

Report to the Planning Committee

22 March 2023

Subject:	Decisions of the Planning Inspectorate
Director:	Director – Regeneration and Growth Tony McGovern
Contact Officer:	John Baker Service Manager - Development Planning and Building Consultancy John_baker@sandwell.gov.uk Alison Bishop Development Planning Manager Alison_bishop@sandwell.gov.uk







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/22/67010	21 Lily Street West Bromwich B71 1ED	Dismissed
PD/22/02146	Telecommunications Mast SWL20302 Junction Of Harvest Road/Hurst Road Smethwick	Allowed

DC/22/67188	Unit 21 (Former TRAC Heaton Ltd) Pleasant Street West Bromwich B70 7DP	Allowed with conditions
DC/22/66593	Rear Garden Of 39 Pear Tree Drive Great Barr Birmingham B43 6HT	Allowed with conditions
DC/22/66945	143 Bloomfield Road Tipton DY4 9EB	Allowed with conditions

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.
Climate Change	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

7. Appendices

Appeal decisions x 5



Appeal Decision

Site visit made on 7 February 2023

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Appeal Ref: APP/G4620/D/22/3307450

21 Lily Street, West Bromwich, B71 1ED

- 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 S Singh and Mrs J Kaur against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67010, dated 1 May 2022, was refused by notice dated 6 July 2022.
 - The development proposed is retention of forward extension with amendments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal is retrospective and this decision notice refers to "the development."
3. The Council's description of the development on the decision notice refers to a previously refused planning application¹. This previous application was dismissed on appeal². The appellants state that the proposal the subject of this application has been "reduced significantly."

Main Issue

4. The main issue in this case is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal property is a two storey mid-terrace dwelling. It is set back from the back of the pavement behind a low brick wall and a narrow paved area.
6. The appeal property is located within a residential area, characterised by the presence of two storey terraced dwellings along both sides of the street. The appeal property, like others along the same side of Lily Street, dates back to the Nineteenth Century; whilst along the opposite side of Lily Street, the majority of terraced dwellings appear more modern, having been built during the Twentieth Century.

¹ Reference: DC/21/66026.

² Reference: APP/G4620/D/21/3292056.

7. Whilst, during my site visit, I observed that many dwellings along Lily Street have been altered and updated, most changes appear in keeping with the host property and surroundings. As a consequence there is a notable sense of uniformity, especially along the Victorian terrace, where, with the exception of the appeal property, a shop and dwellings at either end of the terrace, each of the dwellings have retained a bay frontage.
8. These bay frontages combine with the presence of various period features, including ornate decorations to front-facing brickwork and to/around fenestration, the retention of low brick walls to the front of dwellings and the regular rhythm of the terrace, affording the area a significant sense of history and enhancing its uniform traits.
9. The development comprises a single-storey, forward-projecting extension to the front of the appeal property. Whilst part of an unauthorised extension would be removed, the development would retain a canopy across much of the width of the property and a glazed front porch area that would project well-forward of a proposed replacement bay.
10. In effect, the development would appear as an awkward and incongruous feature, unlike any other along the terrace. The forward projecting porch would appear boxy and bulky. It would jar with the proposed replacement bay, which would be set back behind it.
11. The harm arising from the above would be exacerbated as a result of the canopy roof extending across much of the front of the property. This would draw attention to itself as an ungainly feature, out of keeping with neighbouring properties.
12. Taking all of the above into account, the development would appear as an unduly prominent and alien feature. It would disrupt the established rhythm of the terrace and detract from the area's sense of uniformity.
13. Taking all of the above into account, I find that the development would harm the character and appearance of the area, contrary to the National Planning Policy Framework; to Black Country Core Strategy (2011) Policy ENV3 and to SADDPD³ Policy EOS9, which together amongst other things, seek to protect local character.

Other Matters

14. In support of the development, the appellants draw attention to other planning permissions elsewhere. However, I have found that the development would result in harm and this is not a matter mitigated or outweighed by the presence of other developments elsewhere.

³ Reference: Sandwell Metropolitan Borough Council Site Allocations and Delivery Development Plan Document (2012).

Conclusion

15. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR



Appeal Decision

Site visit made on 17 January 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/G4620/W/22/3306464

Area of Footpath, Harvest Road, Warley, Sandwell 400739, 287213

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref PD/22/02146, dated 20 May 2022, was refused by notice dated 11 July 2022.
 - The development proposed is the installation of a 15-metre monopole complete with wraparound cabinet at base and three additional equipment cabinets and ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 15-metre monopole complete with wraparound cabinet at base and three additional equipment cabinets and ancillary works at Area of Footpath, Harvest Road, Warley, Sandwell 400739, 287213, in accordance with the application ref: PD/22/02146, dated 20 May 2022, and the plans submitted with it, including drawings titled 002 Site Location Plan, 100 Existing Site Plan, 150 Existing Site Elevation, 215 Proposed Site Plan and 265 Proposed Site Elevation, all of drawing no. SWL20302_SWL217_85281_B1932_GA_REV A.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. The description in the banner heading above has been taken from the appellants Statement of Case as this more accurately describes the appeal proposal.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the future development of additional infrastructure for walking/cycling or junction improvement works; and
 - the character and appearance of the area.

Reasons

Future Development

6. The appeal site consists of a wide area of pavement situated at the junction of Harvest Road and Hurst Road. It is in a predominantly residential area and the wide pavement runs along Hurst Road, broken up in places with grass verges.
7. The Council's Transportation Engineer has objected to the proposal on the basis that "the proposed location would obstruct any possible future development of additional infrastructure for walking/cycling or junction improvement". However, no details of any planned junction improvement works are before me. Furthermore, no information or timescales for any alleged additional infrastructure for walking or cycling has been provided. Based on the evidence before me, I am therefore not convinced that the proposal would necessarily prejudice any future improvement works or additional infrastructure. There would remain a sufficiently wide unobstructed footway for pedestrian movement to not be significantly hindered.
8. A local resident has raised concerns regarding the 'crashes and accidents' on the existing road. However, no evidence has been presented to me to demonstrate that the existing highway or junction is inadequate or unsafe. The proposal would not significantly intrude on the sight lines of motorists travelling along either Hurst Road or Harvest Road. In the absence of other evidence to the contrary, I consider that the proposal would not cause harm to the safe and efficient operation of the highway.
9. In conclusion, there is no evidence that the siting of the proposal would prevent the future development of additional infrastructure for walking/cycling or junction improvement works.

Character and Appearance

10. The appeal site is in close proximity to a number of streetlights, which are approximately 8 metres in height. There are also telegraph poles and mature trees close by. Therefore, vertical structures are common in the street scene.
11. The Council's evidence is not clear in regard to their assessment of the impact of the proposal on the character and appearance of the area. I note that the Officer's report refers to the alternative siting of the proposal, stating that it would impact on the visual amenity of the area, to the detriment of the outlook of the surrounding residents. Nevertheless, as acknowledged by the Council, local residents have objected to the proposal on the grounds of the visual impact of the siting and appearance of the proposal.

12. Based on the evidence before me, given the presence of the existing vertical structures in the streetscene, I am not of the view that the proposal would appear alien or unexpected in such a context.
13. Due to its height, the monopole would be visible from the surrounding residential properties. However, the relationship of the proposal with the closest residential properties would be at a slight angle due to the properties corner positions, which would help minimise the impact on the outlook for the occupiers of these properties. The wide pavement would also provide some relief between the proposal and the closest residential properties. Furthermore, the proposed monopole would have a relatively slim nature when viewed from the first-floor level of the closest properties and would be finished in grey, minimising its visual impact. The visual impact of the associated cabinets would also be mitigated by their grey finish and would be appropriately sited parallel with the edge of the highway. For all of these reasons, the proposal would not unacceptably harm the outlook of the surrounding properties.
14. In conclusion, the proposal would not appear overly prominent or visually intrusive and would not cause harm to the character and appearance of the area.

Other Matters

15. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conditions

16. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval is granted.

Laura Cuthbert

INSPECTOR



Appeal Decision

Site visit made on 17 January 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2023

Appeal Ref: APP/G4620/W/22/3306738

Unit 21 Pleasant Street, West Bromwich, West Midlands B70 7DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sikandar Shahbaz against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67188, dated 20 June 2022, was refused by notice dated 9 September 2022.
 - The application sought planning permission for the change of use of an industrial unit to a snooker hall without complying with a condition attached to planning permission Ref DC/18/62395, dated 13 August 2019.
 - The condition in dispute is No 6 which states that: The use hereby approved shall be open only between 09.00 - 21.00 hours Mondays to Saturdays, 10.00 - 16.00 hours on Sundays and there shall be no opening on Bank Holidays.
 - The reason given for the condition is in the interests of residential living conditions, with some residences being located nearby which could be affected by noise.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of an industrial unit to a snooker hall at Unit 21 Pleasant Street, West Bromwich, West Midlands B70 7DP in accordance with the application Ref DC/22/67188, dated 20 June 2022, without compliance with condition number 6 previously imposed on planning permission Ref DC/18/62395 dated 13 August 2019, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. It was noted that the appellant details on the appeal form were different from the applicant details on the application form. Clarification was therefore sought on the matter. The correct applicant, and appellant on the appeal form is Mr Sikandar Shahbaz, whereas the applicant on the application form is Mr Mohammed Tanveer. Mr Tanveer had been instructed to submit the application and the appeal on behalf of Mr Shahbaz. Therefore, the name in the banner heading above is that of the applicant, Mr Sikandar Shahbaz.
3. The address in the banner heading above has been taken from the Council's decision notice and the appellant's appeal form as the address was incorrect on the application form. It is clear from the evidence submitted that the address in the banner heading above is the correct one.
4. The Council have provided me with copies of Policies from the Site Allocations and Delivery Development Plan Document (December 2012) and the Black

Country Core Strategy (February 2011). However, these are not cited in the reasons for refusal, nor are they referenced in either the delegated officer report or the Council's Statement of Case officers. They do not appear to be relevant to the proposal before me and I have therefore determined the appeal on this basis.

Background and Main Issue

5. Planning permission was originally granted for the change of use of an industrial unit to a snooker hall on 13 August 2019¹. A variation of condition application was allowed on appeal in December 2020² which varied the opening hours condition to allow the snooker hall to operate between 1200-0300 Mondays to Saturdays but restricting the opening of the premises to 1000-1600 on Sundays and not at all on Bank Holidays. The appellant now wishes to vary the condition so that the snooker hall can operate 1200-0300 Mondays to Sundays, including Bank Holidays.
6. The main issue, therefore, is whether the later opening hours on Sundays and the opening of the premises on Bank Holidays would result in an increase in anti-social behaviour in the area and the effect of the varied opening hours on the living conditions of neighbouring occupiers, in regard to noise and disturbance.

Reasons

7. The appeal site is situated on the edge of the industrial estate, with the rear gardens of the residential properties along Newhall Street situated opposite. Its immediate neighbours consist of a car repair business, with further commercial premises on the industrial estate including more car repair businesses, a steel fabrication company and various other manufacturing facilities.
8. The industrial estate is open to the surrounding residential area. The existing occupiers of the neighbouring residential properties are therefore already situated in a mixed use area. Local residents have raised concerns in relation to vandalism, littering and the area attracting groups. Whilst I acknowledge these concerns, the Council have not provided any evidence that there are high levels of crime in the area. Furthermore, they have not demonstrated that any crime, noise and disturbance in the area is directly related to the snooker hall premises nor have they suggested that these issues in the area have increased since the later hours Mondays to Saturdays were allowed in the earlier appeal decision in December 2020.
9. There are streetlights in the immediate vicinity of the appeal site, including one directly outside the entrance to the premises. I also note that the premises has 24hrs CCTV surveillance, both internal and external. These measures would help to go towards deterring potential crime or anti-social behaviour.
10. I note a fitness centre operates nearby, which is open 24hrs a day. The Council states that the fitness centre does not serve alcohol 'that leads to antisocial behaviour issues at unsociable hours'. However, I note that the appeal premises do not hold a licence to sell alcohol. Furthermore, it is a member's only snooker club and the appellant states that any use of drugs and alcohol

¹ Application Ref DC/18/62395, allowed on appeal ref APP/G4620/W/19/3227763

² APP/G4620/W/20/3256821

results in the cancellation of membership. These measures weigh in favour of the proposal.

11. Whilst the police records do not categorially state that the area does not suffer from anti-social behaviour, as alleged by the appellant, it does confirm that there are not that many police reports along Pleasant Street and that the area is regularly patrolled in the evenings by neighbourhood officers. I also note the lack of complaints that have been submitted to the premises directly.
12. Whilst it is acknowledged that the comings and goings associated with the other commercial premises on the industrial estate would differ to the snooker hall, I do not consider that the movement of people associated with the snooker hall would be 'constant'. Patrons visiting the premises would arrive or leave at different times throughout the day which would limit any significant noise or disturbance caused by the later hours. The entrance to the snooker hall would be situated on the northern elevation of the premises, furthest away from the residential properties. Therefore, the comings and goings associated with the snooker hall would be situated away from the residential dwellings.
13. The Council mentions that previous Inspectors have restricted the operating hours on the premises through earlier appeal decisions³. However, based on the evidence before me, the Inspectors in these earlier decisions have simply allowed the appeal on the basis of the operating hours which have been requested by the appellant at the time.
14. Therefore, based on the evidence before me, the variation of the condition to allow later opening hours on Sundays and the opening of the premises on a Bank Holidays would not result in an increase in anti-social behaviour in the area and would not harm the living conditions of neighbouring occupiers, in regard to noise and disturbance. It would be in accordance with Paragraph 130 of the National Planning Policy Framework 2021 which states that planning decisions should ensure that developments create places where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Conditions

15. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have repeated the non-disputed conditions from the original permission that appear still to be relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

16. For the reasons outlined above, having regard to the development plan as a whole and to all other material considerations, the appeal is allowed. I shall therefore grant a new planning permission with condition 6 varied and subject to the conditions below.

³ APP/G4620/W/19/3227763 and APP/G4620/W/20/3256821

Laura Cuthbert

INSPECTOR

Schedule of Conditions

1. The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may be otherwise required by (any of) the following condition(s), or approved amendment(s).
2. The development must be begun not later than the expiration of 3 years from the date of this permission.
3. a) Before the development is commenced details of any walls or fences to be erected on the boundaries of the site shall be submitted to and approved by the local planning authority.

b) The approved boundary walls or fences shall be constructed in accordance with the approved details and thereafter retained as such.
4. a) Before the use is commenced space shall be provided (including marking out) within the curtilage of the site for the parking and manoeuvring of vehicles in accordance with the approved details.

b) When provided the approved space for the parking, loading, unloading and manoeuvring of vehicles shall be retained as such.
5. The development shall not be brought into use unless and until a new vehicle crossing has been provided to serve the development hereby approved by this permission in accordance with details submitted in writing to and approved by the local planning authority.
6. The use hereby permitted shall take place only between 1200 – 0300 on Mondays to Sundays, including Bank Holidays.
7. There shall be no amplification of sound to a degree that it is audible outside the application premises.
8. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (Or any Order revoking and re-enacting those Orders with or without modification), the approved use shall be used solely for the use applied for and for no other purposes.



Appeal Decision

Site visit made on 19 January 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2023

Appeal Ref: APP/G4620/W/22/3300353

39 Pear Tree Drive, Great Barr, Sandwell, Birmingham B43 6HT

- 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 Mandeep Dobbs of Pear Tree Property Investments Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/66593, dated 1 February 2022, was refused by notice dated 13 May 2022.
 - The development proposed is construction of new two bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for construction of new two bedroom bungalow at 39 Pear Tree Drive, Great Barr, Sandwell, Birmingham B43 6HT in accordance with the terms of the application, Ref DC/22/66593, dated 1 February 2022, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Character and appearance

3. Houses on Pear Tree Drive are generally two storey detached properties positioned to a consistent building line. However, the proposed dwelling would front on to Grove Vale Avenue where there is a predominance of bungalows in the vicinity of the appeal site. Bungalows close to the entrance of Newton Close also form part of the immediate site context. The bungalows are positioned relatively close to one another and have tiled roofs, many with a front projecting gable and a detached or integral garage. They are set behind modest front drives and gardens with low level boundaries. The general consistency of scale, layout and form is a positive, defining feature of the character and appearance of the surrounding area.
4. The proposal would be set behind a modest front drive. It would be single storey, with a plain tiled roof and front projecting gable. Therefore the scale and form of the proposed dwelling would appear generally consistent with that of others in the immediate vicinity. Given the low rise form of the proposal and its position on lower ground relative to No 39, it would not obscure views of the rear of No 39 from Grove Vale Avenue. Therefore despite the rear garden of No 39 being curtailed, the proposal would retain a sense of space between No 39

and the proposed dwelling. The previous appeal decision for this site (Ref APP/G4620/W/21/3279536) found that the proposed two storey house and garage would appear cramped and at odds with its surroundings. Whereas the proposed bungalow and single adjoining garage would appear as a natural continuation of the pattern of development on this part of Grove Vale Avenue.

5. Consequently, the proposal would not harm the character and appearance of the surrounding area. Therefore it would comply with Policy ENV3 of the Black Country Core Strategy (February 2011) and Policy SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (December 2012). These generally seek to ensure proposals achieve a high quality of design and are compatible with their surroundings. Furthermore, it would not conflict with the aims of the Council's Revised Residential Design Guide Supplementary Planning Document (January 2014), including for proposals involving plot subdivision to avoid harm to the existing street scene (paragraph 2.1 k.).

Other Matters

6. I have had regard to the various comments of interested parties which have been received in response to the proposed development. There is a difference in levels between the appeal site and that of 108 Grove Vale Avenue. However, the single storey nature of the proposal and the degree of separation with No 108 would considerably limit its dominance in views from No 108 and its outside space. In views from the front and rear windows of No 108, the extent to which the proposal would be visible would be highly limited.
7. Similarly, the scale and positioning of the proposal relative to No 108 would be highly unlikely to result in unacceptable harm to the occupants of No 108 with respect to loss of daylight or sunlight. Furthermore, the degree of separation between the proposed dwelling and garage and that of No 108 is consistent with the general pattern of development here. Therefore, any noise or disturbance associated with a single dwelling and its parking and garaging would not be so significant so as to be harmful in this residential context.
8. I note the concerns raised in respect of a potential loss of privacy for occupants of 41 Pear Tree Drive in their rear garden. However, the single storey nature of the proposal would limit the extent to which its future occupants would have visibility into the rear garden of No 41. Furthermore, it is reasonable to impose a condition to require additional planting and appropriate boundary treatment to be installed prior to first occupation of the proposal. This would ensure the proposal would not cause loss of privacy for occupants in the rear garden of No 41. The proposed dwelling would be orientated at right angles to No 41. Therefore I am satisfied that sufficient separation would be achieved between existing and proposed buildings, thus avoiding harm to occupants of No 41 in that regard.
9. Whilst the proposed rear garden for the appeal dwelling would be modest, it would provide adequate outside space for a two bedroom house, even excluding land to the side of the dwelling where levels may make the space less usable. Given the degree of set back of the proposed site access from the bend in the road on Grove Vale Avenue, the proposed vehicular access arrangements would achieve sufficient visibility to ensure compliance with relevant standards. I note that the Highways Authority also raised no objection in this respect. Given the modest scale of the proposal, it is unlikely to result in any significant increase in traffic or on street parking in the locality.

10. I have also had regard to concerns about whether the site boundaries shown within the appeal are entirely correct. However, there is no definitive evidence in this respect. In any event this does not alter my assessment of the planning merits of the proposal. In respect of whether the proposal would set an unwelcome precedent, it is the scale and context particular to this scheme that mean that it would not harm the character and appearance of the surrounding area or the living conditions of nearby residents. Therefore I see no potential for this decision to set an unwarranted precedent.

Conditions

11. The Council has suggested conditions in the event the appeal is successful and the appellant confirmed their agreement to those. I have considered those in light of the National Planning Policy Framework (Framework) and Planning Practice Guidance and made small changes in some instances as set out below. It is necessary to specify the approved plans as this provides certainty. In order to minimise disruption to adjacent residents I have included a condition specifying hours of construction.

12. I have combined two suggested conditions to require that a construction method statement is submitted, to ensure the proposal is carried out without harm to the adjacent watercourse. It is necessary for this condition to be pre-commencement to ensure that it addresses the full extent of the construction works. The appellant confirmed their agreement to this pre-commencement condition. Given the modest scale of the proposal a separate condition dealing with dust suppression is not necessary.

13. Details of existing ground and proposed floor levels are required before works start to ensure the development achieves a satisfactory relationship with surrounding development. The appellant also confirmed agreement to this pre-commencement condition. Details of external materials need to be approved in the interests of the character and appearance of the area. Landscaping details are required to be approved in order to achieve a suitable level of privacy for occupants in adjacent gardens. In the interests of highway safety, it is necessary to include a condition requiring that the visibility splay at the front of the site is maintained without obstructions over 900mm in height.

14. Details of electric car charging are required to facilitate travel by more sustainable transport modes. To ensure drainage from the site is suitably managed I have imposed a condition requiring submission of foul and surface water drainage details. No substantive evidence is before me to indicate that a condition is necessary to specify any gas boiler installed as part of the development. Therefore I have not included a condition in that regard.

15. The Council suggested a condition to remove permitted development rights for extensions to the building including loft conversions/dormers and outbuildings. However, the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance also advises that conditions of this nature may not pass the test of reasonableness and necessity. Given the modest plot size and the restrictions of the GPDO¹, opportunities for enlargement of the building or erection of outbuildings would be relatively

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

limited. Therefore evidence of substantive harm from implementation of such permitted development rights is not persuasive.

16. Furthermore, I am satisfied that additions or alterations to the proposed roof under Class B or C of the GPDO would not unacceptably harm the character and appearance of the surrounding area. Therefore removal of those permitted development rights in their entirety cannot be clearly justified. Nevertheless, such additions or alterations could result in overlooking from the appeal dwelling into rear gardens of neighbouring houses, resulting in an unacceptable loss of privacy to adjacent occupants. Therefore, I have imposed a condition to ensure that in the event of future additions or alterations to the proposed roof, any windows in the rear elevation or roof would be obscured glazed and non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

Conclusion

17. For the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Rachel Hall

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 plan: 1515/6 (Amendment A – March 2022); 1515/5 (Amendment A – March 2022); 1515/1 (Amendment A – March 2022); 1515/2 (Amendment A – March 2022); 1515/3 (Amendment A – March 2022); 1515/4 (Amendment A – March 2022).
- 3) Demolition or construction works shall take place only between 0730 – 1800 on Mondays to Fridays, and 0830 – 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for measures to protect the adjacent watercourse from pollution or damage during the construction phase. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 6) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development above slab level shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The details shall include all boundary treatments including additional soft landscaping along the boundaries of the rear garden of the proposed dwelling. The landscaping works shall be carried out in accordance with the approved details before the development is first occupied. 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.
- 8) The visibility splay shown on Site Plan (Ref 1515/5 Amendment A – March 2022) shall be provided and retained with no obstructions over 900mm above adjoining road level for the lifetime of the development.
- 9) The development hereby permitted shall not be occupied until an electric vehicle charging point has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The charging point shall be retained for the lifetime of the development.
- 10) No development shall take place, excluding site clearance, preparatory work and demolition, until details have been submitted to and approved in writing by the local planning authority of the foul and surface water drainage for the site, and the foul and surface water drainage shall then be installed in accordance with the approved details prior to first occupation.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order), any window inserted on a wall or roof slope forming the rear elevation of the dwellinghouse (under Class B or C of Part 1, Schedule 2 of the GPDO) must be (i) obscure glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.



Appeal Decision

Site visit made on 7 February 2023

by **Samuel Watson BA (hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/G4620/D/22/3309013

143 Bloomfield Road, TIPTON, DY4 9EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Eglantine Faure against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/66945, dated 1 April 2022, was refused by notice dated 22 July 2022.
 - The development proposed is for seven solar-powered external roller shutters (three at rear & four at front).
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Decision

1. The appeal is dismissed insofar as it related to the roller shutters at the front of the dwelling. The appeal is allowed insofar as it related to the three roller shutters at the rear of the dwelling and planning permission is granted for three solar-power external roller shutters at the rear of 143 Bloomfield Road, Tipton DY4 9EB in accordance with the terms of the application, Ref DC/22/66945, dated 1 April 2022, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Preliminary Matters

2. At the time of my visit the shutters had been installed to the front and rear of the dwelling. The appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. The description of development in the header above has been amended to remove the term "retention" as this is not a description of development. The description has otherwise been taken from the Council's decision notice which is clearer than the description in the planning application form.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

1. The appeal site consists of a semi-detached dwelling at the end of a uniform terrace and part of a wider row of terraces that are, in their own styles, also uniform. These terraces are set behind a tall, mature hedgerow that screens views of the ground floor from Bloomfield Road. Views are, however, afforded of the upper floors and the fenestration contributes towards the uniform nature of the development. To the rear of the site, the terrace is less formal with more variety in the built environment and personalisation visible. As noted above,

the shutters have already been installed on the front and rear of the building. The shutters themselves consist of a box above the windows that contains the roller shutters and two runners either side of each window. The shutters, box and runners are all finished in a dark grey.

2. When open, only the box and runners are visible. However, the boxes are, by way of their size, the extent to which they project from the wall, and their grey colouring, prominent features against the red brick wall. Their prominence would be further increased by the closing of the shutters which would result in solid grey rectangles replacing the white windows. In this way, the shutters, whether open or closed, jar with the uniform fenestration across the front of the terrace. Cumulatively the shutters, as they are visible over the hedgerow, present a prominent and alien feature on the front of the terrace that harms the character and appearance of the street scene.
3. The appellant suggests that they primarily use the shutters at night, but I note also that they submit that the shutters are used to shield the rooms from direct sunlight. It is therefore clear that they are also used during the day. The shutters would be most visible during the day, but although likely less prominent, they would still be visible at night where the dark grey would contrast with the lighter brickwork.
4. Although the solar panels on the adjoining dwelling are a visible feature, they are by their nature, siting and colour, less intrusive than the shutters on the host dwelling. Therefore, whilst they may have some effect on the sense of uniformity across the terrace, this does not justify the proposal before me. Moreover, all proposals must be considered on their own merit.
5. As noted above, a set of three shutters have been installed to the rear of the dwelling. These are identical in style to those at the front but include a larger version across the ground floor patio doors. The rear of the property faces on to a garden, parking areas and a variety of buildings. The lack of uniformity, and the greater sense of personalisation to this side of the terrace means that the harm identified to the front of the dwelling is not present at the rear. I also note that the Council have not referred to any harm occurring from the rear elevation.
6. The appellant has requested that I consider a split-decision in this instance as they consider that the Council find the rear shutters to be acceptable. I am not obligated to issue a split-decision, but where the acceptable and harmful elements of a proposal can be clearly severed such a decision can be issued.
7. I have found above that the rear shutters do not result in harm to the character and appearance of the area. It is also clear that these shutters are distinct and clearly severable from those at the front of the dwelling and can be identified as such. Therefore, in this case I consider that a split decision would be possible.
8. In conclusion, the shutters installed on the front elevation of the host dwelling result in harm to character and appearance of the surrounding area. They therefore conflict with Policy ENV3 of the Black Country Core Strategy (the BCCS) and Policy EOS9 of the Site Allocations and Delivery Development Plan Document (the DPD) which, collectively and amongst other matters, require developments to be of a high quality design that pays regard, and responds positively, to the identity of its setting. The shutters installed on the rear

elevation, however, do not result in harm and therefore comply with BCCS Policy ENV3 and DPD Policy EOS9 as outlined above.

Conditions

9. I have had regard to the condition suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. As the development has already been carried out, it would not be necessary to impose a condition requiring works to begin within three years of this permission. I have therefore not attached this condition and no other conditions were suggested by the Council.

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Samuel Watson

INSPECTOR