

# Report to the Planning Committee

**6 September 2023**

<b>Subject:</b>	Decisions of the Planning Inspectorate
<b>Director:</b>	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/22/67287	50 Gorsty Hill Rowley Regis B65 0HA	Dismissed
DC/23/68038	32 Kenilworth Road Oldbury B68 0ND	Dismissed

## 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/W/22/3313874

APP/G4620/D/23/3324076



## Appeal Decision

Site visit made on 13 June 2023

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

**an Inspector appointed by the Secretary of State**

**Decision date: 21 July 2023**

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**Appeal Ref: APP/G4620/W/22/3313874**

**50 Gorsty Hill Road, Sandwell, Rowley Regis B65 0HA**

- 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 R Azhakesan against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/22/67287, dated 15 July 2022, was refused by notice dated 9 September 2022.
  - The development proposed is for alterations to form 2 additional bedrooms to existing 6 bedroom, 6 person HMO (House of Multiple Occupation) to form 8 bedroom, 8 person HMO.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposal on the living conditions of neighbouring occupiers;
  - Whether the proposal would provide a suitable standard of living conditions for future occupiers; and,
  - The effect of the proposal on highway safety.

### Reasons

#### *Living Conditions*

3. The host property is a deep terraced building which is roughly L-shaped on the ground floor. The existing ground floor contains a long lounge-kitchen room which extends from the front of the property towards the rear. It is served by a bay window to the front and, what appears to be, a rooflight to the rear. The property is currently used as a HMO for six people. The proposal includes the creation of a new bedroom (bedroom 8) to replace the lounge area.
4. The existing kitchen is a distance away from the bay window where any meaningful outlook could be achieved, the area between the lounge and kitchen would also be far from any sources of natural light. Nevertheless, as they are part of one long room, the impact of the poor outlook from, and natural light to, particular areas is reduced.
5. The resultant communal area would only be served by one rooflight. As such there would be no outlook from the kitchen or lounge and natural light would only benefit the far end of the kitchen. Future occupiers would be reliant on artificial lighting throughout the day when using the majority of this communal

- space. Moreover, this space would be enclosed and confined as a result of the lack of outlook. Cumulatively the communal space would provide a poor area for future occupiers to socialise, relax, cook or eat. Therefore, I find that the proposal would provide a poor quality of living conditions for future occupiers.
6. While I note that the proposed bedrooms would all be served by a good level of outlook and light, this does not negate the poor quality of the communal accommodation.
  7. The proposal would result in an increase of 2 occupiers at the appeal site, this would not be a significant increase relative to the existing number of occupiers. Given the nature of the property, it is likely that noise related to socialising, watching TV and listening to music is already generated both in communal spaces and the bedrooms. The noise from two additional occupiers would not, therefore, be a significant addition to that generated at, or around, the site and I find that the cumulative level of noise would not be unacceptable.
  8. As part of this I am mindful that the nature of the noise generated at the site would be domestic, and therefore typical of a residential area. Moreover, as the additional bedrooms would be downstairs, they would be less likely to affect the bedrooms of neighbouring properties, which are typically upstairs.
  9. Whilst there would be no harm to the living conditions of neighbouring occupiers, the proposal would not provide a suitable standard of living conditions for future occupiers. The proposal would therefore conflict with Policies CSP4 and HOU2 of the Black Country Core Strategy which, amongst other matters, require that developments are of a high quality that minimise amenity impacts. It would also conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) which requires that developments create places that promote well-being and a high standard of amenity for existing and future users.

#### *Highway Safety*

10. The appeal site is located on Gorsty Hill Road, a narrow but busy thoroughfare. It is close to a number of junctions with surrounding roads, including Station Road, Lodgefield Road and Coombs Road. During my site visit I noted on-street parking restrictions in a number of locations near the appeal site, including on the opposite side of Gorsty Hill Road. The appeal site does not have any off-street parking provision and the proposal would not provide any as part of the scheme.
11. The appellant has submitted a Parking Stress Survey which carried out two assessments overnight, when I consider most residents are likely to be home. This found that the roads surrounding the appeal site had available and useable parking spaces. Whilst I noted a significant number of vehicles parked on the roads surrounding the appeal site, at the time of my visit, it was clear that there were still spaces available.
12. As noted above, the host property is currently used as an HMO for up to 6 occupiers. The proposal would increase the number of occupiers to 8 and with this there would be an increase in the need for on-street parking. Although the Council have not referred to any policies or guidance regarding parking requirements, I note that in their communication with the appellant they consider that for every 2 bedrooms 1 parking space should be provided.

13. I find that, given the submissions before me and my observations on site, the streets surrounding the appeal site could accommodate an increase in demand for on-street parking by 1 vehicle. However, even if the proposal generates 2 car, 1 per bedroom, I find that the surrounding streets could accommodate such an increase.
14. In light of the above there would be no unacceptable impact on highway safety as a result of the modest increased demand for on-street parking associated with the proposal. It would therefore comply with Chapter 9 of the Framework, including Paragraphs 110-113 regarding, amongst other things, preventing unacceptable impacts to highway safety.

### **Other Matters**

15. A plan (drawing number 0391-3-11-20 rev B) showing a reduced number of bedrooms has been submitted as part of this appeal as a potential fallback. This fallback scheme would provide 7 bedrooms and would retain the lounge's access to the front bay window. It is not clear however, whether it would be intended to still provide accommodation for 8 people across the 7 bedrooms.
16. No information has been provided as to whether planning permission has been granted for this alternative scheme or that it could be carried out under permitted development. Without substantive evidence to the contrary, I cannot be certain that it would be possible to carry out this development. As such, I find there to be a less than theoretical possibility of the fallback scheme being carried out and it has therefore not been determinative in my considerations.

### **Conclusion**

17. The Government's objective is to significantly boost the supply of housing and the proposal would provide two new rooms in an existing HMO. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal these matters would at most attract modest weight.
18. Conversely, the proposal would result in harm to the living conditions of future occupiers, in conflict with the development plan taken as a whole. This attracts significant weight and outweighs the benefits associated with the proposed development.
19. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR



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# Appeal Decision

Site visit made on 8 August 2023

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 August 2023**

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**Appeal Ref: APP/G4620/D/23/3324076**

**32 Kenilworth Road, Oldbury B68 0ND**

- 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 Ardian Lekgegaj against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/23/68038, dated 28 February 2023, was refused by notice dated 9 May 2023.
  - The development proposed is the erection of a single and 2-storey rear extension, hip to gable roof extension, loft conversion and rear dormer window.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. While the appellant has described the proposal as in the above heading, the Council has additionally referred to rendering at the front side, and rear of the dwelling. I also note that the plans show additional windows to the side elevation of the main house. I have proceeded on that basis.

## Main issues

3. The main issues are the effect of the proposed development firstly, on the character and appearance of the host building and the local area; and secondly, on the living conditions of the occupiers of 30 and 34 Kenilworth Road with particular regard to light.

## Reasons

### *Character and appearance*

4. The appeal property is one of a pair of hip-ended semi-detached houses in a predominantly residential area within which 2-storey dwellings predominate. I saw that there is some variety to the size and style of existing dwellings in the area to which the site belongs with those close along Kenilworth Road and nearby streets mostly with hipped roofs.
5. The proposed part single, part 2-storey addition would be at the back of the appeal dwelling and extend across its full width. The new ground floor element would project outwards from the main rear wall by about 6-metres, with a smaller first floor component extending rearwards by about half this depth. This arrangement would elongate the built form of No 32, significantly enlarge its footprint, and noticeably add to its scale and mass.

6. The submitted design is simple. That the walls of the existing dwelling would be rendered to match those of the new rear extension would also unify the general appearance of the finished building. Nevertheless, the proposal would be disproportionate in scale, mass, and depth to the host building. The rear of No 32 would be overwhelmed by the considerable scale and mass of the new extension, the bulk of which would be accentuated by the visually strong horizontal lines of its flat roofs. The new dormer would also be a sizeable addition covering most of the existing and new rear roof slope. The considerable width and height of the new dormer, with its flat roof just below ridge level, would cause it to appear as an overly large 'box like' addition.
7. Views of the proposed rear extension and dormer from public vantage points would be very limited given their position at the back of the main house, away from the road. These elements of the appeal scheme would, however, still form part of the characteristics of the area as it is experienced and appreciated from nearby houses and gardens. When viewed from the rears of the properties on either side of the site, the proposal would draw the eye as a dominant and uncharacteristically large and bulky addition.
8. At the front, the proposed hip to gable extension would imbalance the pair of which No 32 forms part given that the attached property has retained its original hipped roof. It would also noticeably differ to the predominantly hipped roof form that generally characterises most buildings along Kenilworth Road. As such, the proposed hip to gable extension would be a visually disruptive and an unwelcome addition to the street scene and the local area.
9. Policy SAD EOS 9 of The Site Allocations and Delivery Development Plan Document (DPD) states that the Council will reject poor designs, particularly those that are inappropriate in their locality, for example, those that are out of scale or incompatible with their surroundings. The Council's Supplementary Planning Document, *Revised Residential Design Guide* (SPD) echoes this approach. The SPD notes that poor quality domestic extensions that do not fit in visually or are clearly out of keeping with their surroundings will be resisted. For the reasons given, that would be the case with the proposal before me.

#### *Living conditions*

10. Of the properties close to the site, it is the occupiers of 30 and 34 Kenilworth Road, which are situated on either side of the appeal dwelling, that are most likely to be affected by the proposal. Because the appeal scheme would be to the north to northwest of No 34 there would be no significant effect on the natural light reaching the rear of this attached property.
11. There would be some loss of sunlight to the rear of No 30 during a major part of the day. That loss would be primarily caused by the overshadowing effect of the 2-storey element of the new rear extension just to the south and close to the shared boundary between these neighbouring properties. However, from what I saw, No 30 occupies an elevated position relative to the site due to the sloping ground. In addition, the 2-storey part of the proposed extension would not project significantly beyond the existing rear elevation of No 30. As a result of both factors, the loss of daylight and sunlight due to the proposal would not be appreciable insofar as it is experienced by the occupiers of this adjacent property.



*Conclusion on the main issues*

12. Overall, I find that there would be no material harm to the amenities enjoyed by the occupiers of neighbouring properties. However, the proposed development would have an unacceptable effect on the character and appearance of the existing dwelling and the local area. Accordingly, it conflicts with Policy ENV3 of the Black Country Core Strategy, DPD Policy SAD EOS 9 and the Council's SPD. These policies and guidance aim to ensure that new development achieves the highest possible design standards and is compatible with its surroundings.

*Other matters*

13. The appellant states that the proposed dormer and the hip to gable extension could be carried out in any event through the exercise of permitted development rights. Whether or not that is the case, these elements of the appeal scheme are not clearly severable from the rear extension and planning permission is sought for the development in its entirety. I have assessed the proposal on that basis. If the appellant wishes to ascertain whether a part of the development would be lawful, they may make an application under section 191/192 of the Act.

14. I acknowledge that the application of render would provide an opportunity to resolve problems of maintaining the existing brickwork, which is painted. However, this consideration does not outweigh the significant harm that I have identified.

**Conclusion**

15. The proposed development would conflict with the development plan, when read as a whole. There are no material considerations, including the policies of the National Planning Policy Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan.

16. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Gary Deane*

INSPECTOR