

# Report to the Planning Committee

26 July 2023

<b>Subject:</b>	Decisions of the Planning Inspectorate
<b>Director:</b>	Director – Regeneration and Growth Tony McGovern
<b>Contact Officer:</b>	John Baker Service Manager - Development Planning and Building Consultancy <a href="mailto:John_baker@sandwell.gov.uk">John_baker@sandwell.gov.uk</a>  Alison Bishop Development Planning Manager <a href="mailto:Alison_bishop@sandwell.gov.uk">Alison_bishop@sandwell.gov.uk</a>







## 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/22/67549	68 Myvod Road Wednesbury WS10 9QE	Allowed
DC/22/67022	Lock up garages to rear of 128 Dog Kennel Lane Oldbury B68 9NA	Allowed

## 5 Alternative Options

5.1 There are no alternative options.

## 6 Implications

<b>Resources:</b>	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.
<b>Legal and Governance:</b>	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
<b>Risk:</b>	There are no risks associated with this report.
<b>Equality:</b>	There are no equality implications associated with this report.
<b>Health and Wellbeing:</b>	There are no health and wellbeing implications associated with this report.
<b>Social Value</b>	There are no implications linked to social value with this report.
<b>Climate Change</b>	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/D/23/3316677

APP/G4620/W/23/3315160



# 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: 21 June 2023**

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**Appeal Ref: APP/G4620/W/23/3315160**

**Lock up garages to rear of 128 Dog Kennel Lane, Oldbury, Sandwell B68 9NA**

- 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 Amir Aslam against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref: DC/22/67022, dated 8 May 2022, was refused by notice dated 8 August 2022.
  - The development proposed is the change of use for storage of vehicle stock and raising of roof height and alterations to existing lock up garages.
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## Decision

1. The appeal is allowed and planning permission is granted for the change of use for storage of vehicle stock and raising of roof height and alterations to existing lock up garages at Lock up garages to rear of 128 Dog Kennel Lane, Oldbury, Sandwell B68 9NA in accordance with the terms of the application, Ref DC/22/67022, dated 8 May 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The description of development was amended during consideration of the application subject of this appeal to include reference to the change of use to storage of vehicle stock. The appellant however raises concerns on the inclusion of the reference to 'associated with car sales'. I have utilised part of the description of development from the decision notice which includes reference to the change of use but have removed that part referencing car sales as the description without this adequately describes the appeal proposal before me.
3. At the time of my site visit, it was clear that a number of lock up garages had been combined and vehicles were being stored within them. Although I was able to see a number of roller shutters, the development otherwise reflected the drawings before me. For clarity, I have dealt with the appeal based on the submitted plans.

## Main Issues

4. The main issues are the effect of the proposed development on:
  - the character and appearance of the area,
  - the living conditions of surrounding residential occupiers with regard to noise and disturbance, and

- highway safety.

## **Reasons**

### *Character and Appearance*

5. The appeal site comprises of a group of lock-up garages, situated to the rear of buildings on Dog Kennel Lane and Warley Road. Although the properties situated on these two roads are predominantly residential, there is a Petrol Filling Station and a wide range of commercial uses nearby on Londonderry Road. This gives the area a mixed character, where in addition to the variation in the uses, there is variety in the style and design of buildings.
6. The Council has not raised concerns on the proposed physical alterations to provide 5 garages, including the increase in height. Given their single storey form and the presence of other garages and outbuildings in nearby garden areas, I consider that the appeal development assimilates with the surrounding built form.
7. The appeal site previously served as domestic residential parking and is surrounded on three sides by residential gardens. However, given the close proximity of the Petrol Filling Station, which the appeal site also shares an access point with, and the mixed character of the area, the proposed storage use, would not be harmful to the character and appearance of the area.
8. I therefore conclude that the appeal development does not have a detrimental impact on the character and appearance of the area. As such, it would not conflict with of Policy ENV3 of the Black Country Core Strategy (Core Strategy) or Policy SAD EOS 9 of The Site Allocations and Delivery Development Plan Document (SAD DPD), which seek, amongst other matters, high quality design. It is not contrary to the National Planning Policy Framework (Framework) which seeks development that is sympathetic to local character.

### *Living Conditions*

9. The commercial storage use subject of this appeal would differ from the use of the site as lock up garages. Although the 10 lockup garages would likely have been used as domestic residential parking, the Council has not disputed their unrestricted nature, in terms of the timing of operations, or what could be stored within them.
10. Nevertheless, the proposal comprises of five modestly sized garages and a storage unit on the footprint of the previous lock-up garages. The Council has raised concerns on lack of supporting information on the scale of the operation, but given the size and number of garages, I do not consider that the effects of noise, including from comings and goings are unduly harmful, particularly given the presence of the adjacent Petrol Filling Station which generates regular vehicle movements. This would be subject to controlling the hours of operation and is a matter which can be addressed by condition.
11. I therefore conclude that the appeal development does not harm the living conditions of surrounding residential occupiers, with regards to noise and disturbance. As such, there is no conflict with Policy ENV3 of the Core Strategy, Policy SAD EOS 9 of the SA DPD or Paragraph 130 of the Framework, which seek, amongst other matters, development that is of a high quality and a high standard of amenity for existing and future users.

### *Highway Safety*

12. I note the disagreement between the main parties on the provision of information relating to vehicle movements. Having regard to the scale of the appeal proposal, which comprises of 5 garages, as well as the nature of the appeal use which seeks to provide storage, I consider that the number of vehicle movements to and from the site would be limited, particularly when considered in light of the 10 lock up garages that the proposal seeks to replace.
13. The proposal utilises an existing access from Dog Kennel Lane and the existing gates, which are not proposed to change, and are set well back from the highway. I do not therefore consider that vehicles would be required to queue or wait on the footway or carriageway.
14. On my site visit, I was able to see adequate space for cars to enter and turn within the appeal site. The appellant has set out that a flat bed or low loader are not used to take vehicles to or from the site. I have been provided with photographs by neighbouring residents which show a vehicle transporter. It is not clear where these photographs have been taken from or whether this vehicle transporter was delivering to or collecting vehicles from the appeal site. In the absence of conclusive evidence and based on the appellant's submissions, I consider the servicing arrangements would be adequate.
15. Whilst I note concerns that have been expressed in relation to pedestrian safety, given that vehicles are able to enter and leave in forward gear, and based on my site observations of visibility along the footway, I do not consider the use of the existing access by the appeal storage use is detrimental to pedestrian safety.
16. Given the above, I conclude that the appeal development does not have an unacceptable adverse impact on highway safety. It does not conflict with Policy SAD EOS 9 of the SA DPD or Paragraph 111 of the Framework, which set out, amongst other matters, that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

### **Other Matters**

17. The Council has referenced planning permissions at the appeal site, but those permissions differed to the proposal before me in that they related to a change of use to provide parking in relation to a retail store on Londonderry Road. I have determined this appeal accordingly on its own merits.
18. Reference has been made to various private rights of way, but planning is concerned with land use in the public interest and these matters are outside the scope of this appeal as are those relating to the structural aspects of the development which are covered by other legislation. I have taken into account all other matters, including those relating to property values, the need for the proposal and the presence of other garages, but none of these matters would outweigh my conclusions on the main issues. Other concerns have been raised relating to car sales and repair, but this appeal proposal relates to the storage of vehicles and any departure would be a matter for the Council.

### **Conditions**

19. I have considered the conditions suggested by the main parties, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of those suggested as appropriate.
20. A condition is necessary to ensure the development is carried out in accordance with the submitted details as is a condition to limit the hours of the use in the interests of surrounding residential occupiers living conditions. A management plan condition is necessary for the same reason and in the interests of highway safety. This would address a number of matters within the suggested conditions by the appellant.

### **Conclusion**

21. The proposed development would 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 allowed.

*F Rafiq*

INSPECTOR



### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No: 001 (Existing Layouts), Drawing No: 002 (Proposed Layouts) and Drawing No: 003 (Proposed Site Location Plan / Block Plan).
- 2) The use hereby permitted, including deliveries to and from the site shall only take place between the following hours: 0800 and 1800 Monday-Saturday, and 0900 and 1300 on Sundays or Public Holidays.
- 3) Within 3 months of the date of this permission, a Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Management Plan shall provide details of the maximum vehicle movements associated with the site (am/pm) entering and exiting the site, the mode of delivery of vehicles to the site, security details and the maximum number of staff operating from the site along with allocated vehicle parking for staff within the site. The use shall thereafter proceed in full accordance with this approved Management Plan.

### **End of Conditions**



## Appeal Decision

Site visit made on 12 June 2023

by **N McGurk BSc (Hons) MCD MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> July 2023

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### Appeal Ref: **APP/G4620/D/23/3316677**

### **68 Myvod Road, Wednesbury, Sandwell, WS10 9QE**

- 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 Ms Vikki Whitehouse against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/22/67549, dated 26 September 2022, was refused by notice dated 2 December 2022.
  - The development proposed is a double storey side extension and loft conversion with rear dormer.
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### Decision

1. The appeal is allowed and planning permission is granted for a double storey side extension and loft conversion with rear dormer at 68 Myvod Road, Wednesbury, Sandwell, WS10 9QE in accordance with the terms of the application Ref DC/22/67549, dated 26 September 2022 and in accordance with the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
  - 2) 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;
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: ED22-0630PB (Site/Block Plan); ED22-063-03 (Proposed Floor Plan) and ED22-063-04 Rev A (Proposed Elevation Plans).

### Main Issue

2. The main issue in this case is the effect of the proposed development on the living conditions of neighbouring occupiers with regards to outlook.

### Reasons

3. The appeal property is a two storey semi-detached dwelling. Whilst generally a main road, Myvod Road in this location includes the cul-de-sac along which the appeal property is sited.
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4. The appeal property is situated such that the side of the dwelling faces towards the rear of dwellings along the main road and its rear garden backs onto the rear gardens of those dwellings.
5. The appeal property is located in a residential area largely characterised by the presence of two storey semi-detached and terraced dwellings. Dwellings tend to be set back behind front gardens and/or parking areas and have longer gardens to the rear.
6. During my site visit, I observed that many dwellings in the area have been altered and/or extended and that these changes generally appear in keeping with host properties and their surroundings. Further, I also noted that, due to the juxtaposition of houses located along the main Mynod Road and along the side roads that include the cul-de-sac within which the appeal property is located, the rear windows of dwellings look out over, towards and across neighbouring gardens from close proximity.
7. The proposed development would extend the appeal dwelling to its northern boundary at two storey height and would include a dormer that would be set away from this northern boundary.
8. Whilst the proposal would close a gap to the side of the appeal dwelling, it would only project a small distance relative to the overall width of the dwelling. Further, whilst the rear of the dwelling directly to the north of the appeal property has been extended to the rear at ground floor and at roof level, I find that there would still be considerable garden space between the rear elevation of this neighbouring dwelling and the proposed development.
9. Consequently, whilst the proposal would bring the built form of the appeal dwelling closer to the rear of this neighbouring dwelling, it would do so in a manner that would not appear overbearing to any harmful extent. In this regard, I am mindful that the proposed development would be set back slightly from the front elevation and would not extend any further than the existing rear elevation of the appeal dwelling. Consequently, it would be no greater in depth – and would be slightly less deep – than the existing dwelling.
10. Further to the above, during my site visit I noted that there are two clear-glazed windows and one obscure-glazed window to the north-facing side of the appeal property. These face directly towards the rear of the dwelling immediately to the north. The proposed development would not include any windows to the northern elevation of the appeal dwelling and I note that this change brings with it the potential to benefit the privacy of neighbours.
11. The proposed development would not result in any significant change in respect of the appeal property's relationship with other dwellings. It would result in part of the dwelling appearing a little closer to other neighbouring dwellings to the north, but the proposal would be seen above existing boundaries and outbuildings and would be separated from these dwellings by the presence of considerable garden space.
12. The Council's Revised Residential Design Supplementary Planning Document (SPD) (2014) recommends minimum gaps between neighbouring elevations. However, in this specific case, I consider that the circumstances relating to this proposal are such that it would not result in such harm as to justify dismissal of

this appeal. I note that whilst the SPD provides important design guidance, it provides guidance rather than policy requirements to be slavishly adhered to.

13. Taking all of the above into account, I find that the proposed development would not harm the living conditions of neighbouring occupiers with regards to outlook and it would not be contrary to the National Planning Policy Framework, to Core Strategy<sup>1</sup> Policy ENV3; or to SADDPD<sup>2</sup> Policy EOS9, which together amongst other things, seek to protect residential amenity.

### **Conditions**

14. I have considered the conditions suggested by the Council against the tests set out in Paragraph 56 of the Framework. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

15. A condition controlling external surfaces is necessary in the interests of local character.

### **Other Matters**

16. Objections to the proposal were received from neighbours on grounds of its effects on privacy and noise and disturbance. In determining the application the subject of this appeal, the Council considered these matters but did not refuse the application on the grounds of privacy or noise and disturbance.

### **Conclusion**

17. For the reasons given above, the appeal succeeds.

*N McGurk*

INSPECTOR

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<sup>1</sup> Reference: Black Country Core Strategy (2011).

<sup>2</sup> Reference: Sandwell Site Allocations and Delivery Development Plan Document (2012).