to deal with such nuisance behaviours should they arise.
14. I acknowledge the Council's concerns regarding the number of occupants at the property potentially increasing to 14 residents. However, the proposal before me is for bedroom space for single person occupancy only. Therefore, I will impose a condition to limit the total number of residents to 8 in order to control the effect of the proposal on the locality.
15. For the above reasons, the proposal accords with paragraph 130 of the Framework, where it seeks to promote health and well-being and a high standard of amenity for existing and future users.

Highway Safety

16. The appeal property is close to bus routes, and I observed that the site is within easy walking and cycling distances of local services and facilities. Indeed, Wednesbury Town Centre is located 1.36km from the site, and Gallagher Retail Park is located around 730m away. There are two bus stops with regular bus services located on Park Hill and Woden Road East, both approximately 70m from the appeal site. Therefore, the appeal property is reasonably accessible by public transport, walking and cycling.
17. The frontage of the appeal property would provide parking for up to 4 cars. Taking into account the number of occupants, the type of accommodation, and the accessibility of services and facilities by non-car modes, the proposal would be unlikely to result in on-street parking. If parking for more than 4 cars did arise, some on-street parking is available for residents in the nearby area, as evidenced by the appellant's 'Transport and Highways Technical Note – Proposed House of Multiple Occupation (HMO), 10-12 Park Hill, Wednesbury (September 2021)'. The parking survey carried out identified that there are 141 unrestricted parking spaces within a 200m radius of the site, of which, on average 104 spaces are available. I also note that the Highways Authority has raised no objection to the proposal, having undertaken their own independent parking surveys. Coupled with the appellant's technical note, these surveys demonstrate that there would be sufficient on-street parking available within the locality, even at peak times, and there would not be a severe impact upon the highway network.
18. As explained above, the appeal property in its current form could be occupied by a large family consisting of several adults and teenagers. Such a family could have a high level of car ownership with its associated parking demand. As such, the proposal before me, for single bed space occupancy, would not be significantly different to that of a large family dwelling with regard to off road parking demand.
19. I note the Council's concern regarding double occupancy of bedroom spaces which could lead to insufficient off-street parking. However, as explained

above, I have imposed a condition to control the number of persons residing at the property.

20. My attention has been drawn to a photograph showing parking congestion in the immediate area around the appeal site. However, this is a snapshot in time and no further evidence has been submitted by the Council to substantiate the claim that parking congestion exists within the immediate area of the appeal site. The technical note (September 2021) has shown that a sufficient number of parking spaces would be available within a 200m radius of the appeal site.
21. Therefore, the appeal property has adequate off road parking provision, and the proposal would not exacerbate on road parking to the extent that highway safety would be materially harmed. The proposal therefore complies with paragraph 111 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. The existing outbuilding on site does not form part of the appeal. I also observed during my site visit that the existing outbuilding is being used for storage.
23. Local residents have raised concerns about the number of HMO's already in the area. However, the Council has not raised this as a main issue. Based on the evidence before me, and my observations during my site visit, there does not appear to be an abundance of HMOs within the immediate vicinity of the appeal site.
24. The proposal does not include any extensions or external alterations to the building and does not introduce any new openings/revised window locations. It would therefore not alter the footprint of the existing building, and I have found that the availability of outdoor space would remain acceptable. Therefore, the proposal would not harm the character and appearance of the area, nor harm the living conditions of neighbouring residents, with regard to loss of privacy or light.
25. The submitted plans clearly show the entrance to the HMO to the far side of the front elevation, which would not go through the shop.
26. The proposal appears to achieve an acceptable level of floorspace relevant to housing space standards, with no objections received from the Council's Private Sector Housing team.
27. In addition to the issues already covered above, other concerns raised included effect on property value, an increase in anti-social behaviour and drug taking, and concerns over the type of people who would occupy the premises. Whilst I accept that these matters are of great importance to local residents, these are concerns which are either non-planning matters or are controlled through other separate legislation and bodies such as Licencing, Environmental Health, and the Police.

Conditions

28. I have considered the conditions suggested by the Council taking into account the advice within the Framework and the Planning Practice Guidance. Subject to some minor amendments, I have imposed 9 conditions.
29. In addition to the standard time limit condition, for the purposes of certainty, a condition concerning the approved plans is also required. A condition limiting the number of occupants is necessary as a more intensive use would have different impacts. In the interests of highway safety and sustainable travel, further conditions are imposed requiring the proposed parking layout to be implemented prior to first occupation, and a condition imposed requiring the provision of at least one electric vehicle charging point, and the submission of details for the suitable storage of cycles. These conditions must apply before the development hereby permitted takes place to ensure appropriate provision is made in those respects prior to occupation.
30. I have imposed a condition for security measures and bin storage in the interests of public safety and safety of the end users, and to ensure satisfactory appearance.
31. A Construction Method Statement is required to safeguard nearby residents from undue noise, dust and general disturbance, and in the interests of good environmental management.
32. Where necessary, and in the interests of precision and enforceability, I have altered the wording of the suggested conditions. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the terms of pre-commencement conditions.

Conclusion

33. For the reasons given above, I conclude that the appeal should be allowed.

Helen Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - a. Location Plan – Drawing No PL001 – July 2021
 - b. Block Plan – Drawing No PL002 – July 2021
 - c. Existing Plan – Drawing No PL003 – July 2021
 - d. Existing and Proposed Elevations – Drawing No PL004 – July 2021
 - e. Proposed Plans – Drawing No PL005 – July 2021
- 3) The number of persons residing at the property at any one time shall not exceed 8.

- 4) The development hereby permitted shall not be occupied or brought into use until the off-road parking space shown on the approved plans has been provided for parking and manoeuvring of vehicles. When provided, the off-road parking space for the parking and manoeuvring of vehicles shall be thereafter retained.
- 5) Prior to the first occupation of the development hereby permitted, details of at least one charging point for electric vehicles shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained free of any impediment.
- 6) Prior to the first occupation of the development hereby permitted, details of the refuse/bin storage enclosures and service plan shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 7) Prior to the first occupation of the development hereby permitted, details of security measures (including CCTV, controlled access to the building and external and internal lighting) shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 8) Prior to the first occupation of the development hereby permitted, details of the provision for the secure, and where appropriate, covered storage for cycles, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter maintained.
- 9) No development (including demolition) shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include: details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from construction works; delivery and construction working hours. All site operations shall be carried out in complete accordance with the approved CMS for the duration of the construction programme.

*****END OF CONDITIONS*****



Costs Decision

Site visit made on 5 July 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Costs application in relation to Appeal Ref: APP/G4620/W/22/3294026 10-12 Park Hill, Wednesbury WS10 0PL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Balachandran Thiyagarajah for a full award of costs against Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66097, dated 7 September 2021, was refused by notice dated 10 December 2021.
 - The appeal was against a refusal to grant planning permission for the proposed development described as "conversion of (existing) residential accommodation to provide a self-contained ground floor flat alongside a 7-bed HMO."
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The applicant alleges that the Council acted unreasonably during the planning application stage. The main parties submitted their cases in writing and therefore there is no need to repeat them in full.
5. Essentially the applicant is seeking a full award of costs due to the Council's alleged unreasonable behaviour. The appellant considers the reason for refusal to be unreasonable because the Planning Committee went against the advice of their officers and the reasons for the refusal were vague, generalised and not determined in a consistent manner. They also claim that the Council failed to produce evidence to substantiate each reason for refusal. The applicant feels this prevented or delayed development which should have been permitted.
6. In terms of the Planning Committee, as decision maker, they are not bound to accept the recommendations of their officers and can therefore overturn the officer's recommendation decision if they decide otherwise. The application was discussed at Planning Committee and Members would have been given the opportunity to read the Officer's report ahead of the meeting. Therefore, I find the Council to have acted reasonably in this instance.

7. In terms of the reason for refusal, the Planning Committee considered that the proposal would generate increased comings and goings that would lead to unacceptable noise and disturbance to residential neighbouring properties, which formed their first reason for refusal on the decision notice for planning application Ref: DC/21/66097. Whilst no objections were raised by the Council's Pollution Control Team with regard to noise and disturbance, objections had been received from local residents. Therefore, the Planning Committee exercised its duty to determine the planning application based on the evidence before them.
8. In terms of the second reason for refusal, I can see from the evidence submitted that the refusal on highway safety matters was similar to the reason for refusal given for the previous refused planning application ref: DC/19/63440. The Planning Committee were not persuaded by officers that the revised application had suitably addressed the concerns regarding parking. Therefore, the Planning Committee exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the adopted development plan for the area and national planning policy. Therefore, I find the Council to have acted reasonably in this instance.
9. With regards to inconsistency, as the planning application attracted public attention, it was reasonable for the Council to determine the application by their Planning Committee instead of the delegated officer route. After considering the objections received from local residents, Member's own local knowledge of the area, and the observations they had made during a Member's site visit for the previous refused application, the Planning Committee decided to refuse the proposal. This was due to their concerns that the proposal would have a detrimental impact on the local area.
10. In the Council's decision notice and statement of case, the Council gave reasons as to why it was concerned that the proposal, by virtue of its proposed use would cause harm to living conditions from noise and disturbance from increased comings and goings, and harm to highway safety from insufficient off-street parking. The above matters involve a degree of judgement and whilst on balance I do not agree with the Council's decision, sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with the advice in the PPG.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

Helen Smith

INSPECTOR



Appeal Decision

Site visit made on 31 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2022

Appeal Ref: APP/G4620/W/22/3292884

160 Lightwoods Road, SMETHWICK, B67 5AZ

- 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 Bharat Pattni against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66247, dated 13 October 2021, was refused by notice dated 10 December 2021.
 - The development proposed is for first floor and single storey rear extensions with rear dormer window to facilitate the proposed change of use from a dwellinghouse to 7 No. bedroom HMO – house in multiple occupation (pursuant to planning permission DC/21/65962).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Bharat Pattni against Sandwell Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Within their appeal statement the appellant has requested that the description of development should be amended from that used within their application form. This is due to the fact that the proposal relies on extensions and alterations approved under decision reference DC/21/65962 but which have not yet been carried out. Although I note that the Council amended the description to include reference to the previous permission in their decision notice, I do not find that this is sufficiently clear.
4. It is evident from the plans submitted with the planning application that the development would include the extension of the host dwelling. Moreover, I find that the Council and any interested parties have had the opportunity to comment on the change of description during the appeal process as it forms part of the appellant's statement.
5. Therefore, I do not find that any party would be prejudiced by the change of description and the description in the header above has thus been taken from that suggested by the appellant in their appeal statement.

Main Issues

6. The main issues are the effect of the proposal on (i) the living conditions of neighbouring occupiers by way of noise and disturbance; and, (ii) highway safety with regard to on-street parking.

Reasons

7. The appeal site is a long narrow plot accessed from Lightwoods Road containing a two-storey terraced dwelling with accommodation in the roof and a single-storey rear extension. Lightwoods Road is within a predominantly residential area that is characterised by long terraces along somewhat narrow roads.
8. The appellant has raised that it would be possible under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) to convert the existing Dwellinghouse to a small house in multiple occupation (HMO). This type of conversion is covered by Schedule 2, Part 3, Class L of the GPDO and would allow for the property to be converted to a 6 bed HMO without seeking planning permission.
9. I understand that it is the appellant's intention to carry out such a conversion if the appeal were to be dismissed, and consequently is their fallback position. I note that the Council have not raised any reasons why a conversion under Class L could not be undertaken and have specifically referred to the fact that there is no relevant Article 4 direction covering the site.
10. The fallback position, although smaller, would achieve a similar purpose to the appeal scheme in providing an HMO at the appeal site. Consequently, from the information before me I find that there is a real prospect of this fallback position being implemented and I have consequently been mindful of this in my considerations below.

Living Conditions

11. The submitted plans show the existing dwelling as providing three bedrooms and so it could easily be occupied by a family with children. As the area is a predominantly residential one, it is likely that neighbouring dwellings would result in a level and character of activities and movements similar to those at the appeal site. Moreover, as the dwellings are likely to be occupied by single family units, it is likely that some trips to and from the site may be combined such as the school run or weekly shop while commuting to or from work.
12. The proposal would result in an increase of potential occupiers, up to seven. Given the nature of the accommodation, it is very unlikely that future occupiers would include families or children. Nevertheless, activities on site and the movements to and from the site would remain domestic in nature. However, as future occupiers would likely live within the property as individuals, activities and movements associated with the site would be duplicated and as such, significantly increased. Cumulatively these would result in noise and disturbance which would be significantly greater than can be typically expected of a family home. Given the narrowness of the site and close proximity of neighbours, the above noises would be intrusive and disruptive for neighbours to the detriment of the enjoyment of their homes.

13. As such, I find that the proposed extension and change of use would cumulatively result in a significant and unacceptable impact on the living conditions of neighbouring occupiers as a result of the noise and disturbance associated with the activities and movements of seven independent occupiers.
14. Given that I find that the harm would arise from the intensity of day-to-day activities and movements, rather than particular anti-social behaviours, I do not find that the risk of fines would be effective in preventing the above harm.
15. By way of significantly increasing the number of occupiers, movements and activities associated with the site, the proposal would unacceptably affect the living conditions of neighbouring occupiers. The proposal would therefore conflict with Policies ENV3 and HOU2 of the Black Country Core Strategy and Policy EOS9 of the Site Allocations and Delivery Development Plan Document which, amongst other matters, require that proposals are of a high quality that minimises amenity impacts and is compatible with its surroundings. The proposal would also conflict with the National Planning Policy Framework (the Framework), including Paragraph 130 that requires developments to provide a high standard of amenity.

Highway Safety

16. Lightwoods Road has a relatively narrow carriageway which, while allowing for parking on both sides of the road, only allows for vehicular traffic in one direction at a time. Although the road affords a high level of on-street parking, at the time of my visit, the availability of these spaces was very limited. The few spaces available were primarily being used as passing places. The situation in surrounding streets was very similar, and I do not find any overflow could be easily accommodated in the surrounding area.
17. As noted above, the proposal would result in the increase of bedrooms provided, from three to seven. The resultant increase in occupiers would likely significantly affect the number of parking spaces required to serve the future occupiers. I find the likely increase would be further exacerbated as a result of the difference between the type of occupiers usually associated with each tenure of house. Namely, that the HMO would be occupied by 7 adults who would all have the potential for vehicle ownership. Whereas a family home would more typically not be occupied solely by adults.
18. Given the context of the highway conditions surrounding the site, I do not find that Lightwoods Road, or the adjoining roads, would be able to accommodate the significant increase on-street parking associated with the appeal site. Primarily, there would not be sufficient safe and legal parking spaces to accommodate the increase in vehicles, and moreover, making use of the remaining spaces would result in the reduction of passing places. I find that this would harm the safe and efficient flow of traffic and increase the potential for conflict between vehicles using Lightwoods Road.
19. I note that the site is close to public transport and to local shops. Whilst this may reduce the reliance on motor vehicles and their ownership, I find it unlikely that this would be to such a degree as to prevent the harm to highway safety outlined above.
20. In light of the above, the proposal would result in an unacceptable increase in on-street parking, to the detriment of highway safety and in conflict with

section 9 of the Framework. Section 9, and in particular Paragraphs 111 and 112 which seek for developments to provide safe places that minimise the scope for conflict, including between vehicles, and supports the refusal of developments where they would result in an unacceptable impact on highway safety.

Other Matters

21. As noted, the fallback position is likely to be taken up. Whilst it is a similar scheme to that before me, it would result in one fewer future occupiers. As a result, the noise, disturbance and on-street parking associated with the site would also be less than that before me. While the increase to harm associated with the appeal proposal would be relatively limited in comparison to the fallback scheme, it would nevertheless still be an increase. Therefore, as the fallback position would result in less harm than the scheme before me, it does not justify allowing this appeal.
22. I note the appellant's reference to a number of HMOs along Bearwood Road which were allowed at appeal¹. I have only been provided with the combined appeal decision, and so I do not know the full circumstances of the developments. However, it is clear that there are some significant differences, between the allowed schemes and the proposal before me. This includes their location on Bearwood Road, a commercial street and thoroughfare where noise is likely to be higher than the residential street, Lightwoods Road. Moreover, whilst the Inspector dealing with those cases found that there would be no harm to highway safety, those cases are a few years old. I find that the circumstances have changed and, as outlined above, the parking needs associated with the appeal proposal would not be accommodated by the surrounding roads. This matter has not therefore been determinative in my consideration of the appeal.

Planning Balance and Conclusion

23. The Government's objective is to significantly boost the supply of housing and the proposal would result in a 7 bedroom HMO with adequate access to services. It would also lead to a small and time-limited economic benefit during the construction phase, and some social and economic benefits resulting from future occupiers. Given the small scale of the proposal, and that it would replace an existing dwelling, these matters attract moderate weight.
24. Conversely, the proposal would result in harm to the living conditions of neighbouring occupiers and to highway safety, in conflict with the development plan taken as a whole. These matters cumulatively attract significant weight and outweigh the benefits associated with the proposed development.
25. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Samuel Watson

INSPECTOR

¹ APP/G4620/W/18/3212730 (the first reference in a group of ten combined appeals)



Costs Decision

Site visit made on 31 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 17th August 2022

Costs application in relation to Appeal Ref: APP/G4620/W/22/3292884 160 Lightwoods Road, Smethwick B67 5AZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Bharat Pattni for a full award of costs against Sandwell Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for first floor and single storey rear extensions with rear dormer window to facilitate the proposed change of use from a dwellinghouse to 7 No. bedroom HMO – house in multiple occupation (pursuant to planning permission DC/21/65962).
-

Decision

1. The application for the award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant submits that the Council's reasons for refusal were not suitably justified, including not giving sufficient weight to the fallback position, and that the Council has been inconsistent in its decision-making, ultimately resulting in the refusal of an application which should have been allowed. The applicant finds that, in this way, the Council acted in an unreasonable way which caused unnecessary or wasted expense at appeal.
4. In issues relating to matters of living conditions and highway safety there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for difference of opinion. I am satisfied that the Council suitably justified its concerns within its submissions. This included detailing the existing conditions of the site and its surroundings, the contents of the works and highlighting issues which it considered would compromise the living conditions of neighbours and highway safety. The Council, to this extent, justified their decision-making.
5. However, it is not clear from the Council's Report to Planning Committee or Minutes of Planning Committee that they considered the applicant's fallback argument. In particular, neither document makes direct reference to the

matter. Whilst the Council may have been mindful of the fallback position, by not referring to it prior to the appeal, the Council did not fully justify their decision-making. Therefore, the Council's decision, by not clearly considering the fallback position, would have likely resulted in a sense of doubt in the applicant as to whether the planning application should have been refused.

6. Therefore, although I have found differently to the applicant, in dismissing the appeal, I nevertheless find that the Council's actions made the submission of the appeal necessary to seek confidence in the planning decision. Had the Council clearly considered the fallback position the entire appeal could have been avoided and so, in this way the Council have acted unreasonably and caused the applicant wasted expense in the submission of the appeal.
7. From the information available to me, and as all proposals need to be considered on their own merit, I find that the Council's decision was not inconsistent with their other decisions.
8. Nevertheless, in light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Sandwell Metropolitan Borough Council shall pay to Mr Bharat Pattni, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Sandwell Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR