

Report to the Planning Committee

28 June 2023

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/22/67072	91 Lewisham Road Smethwick B66 2DD	Dismissed
DC/22/6810A	Advertisement Hoarding 174801 96-98 High Street Smethwick B66 1AQ	Dismissed

DC/22/67357	15 Devon Crescent West Bromwich B71 1BQ	Dismissed
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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.
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**

APP/G4620/W/22/3310738

APP/G4620/Z/22/3311360

APP/G4620/W/23/3315872



Appeal Decision

Site visit made on 16 May 2023

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 June 2023

Appeal Ref: APP/G4620/W/22/3310738

91 Lewisham Road, Smethwick, Sandwell B66 2DD

- 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 Rakesh Aggarwal against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67072, dated 19 May 2022, was refused by notice dated 2 September 2022.
 - The development proposed is a single storey rear extension comprising a studio flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would provide satisfactory accommodation for its future occupiers with regard to light, outlook and ventilation.

Reasons

3. The appeal site forms part of a larger site which includes commercial uses on the ground floor and residential flats on the upper floors. A car parking area to the rear of the site is accessed by a tunnel which runs under part of the building the appeal site forms part of. The appeal proposal seeks the creation of a studio flat through the conversion of part of the existing building and a single storey extension to the rear.
4. The proposal has been devised to overcome the harm identified on a previous appeal decision¹. This includes closing an existing doorway and changing the access to the rear, with the proposed windows in the tunnel being fixed shut. A number of large openable rooflights are also proposed. These, in addition to the aforementioned changes, would enable air to flow through the flat and provide adequate ventilation.
5. The proposal would comprise of an open plan living space served by a large, glazed aspect to the garden space together with the rooflights. The flat would not have a separate bedroom and I note the partition wall is described as a decorative feature which would not restrict light into the area where the bed would be located. Whilst the proposed flat would provide relatively small living quarters, it would nevertheless have a long broadly rectangular form. The area where the bed would be located is furthest away from the largely glazed

¹ APP/G4620/W/21/3275450

elevation to the garden. It would also not be directly served by the rooflights which are shown over the main living space and shower room. This would result in poor levels of natural light and an unacceptably dark, oppressive space in part of the flat. Whilst the windows facing the tunnel area would provide an outlook to the area of the flat that would contain the bed, the inadequate levels of natural light would place a reliance on the use of artificial light for future occupants to undertake day-to-day activities.

6. Given the above, I conclude that the proposed development would fail to provide satisfactory accommodation for its future occupiers with regard to light. As such, it would conflict with Policies CSP4 and ENV3 of the Black Country Core Strategy, Policy SAD EOS 9 of The Site Allocations and Delivery Development Plan Document and Paragraph 130 f) of the National Planning Policy Framework (Framework), which seek, amongst other matters, development that is of a high quality and a high standard of amenity for existing and future users.

Other Matters

7. I note the concerns in relation to parking, however, given the small scale of the proposed studio flat and the small reduction in parking spaces arising from the development, I do not consider there would be any unacceptable adverse effects on highway safety. This and other acceptable aspects of the proposal are neutral matters and not ones which weigh in favour of the development.

Conclusion

8. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR



Appeal Decision

Site visit made on 18 May 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th June 2023

Appeal Ref: APP/G4620/W/23/3315872

15 Devon Crescent, Sandwell, West Bromwich B71 1BQ

- 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 Taranjit Sanghera against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/67357, dated 2 August 2022, was refused by notice dated 7 December 2022.
 - The development proposed is erection of 2no. bedroomed semi-detached 2 storey residential houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's refusal reasons did not contain reference to any specific development plan policies and none had been submitted with the appeal. At my request, the Council has confirmed that the relevant policies in this appeal are Policies ENV3 and CSP4 of the Black Country Core Strategy (the 'BCCS') and Policies SAD H2 and SAD EOS9 of the Site Allocations & Delivery Development Plan Document (the 'SAD'). Relevant extracts and standards from the Council's Revised Residential Design Guide (the 'Design Guide') have also been submitted. The appellant has been given the opportunity to comment.

Main Issues

3. The main issues in this appeal are i) the effect of the proposed development on the character and appearance of the area, and ii) whether or not the proposed development would provide acceptable living conditions for future occupants with regard to the provision of private amenity space.

Reasons

Character and appearance

4. The appeal site comprises part of the land belonging to one half of a pair of semi-detached properties and a parcel of overgrown land and a path to the side of the host property (No.15). The site is located on a bend in the road within an established residential estate with predominantly semi-detached and terraced dwellings. Most properties have driveway parking for at least one car, with some parking at the end of the cul-de sac for those without driveways. I saw there was space for a small car to park alongside No.15 as well as space on the existing driveway. There are no parking restrictions in Devon Crescent and I

saw some on-street parking. Due to the bend of the road and the adjacent parcel of land, the site occupies a spacious location that positively contributes to the character and appearance of the street scene.

5. The proposal would involve the erection of a pair of 2-bedroom semi-detached dwellings located principally on the overgrown part of the appeal site. The driveway of No.15 would be reduced in width to help create a frontage in front of the proposed dwellings wide-enough to accommodate 1 parking space for each dwelling. The driveway to No.15 would be reduced in width so that a small vehicle could no longer park alongside the dwelling. Instead, a single, tight parking space would be created on the narrowed front driveway for 1 vehicle.
6. The provision of 1 parking space per 1-2 bedroom dwelling accords with the Council's parking standards for the two proposed dwellings. If No.15 is a 3-bed dwelling, which is likely considering it is wider and bigger than either of the proposed dwellings, then the loss of a parking space for this dwelling could increase pressure to park on the road.
7. Furthermore, the parking standards require the provision of 1 visitor space per 3 dwellings for development of less than 10 dwellings. As the proposal involves making changes to the size of the plot for No.15 and reducing its parking, in addition to the erection of 2 new dwellings, the development overall amounts to 3 dwellings for which a visitor space is required but is not provided, that would out pressure for more cars to be parked on the road.
8. The site tapers and narrows towards the road. This would result in a combined frontage of three properties being dominated by tightly arranged parking that would create a cramped frontage and reduce the openness of the site. The tapering site would also reduce the width of the driveway entrance that would make it more difficult for cars to park and easily manoeuvre, especially if occupants have larger vehicles. It would also make it more difficult and inconvenient for occupants to be able to get in/out of their cars and use their driveways.
9. The dwellings would be positioned very close to the site boundaries, making it difficult for people to get alongside the houses to use for bicycles or bring refuse bins from the back garden where they should ideally be stored as indicated in the Council's Design Guide. If refuse and recycling bins have to be stored on the front drive, this would further restrict the usability of the driveways for parking. In addition, the tightly constrained parking leaves little space that is not restricted by vehicle parking for pedestrians to access the dwellings.
10. If driveway space is unduly narrow or perceived as such, or too small, awkward or inconvenient to use, occupants are more likely to park their vehicles on the road. For two dwellings, plus No.15, this could potentially displace the parking of 3 households onto the road in close proximity to each other. This would reduce the openness of the corner and erode the character of the street.
11. The proposed development has been shoe-horned into a site that is too small, resulting in a cramped form of development that amounts to overdevelopment and poor design. The proposed development would fail to positively contribute to the street scene. Accordingly, the proposal would be contrary to BCCS Policies ENV3 and CSP4 and SAD Policies SAD H2 and SAD EOS9. Collectively

these seek to promote high quality design, which is an essential element of good place-making, and ensure that development makes a positive contribution to the area. Poor design will be rejected. The proposal would also be contrary to the guidance in the Council's Design Guide.

Private amenity space

12. There is no dispute that the internal floor area of the proposed dwellings would accord with both the Council's, and the national, minimum internal space standards for dwellings. However, the amount of private amenity space, or outside garden areas, does not conform with the Council's space standards in its Design Guide. For family plots such as those proposed, private amenity space should be no less than 70m² in area or 10.5 metres in length.
13. On the plans, the appellant has stated the areas of the side and rear garden private amenity space. Plot A has a particularly irregular-shaped garden with most of the private amenity space to the side of the dwelling and a very short garden space at the rear. The rear and side garden would amount to about 61m² in area. For Plot B, the rear and side garden would be about 65m² in area. Furthermore, by comparing approximately the 6m length of a car space shown on the Highway Authority's email about parking provision, neither back garden would likely be 10.5m long.
14. Therefore, the private amenity space proposed for both dwellings would fail to meet the minimum size requirements set out in the Council's Design Guide and hence would fail to provide enough private amenity space. This would adversely affect the living conditions of future occupants. There would be no loss of the private rear garden for the host property No.15. Accordingly, the proposal would be contrary to BCCS Policies ENV3 and CSP4 and SAD Policies SAD-H2 and SAD EOS9, whose aims have been outlined above. It would also be contrary to the Council's Design Guide.

Other Matters

15. The appellant considers the proposal would meet a demand for affordable housing to rent in the local area. I have not been presented with any housing or local needs survey evidence to demonstrate this. Furthermore, a legal planning obligation has not been entered into with the Council and submitted to secure the housing for local needs and/or for rent.
16. I saw the site was well located to local shops and services and bus stops. However, this does not justify or outweigh the harm of allowing poorly designed and inappropriate development.
17. I acknowledge the appellant's concerns with the Council's handling of the case. From the submitted emails it is clear the Council advised the appellant of its concerns and of its intention to refuse the scheme for 2 dwellings. There is no obligation for the Council to share a draft decision notice or report with the appellant before it makes its decision. Notwithstanding the above, in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

K. Stephens INSPECTOR



Appeal Decision

Site visit made on 28 February 2023

by **J Moore BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 APRIL 2023

Appeal Ref: APP/G4620/Z/22/3311360

Advertisement Hoarding 174801, 96-98 High Street, Smethwick B66 1AQ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Wildstone Estates Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/22/6810A, dated 10 August 2022, was refused by notice dated 12 October 2022.
 - The advertisement proposed is upgrade of existing 48 sheet advert to digital poster.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the proposed advertisement as detailed on the planning application form did not include a property number. I have therefore used the address as it appears on the decision notice, in the interests of clarity.
3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) stipulate that control may only be exercised in the interests of amenity and public safety. The development plan policy put forward by the Council in its reason for refusal is not determinative, but I have taken this into account insofar as it relates to amenity and public safety.

Main Issue

4. The main issue is the effect of the proposal on public safety.

Reasons

5. The appeal site is located within Smethwick Town Centre, where commercial frontages are located along the south westerly side of the B4149 High Street. The proposed digital poster would replace an existing externally illuminated 48 sheet poster advertisement sited on the gable elevation of an end terraced property on High Street. From the appellant's own evidence, the proposed advertisement is situated in a busy and active urban environment. At the time of my site visit, I saw that the area was heavily trafficked with vehicles and pedestrians, and that the area is well served by public transport, with a number of bus routes and frequent services.
6. The proposed digital poster would directly face north westerly bound traffic along the High Street, at a 'T' junction with Stony Lane. A zebra crossing sits directly in front of the appeal site serving Stony Lane. A further zebra crossing sits about some 10m further along High Street towards the north-west. It was

apparent at my visit that vehicles on occasions failed to stop when pedestrians had stepped on to these zebra crossings.

7. A bus stop is located on the north-westerly approach to the junction, about some 50m before the appeal site, with a further bus stop located on the opposite side of the single carriage way. While the bus stops are not aligned, their marked stopping areas on the road surface significantly overlap, close to the appeal site. At my visit, the stopping of buses occurred at frequent intervals, and I saw vehicles overtaking buses at the bus stops.
8. These above factors combine to inform my judgement that the appeal site is at a point on the highway where drivers need to take more care, as set out in Planning Practice Guidance: Advertisements¹. In order to navigate safely along High Street and be alert to and accommodate various road users, drivers would be required to have high levels of concentration on the approach to the junction to Stony Lane.
9. The proposed digital poster would display multiple static advertisements on rotation, and it would be internally illuminated. Due to its siting, internal illumination and changing images, the proposed digital poster would comprise a distraction to drivers approaching the junction to Stony Lane from the north westerly direction, and to pedestrians using the zebra crossing at Stony Lane. It would also be a distraction to drivers while they perform overtaking manoeuvres on the approach to the junction due to the siting of the bus stops and marked stopping areas.
10. Furthermore, accident data submitted by the appellant² demonstrates three accidents at or close to the zebra crossing at Stony Lane in the period 2017-2021 inclusive, all resulting in injury. Two of those accidents involved collisions with pedestrians. Such data reinforces my judgement that the proposed digital poster would be located at a junction where high levels of concentration are required by all road users.
11. The appellant contends that there is no indication that accidents occurred as a result of driver or pedestrian distraction due to the presence of the existing 48 sheet advertisement at the appeal site. However, the Council's Highways Officer notes that a failure to look properly has been recorded by the police as a causation factor. Therefore, the proposed digital poster would provide a distraction that would undermine the concentration of all road users in an area where accident data demonstrates injury and collision.
12. Despite the appellant's assurances that images displayed would be static; and that changes between advertisements would be instantaneous with a frequency of no more than 10 seconds, a digital poster would provide additional movement and changes to images and colours which would pose a significant distraction to road users. Such a distraction in this locality, at a point where considerable concentration is required, would cause danger to other road users and heighten the risk of collision. The proposed digital poster would therefore not be in the best interests of highway and public safety.
13. I acknowledge that the existing 48 sheet poster advertisement has been in place for some 10 years, with external illumination. The appellant also argues

¹ Paragraph: 067 Reference ID: 18b-067-20140306, Revision date: 06 03 2014; and Paragraph: 068 Reference ID: 18b-068-20140306, Revision date: 06 03 2014

² Highways Technical Note 01

that the presence of street lighting in the area demonstrates that illumination itself is not an unusual feature in the area. However, the proposed digital poster would rotate static images with internal illumination, and this would be markedly more distracting than any street lighting or the existing static poster display, regardless of compliance with the guidance of the Institute of Lighting Professionals.

14. The appellant draws my attention to case studies relating to digital advertisements in Portsmouth, Bristol and Manchester. The full details of these cases are not before me, and I cannot therefore consider to what degree they may be comparable to the case before me. Those in different areas will have their own unique contexts, and as such, they have a limited bearing on my consideration of this appeal. I have considered the appeal before me in light of the evidence presented and my own observations.
15. I therefore conclude that the proposal would result in an unacceptable risk to public safety. The proposed advertisement insofar as it relates to public safety would therefore conflict with Policy DM2 of the Sandwell Metropolitan Borough Council Site Allocations and Delivery Development Plan Document 2012 which states, amongst other matters, that applications for poster panels will be considered with regard to public safety, together with any potential impact on highway safety.
16. The proposed advertisement would conflict with paragraph 111 of the National Planning Policy Framework (the Framework), insofar as it is relevant that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. However, it would be in conflict with paragraph 136 of the Framework, which references the control of advertisements only in the interests of amenity and public safety.

Other Matters

17. The proposal is located within the Smethwick Town Centre Conservation Area, designated for its commercial and historic significance. Given the commercial nature of the area, the proposal would, insofar as being relevant to amenity, preserve the character or appearance of the conservation area as a whole. The appeal site is opposite two locally listed buildings (Blue Gates Inn and Smethwick Library), designated for their historic and/or architectural significance. Neither of the main parties advocate any harm to amenity as a result of the proposed advertisement, and I find no reason to disagree. These matters form a neutral consideration in my decision.
18. The appellant draws my attention to guidance published by Transport for London, in that digital advertising should be no more or less acceptable than traditional forms of advertising, subject to suitable controls. However, this document has not been provided to this appeal, and as such I cannot consider how relevant it may be to the case before me.
19. I note that there would be social, economic and environmental benefits associated with an efficient and modern digital display. However, under the Regulations, I am confined to matters that relate to public safety or amenity. Even if I were to take account of such benefits, they would be of limited scale and would not outweigh the unacceptable harm to public safety that I have identified. Although the appellant contends that the proposal would upgrade and improve the existing advertising site, and thus have a positive effect upon

amenity, the existing poster advertisement is not unappealing and does not have a negative effect upon the amenity of the area.

Conclusion

20. For the reasons given above, I find that the proposed advertisement would unacceptably harm public safety, and I therefore conclude that the appeal should be dismissed.

J Moore

INSPECTOR