


Planning Committee

4 August 2021

Subject:	Decisions of the Planning Inspectorate
Director:	Interim Director – Regeneration and Growth Tammy Stokes
Contribution towards Vision 2030:	
Contact Officer(s):	<p>John Baker Service Manager - Development Planning and Building Consultancy John_baker@sandwell.gov.uk</p> <p>Alison Bishop Development Planning Manager Alison_bishop@sandwell.gov.uk</p>

DECISION RECOMMENDATIONS

That Planning Committee:

Notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

1 PURPOSE OF THE REPORT

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.

2 IMPLICATIONS FOR SANDWELL’S VISION 2030

The planning process contributes to the following ambitions of the Vision 2030 –

Ambition 7 – We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.

Ambition 8 - Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.

Ambition 10 - 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.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 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.
- 3.2 Appeals must be submitted within six months of the date of the local authority's decision notice.
- 3.3 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/20/6707A	J And P Metals Ltd Blakeley Hall Road/Birmingham Road Oldbury	Dismissed
DC/20/64951	Land To The Rear Of 20 Miles Grove Dudley	Allowed

4 STRATEGIC RESOURCE IMPLICATIONS

- 4.1 There are no direct implications in terms of the Council's strategic resources.
- 4.2 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.

5 LEGAL AND GOVERNANCE CONSIDERATIONS

- 5.1 The Planning Committee has delegated powers to determine planning applications within current Council policy.
- 5.2 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.

Tammy Stokes

Interim Director – Regeneration and Growth



Appeal Decision

Site Visit made on 8 June 2021 by John Gunn Dip TP, Dip DBE, MRTPI

Decision by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/G4620/H/21/3270372

J & P Lewis Metals Ltd, Birmingham Road, Oldbury, West Midlands B69 4ET

- 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 Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/6707A, received as a valid application by Sandwell Metropolitan Borough Council on 21 December 2020, was refused by notice dated 16 February 2021.
 - The advertisement proposed is Digital Matrix Screen measuring 6m x 3m.
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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 Issue

3. The main issue in this case is the effect of the proposed advertisement on public safety.

Reasons for the Recommendation

4. Birmingham Road (BR) is a dual carriageway. The carriageway in the immediate vicinity of the appeal site has a break in the central refuge enabling vehicles to turn into and out of Blakely Hall Road. Road hatching has been provided on the west bound carriageway requiring traffic to merge from two to one lane. This has facilitated the provision of a dedicated right turning facility at the traffic light junction for vehicles wishing to access the unnamed road to the west of the M5 flyover. In the immediate vicinity of the road hatching there is an individual vehicular access to a commercial premises and a bus stop.
5. BR has a 30 mph speed limit, with a good standard of street lighting for the majority of its length. The area immediately below the M5 flyover, where the advertisement would be displayed, was less well lit. There are double yellow lines on the west bound carriageway, with dedicated parking bays on the east bound carriageway fronting the terraced houses that lie a short distance to the east of the appeal site.
6. On my site visit, which I acknowledge only represents a snapshot in time, I noted that traffic was not heavy and was flowing freely. However, despite the 30 mph speed limit on BR, vehicles were speeding up and slowing down in

response to the signal controlled junction to the west of the appeal site. They were also slowing in response to traffic merging from the outside lane. In a small number of instances, I saw HGV's stay in the outside lane, despite the road hatching, thereby enabling them to complete a right turn at the traffic lights. It is likely that traffic volumes would increase significantly during rush hour periods.

7. I have considered the accident records provided by the Council for the period 2015 -2020 which indicates three incidents within the immediate vicinity of the appeal site, and three further cases that were more remote.
8. In all cases the severity of the accidents was slight. The evidence, which is not disputed by either party, shows that accidents within the immediate vicinity of the site were as a consequence of traffic merging, and in one instance as a result of a vehicle carrying out a "u" turn manoeuvre through the gap in the central reservation.
9. Whilst noting that BR has a slight curve in its alignment, the advertisement would be seen from some distance. However, having had regard to the National Planning Policy Guidance in addressing advertisements, I find that in this instance given it's siting, size and means of illumination, the advert would undoubtedly create additional potential for visual distraction of drivers. This would be at a time when other vehicles are slowing down, undertaking merging movements, manoeuvring around buses that are stopped at the bus stop, utilising the gap in the central reservation, or gaining access to or from the adjacent commercial premise. This could very well have severe consequences with potential collisions and injuries.
10. I acknowledge that given the nature of the road, and the volume of traffic it carries, that some accidents are likely to occur. However, the reported accidents occurred in the absence of the proposed advertisement. In light of the matters identified above, any increased distraction arising from the advertisement, would have the potential to increase the number and severity of collisions.
11. In light of the above I consider that the proposal would cause unacceptable harm to public safety and, insofar as it is material, would not accord with Policy SAD DM 2 of the Site Allocations and Delivery Plan Document (adopted December 2012). This policy, amongst other matters, requires applications for poster panels to be considered with regard to public safety, taking into account any potential impact on highway safety.
12. The proposal would also be contrary to the National Planning Policy Framework which seeks to prevent development that would result in an unacceptable impact on highway safety and supports well sited and designed advertisements.

Other Matters

13. I acknowledge that the advert would not harm the visual amenity of the area given the commercial nature of the surroundings immediately adjacent the appeal site. However, this matter does not outweigh the harm that I have identified with regards to public safety.

Conclusion and Recommendation

14. For the reasons given above I conclude that the display of the advertisement would be detrimental to the interests of public safety and recommend that the appeal should be dismissed.

John Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

15. 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



Appeal Decision

Site Visit made on 22 June 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2021

Appeal Ref: APP/G4620/W/21/3271775

Land to rear of 20 Miles Grove, Dudley DY2 7TQ

- 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 Martin Taylor against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/64951, dated 2 November 2020, was refused by notice dated 13 January 2021.
 - The development is 18 No. ground mounted solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for 18 No. ground mounted solar panels at Land to rear of 20 Miles Grove, Dudley DY2 7TQ in accordance with the terms of the application, Ref DC/20/64951, dated 2 November 2020, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plan: No 1a

Preliminary Matters

2. The solar panels that are the subject of this appeal have already been installed. This appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. The development was amended during the application process and no longer reflects the description of development the appellant originally applied for. Therefore, in the interests of clarity the description set out above has been taken from the Council's decision notice. I have also removed the phrase "retention of" from the description as this is superfluous.

Main Issues

4. The main issues in this case are the effect of the proposal on:
 - the character and appearance of the area; and,
 - local ecology and biodiversity.

Reasons

Character and appearance

5. The appeal site is located within an open field directly behind the boundary fences and hedgerows serving a row of residential gardens. The field is part of a larger group which contain mature trees and hedgerows, and are collectively

surrounded by a built-up area. This area is part of the Rowley Hills Strategic Open Space (SOS) the character of which I find to stem from its open and rural nature which is discrete from the adjacent built-up residential area. Whilst not a part of the development before me, I note that a post and rail timber fence has been erected around the solar panels.

6. The solar panels are set out on a low, linear frame which is relatively lightweight in its construction and appearance. As a result, during my observations on site, I found they were not intrusive and did not compete with the mature planting in contributing towards the open and rural character of the area. Moreover, the panels are set closely to tall boundary treatments at the back of the appeal site and there are a substantial number of mature trees, hedges and bushes surrounding the field. Collectively these features go some way to soften and screen the solar panels. Therefore, given the above and the low height of the panels, they are not prominently visible from surrounding properties or public views to the detriment of the continuous and wide open character of the area.
7. I therefore conclude that the solar panels, as a result of their siting and scale do not harm the character and appearance of the area and as such comply with Policies EOS3 and EOS9 of the Site Allocations and Delivery Development Plan Document (adopted December 2012, the SAD) which require development to, amongst other things, be appropriate and compatible with its surroundings and not prejudice the character of the SOS. It also complies with Paragraph 170 of the National Planning Policy Framework (the Framework) which requires, amongst other things, development to protect valued landscapes.

Ecology and biodiversity

8. The appeal site is within a Site of Local Importance for Nature Conservation (SLINC) which provides wildlife corridors and habitats. From my observations on site it is clear that the importance of this area (in ecological terms) stems from the mixture of open fields and wooded areas bounded by hedgerows and other vegetation.
9. The solar panels and the framework upon which they sit were in place at the time of my visit, and I have not been provided with any details of how the appeal site would have appeared prior to the development. However, to the front and sides of the site is short grass, the same as that which makes up the main body of the field, to the rear, along the hedgerow, was a mixture of low vegetation. Given its position it is likely that the development works would have resulted in the loss of a mixture of both of these features.
10. However, given the small scale of the development, and especially in relation to the size of the area as a whole, it is unlikely that it would have resulted in the significant or unacceptable loss of either feature to the detriment of the provision of wildlife habitats and corridors. Moreover, at the time of my visit tall grasses and wildflowers had grown within the appeal site, which are likely of some benefit to the overall biodiversity of the area.
11. Whilst I note the Council's concerns regarding the effect of the solar panels themselves on the function of the area as a wildlife habitat and corridor, the Council have not demonstrated how this harm would occur. Mindful of the above, and the lack of any evidence to the contrary, I therefore find that the panels are not detrimental to wildlife and their habitats on or near the site.

12. As such the solar panels, by way of their scale, siting and nature, do not unacceptably affect the function of the area as a wildlife habitat and corridor, and therefore comply with Policies ENV1 and ENV7 of the Black Country Core Strategy (2011), and Policy EOS3 of the SAD. These policies, amongst other things, require development to protect the natural environment including wildlife habitats, corridors, the SOS and the SLINC. The development also complies with the overarching natural environment aims of the Framework including at Paragraph 170 which requires development to protect sites of biodiversity value.

Other Matters

13. Given the particular location and small scale nature of the development, as well as its purpose in creating green energy, I find this development to have a set of factors which, taken collectively, mean that allowing it would not set a precedent for future development.

Conditions

14. As the development has already been carried out it is unnecessary to impose the statutory time limits condition. However, for the sake of clarity I have imposed a condition listing the plan drawings.

15. The council did not submit any suggested conditions for in the event of the appeal being allowed. Mindful of this, the scope of the development, as well as my foregoing findings and the evidence before me, I find that it would not be necessary to impose any further conditions.

Conclusion

16. For the reasons given above, and considering the development plan a whole, I conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR