

Report to the Planning Committee

8 July 2021

Subject:	Decisions of the Planning Inspectorate
Director:	Interim Director – Regeneration and Growth Tammy Stokes
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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 six months 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 No.	Site Address	Inspectorate Decision
DC/20/6704A	Casa Mia 74 Wood Green Road Wednesbury WS10 9QW	Dismissed
DC/20/65041	23 Jill Avenue Great Barr Birmingham B43 6DH	Dismissed

5 Alternative Options

5.1 There are no alternative options.

6 Implications

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

7. Appendices



Appeal Decision

Site visit made on 20 April 2021 by A J Sutton BA (Hons) DipTP MRTPI

by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2021

Appeal Ref: APP/G4620/Z/21/3266833

74 Casa Mia, Wood Green Road, Wednesbury, Staffs, West Midlands, WS10 9QW

- 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 Mr John O'Hara (Replyshort Ltd) against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/6704A, dated 28 October 2020, was refused by notice dated 22 December 2020.
 - The advertisement proposed is 2 – Digital screens measuring 6m x 3m gable mounted.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposed advertisements on the amenity of the area and public safety of those using the adjacent highway.

Reasons for Recommendation

4. The appeal site comprises the north and south side elevations of an imposing corner property, currently used as a restaurant. The property fronts an extremely busy carriageway which is lined with residential properties interspersed by commercial premises.

Amenity

5. Whilst amenity is not defined exhaustively in relevant Regulations, it does indicate that relevant factors include the general characteristic of the locality, including the presence of any features of historic, architectural, cultural or similar interest. The Planning Practice Guidance (PPG), noting that this is not an exhaustive definition, clarifies that amenity is understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement ... where residents or passers-by will be aware of the advertisement. Given the nature of the proposal, it would not have an effect on aural amenity and my consideration relates to its effect on visual amenity.

6. Paragraph 132 of the National Planning Policy Framework (Framework) highlights that the quality and character of places can suffer when advertisements are poorly sited and designed.
7. Whilst the area supports a mix of uses, it is predominately residential, where the few commercial premises are identified by low key, non-digital signage/adverts. The current signage on the appeal property is in keeping with this style of adverts. I observed no examples of digital display panels along this stretch of the A461 or in the immediate surrounding streets.
8. The proposed large, digital style illuminated adverts would be distinctly different from existing adverts in the area and would appear completely alien in this mainly residential setting. The proposal would introduce an incongruous commercial feature in a prominent position, which would, by virtue of the size and design of the adverts, dominate the street scene, when viewed from both the northerly and southerly direction. It is therefore concluded that the proposed advertisements would substantially alter the prevailing residential character and in doing so would be harmful to the amenity of the area.

Public Safety

9. The Regulations state factors relevant to the assessment of public safety which include the safety of persons using any highway¹. Adverts are intended to attract attention but advertisements at points where drivers need to take care are more likely to affect public safety, for example at junctions and pedestrian crossings.² PPG provides details regarding types of advertisements which may cause a danger to road users, highlighting externally or internally illuminated signs (incorporating either flashing or static lights) which because of their size or brightness could ... distract road-users, particularly in misty or wet weather, or those which are subject to frequent changes of the display³.
10. The appeal site forms one corner of a heavily trafficked, multi-lane, signal controlled crossroads on the A461, close to junction 9 of the M6. Whilst the carriageway is straight, affording good visibility, given the volume of traffic and complexity of the junction layout, great care is required by motorists in order to navigate the crossroads safely. Indeed, submitted evidence confirms that three serious collisions and a number of other incidents have occurred at this crossroads over a five-year period.
11. Furthermore, the intersection provides one of the few controlled crossing points on this section of the road; in addition to serving residents and other pedestrians it will also be used by pupils for access to the two nearby schools north of the appeal site. Therefore, drivers need a heightened degree of awareness to avoid any potential incident, particularly at the start and end of the school day when there is likely to be a high volume of pedestrians using the crossroads.
12. The introduction of the style and size of adverts proposed, which would be positioned at a high level, would result in features which would distract drivers at a section of the highway where drivers require particular focus and where considerable care is essential to ensure the safety of other vehicle users and pedestrians. I note also the Highways Officer's comments that a traffic signal

¹ Town & Country Planning (Control of Advertisement) (England) Regulations 2007 3(2)b

² Planning Practice Guidance Paragraph: 067 Reference

³ Planning Practice Guidance Paragraph: 068 Reference ID: 18b-068-20140306 (d) iii & iv

would be 'lost' in the proposed advert on the north elevation of the property when viewed from the carriageway in a southerly direction. The affect would be limited to only one of three signals at this junction and the affected signal is unlikely to be completely obscured. However, the illuminated backdrop of the proposed advert would erode the existing clear view of this high-level signal. In this respect it would detrimentally affect the advanced warning for approaching motorists at this junction and in doing so the proposal would increase the risk of accidents at a part of the road network with a confirmed history of incidents. In light of the foregoing, it is concluded that the proposed advertisements would be harmful to the public safety of those using the adjacent highway.

Other Matters

13. My attention has been drawn to Paragraph 67 of the Framework, and whilst this paragraph addressed advertisements in the original 2012 publication of the Framework, in the most recent 2019 iteration which has superseded the original document, this paragraph relates to housing and is therefore not relevant to this appeal. Nevertheless, I have had regard to paragraph 132 of the 2019 Framework which now addresses advertisements in my decision-making.

Conclusion and Recommendation

14. For the reasons outlined above, and having regard to all other matters raised, it is recommended that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and concur that the appeal should be dismissed.

Martin Seaton

INSPECTOR



Appeal Decision

Site Visit made on 8 June 2021 by John Gunn DipTP, DipDBE, MRTPI

Decision by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/G4620/D/21/3270909

23 Jill Avenue, Birmingham, B43 6DH

- 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 Rebecca Cudby against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/65041, dated 4 December 2020, was refused by notice dated 3 February 2021.
 - The development proposed is detached garage, single-storey side extension and increase to roof height to include dormer windows. Revised scheme following DC/20/64523.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposed development upon 1) the character and appearance of the area and 2) the living conditions of the occupiers of surrounding residential properties, having particular regard to outlook and privacy.

Reasons for the Recommendation

Character and appearance

4. The appeal site lies in a residential area and is accessed via a private drive at the end of a cul-de-sac. The area comprises of a mix of detached and semi-detached houses, and bungalows set back from the road with modest sized landscaped front gardens. There are very distinct changes in ground level between the more elevated position of the appeal property and other properties within its immediate locality.
5. The proposed development would have a higher roof, with a marginally steeper pitch, and greater mass than the existing building. However, this would be broken up by the incorporation of two small dormers on the north and east elevations, such that the host dwelling would retain its own individuality. Moreover, when viewed from Jill Avenue, the extended dwelling would be seen in the context of other nearby properties and the varied roofscape.

Consequently, the proposal would not appear incongruous or unduly prominent within the street scene.

6. Notwithstanding the above, I find that when viewed from the rear gardens of Nos 4 and 6 High Croft, which have a ground floor level approximately 4.6 metres lower than the host property, the resultant development would appear as a prominent and incongruous building. It would dominate the skyline and have a detrimental visual impact on the wider area. Whilst I accept that the situation is tempered to some extent by the existing trees, and fencing, the proposed development would be of a substantial and solid construction, and in any event the trees may be felled in the future negating any benefits they might provide. In any event, even with the trees I find the level of harm to be unacceptable.
7. In the light of the above, I conclude that the proposal would result in harm to the character and appearance of the surrounding area, contrary to Policy ENV3 of the Black Country Core Strategy (CS) and Policy EOS9 of the Site Allocations and Delivery Development Plan Document (SADDPD). These policies require, amongst other things, that development should incorporate high quality design that reflects the distinctive character of an area, having regard to the scale, nature, and height of any buildings.

Living conditions

8. The rear elevations of nos. 4 and 6 are orientated towards the rear garden of the host property. The current outlook from these properties is of a car port and conservatory, beyond which lies the main part of the host property. The shortest distance between the properties is approximately 9 metres.
9. The orientation of Nos 4 and 6, combined with the separation distance to the host property, would mean that views from the proposed development into habitable rooms would be very limited. As a result, there would be no harm to occupiers in this regard. However, given the elevated vantage point from the proposed bedroom windows there would undoubtedly be an increase in the perceived loss of privacy experienced by occupiers using their rear gardens. Moreover, given the size and scale of the proposed development there would be some additional harm to the available outlook from the rear gardens of Nos 4 and 6. As a result, the amenity for users of the rear garden of Nos 4 and 6 would be reduced.
10. The submitted evidence indicates no. 21 Jill Avenue to be located approximately 1.9 metres lower than the host property. It has windows serving habitable rooms at ground and first floor levels. Currently the outlook from these rear windows is of the side elevation of No 23. According to the Council there is a distance of approximately 11 metres between the rear wall of No 21 and the existing side elevation of the host property. This is disputed by the appellant who suggests that the separation distance is 12.3 metres. Based on the topographical survey submitted with the application, and what I saw during my site visit, I am inclined to accept the greater distance.
11. The roof of the proposed development would be higher and steeper although the eaves would remain the same as for the existing host property. Moreover, it would incorporate a half hip at the southern end of the north/south ridge, and the cheeks of the box dormer on the rear elevation would be set in from the eaves by over 1 metre.

12. Both parties agree that the proposal would not result in a loss of light over and above the existing situation. From what I have seen and read I do not disagree with their views. Moreover, given the fence on the common boundary, and the absence of any windows in the southern elevation at first floor level the proposed development, the proposal would not give rise to harm resulting from loss of privacy. I also find that any impact on the outlook from the rear windows of No 21, or from within the garden, would be limited given the design of the proposed development and the separation distances involved. As a result, the proposed development would not result in significant harm to the living conditions of the occupiers of No 21.
13. Whilst acknowledging the small difference in levels between the host property and Nos 25 to 29 (odd) I find that the separation distance is sufficient to ensure that privacy is maintained in habitable rooms. Moreover, given its design and separation distance, the proposed development would not cause significant harm to the outlook from these properties.
14. In the light of the above I conclude that the proposal would not be harmful to the living conditions of the occupiers of Nos 21, 25, 27 or 29. However it would result in reduced privacy, and harm to the available outlook, from the rear gardens of Nos 4 and 6. Consequently, the proposal would be contrary to Policy EOS9 of the SADDPD which requires, amongst other things, that development should not impact on neighbouring properties.

Other Matters

15. No objections have been raised by the Council to the erection of the proposed detached garage. From what I have seen and read I do not disagree with their view.

Conclusion and Recommendation

16. Whilst I have not found there to be any harm to the living conditions of neighbouring occupiers, the proposed development would result in an adverse effect on the character and appearance of the area. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

John Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

M Seaton

INSPECTOR