

Planning Committee

15 February 2022

Subject:	Decisions of the Planning Inspectorate
Director:	Director – Regeneration and Growth Tony McGovern
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 notices:-

Application Ref	Site Address	Inspectorate
DC/21/65649	Madina Education Trust Walsall Street Wednesbury WS10 9EL	Dismissed
DC/21/65633	Land Adjacent 124 Oldbury Road Rowley Regis B65 0PH	Dismissed

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.

Tony McGovern
Director – Regeneration and Growth



Appeal Decision

Site visit made on 11 January 2022

by **R Walmsley BSc, MSc, MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/G4620/W/21/3284185

Madina House, 24 Walsall Street, Wednesbury, West Midlands WS10 7PY

- 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 Madina Education Trust against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/65649, dated 5 May 2021, was refused by notice dated 4 August 2021.
 - The development proposed is proposed additional use for storage of deceased body and extension to house cold room with new pitch roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposal on highway safety.

Reasons

3. Pritchard Street is regularly and heavily parked with vehicles. Double yellow lines extend from Walsall Street into Pritchard Street, giving highway protection to the junction. Hearses currently park on the double yellow lines so that coffins can be unloaded and loaded to an entrance off Walsall Street.
4. Hearses would continue to park on the double yellow lines but use an entrance off Pritchard Street to bring in deceased bodies for storage. The appellant suggests that there would be no more than three bodies stored on site at any one time but it is not clear how many vehicle trips this would translate to. It is also not clear if the entrance off Walsall Street would become redundant for the movement of deceased bodies or if both entrances would continue to operate, to meet demand. I appreciate that exact numbers will depend on the frequency of death. However, the appeal site has been in operation for many years and therefore some indication of the frequency of vehicle movements could be given. The numbers of vehicles associated with the appeal proposal is a decisive omission from the evidence.
5. Vehicles parked on double yellow lines and close to the junction with Walsall Street would form an unwarranted obstruction to passing traffic. This, in turn, would make it difficult for vehicles to navigate the junction safely, posing a risk to highway safety.
6. I recognise that it is not illegal to park on double yellow lines for loading and unloading. However, the double yellow lines are in place to protect the

junction from traffic accidents and congestion. To allow the appeal proposal knowing that it would rely heavily on the use of double yellow lines which have been put in place for safety reasons is not, to my mind, good planning. Furthermore, the double yellow lines are not within the appellant's control. Should other vehicles be parked on double yellow lines for loading/unloading purposes, hearses would be forced to park elsewhere in the area. Given that Walsall Street is a busy throughfare and Pritchard Street is heavily parked, this would cause a serious competition for parking.

7. It seems from the evidence before me that the current premises has operated without objection or complaint or without reports of vehicle or pedestrian accidents and collisions. However, evidence from the past cannot be used to reliably predict incidents in the future, particularly when the appeal proposal suggests a material change in the use of the premises.
8. I have been referred to St Pauls Church on Woodgreen Road. There is nothing within the evidence before me to suggest that the competition for parking here is anything like that on Pritchard Street. There is no evidence to refute the Council's comment that there is no storage of bodies on site at St Pauls which therefore does not compare with the appeal proposal. Plus, I have no details about the frequency of vehicle movements and parking at St Pauls Church to compare with the development proposed. And so, St Pauls Church does not set a precedent in favour of the appeal.
9. All in all, the development proposed would create a competition for parking and unduly hazardous driving conditions with the potential for significant conflict between road users. The Council have not referred to the development plan in refusing the planning application on highways grounds but found the proposal contrary to the National Planning Policy Framework (2021) (the Framework). The Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. For the reasons given I have found that this would be the case.

Other matter

10. The Council has referred to the development proposed being unacceptable in the context of the houses and the children's nursery nearby but has not expressed this within the reason for refusal. The Council's Environmental Health Officer raised no objection to the use but suggested that further details re noise be sought.
11. Currently, deceased bodies are transported in front of the children's nursery and therefore in greater view than would be the case if the entrance on Pritchard Street was used for this purpose. Nonetheless, this access is shared with residents and immediately adjoins a residential property. Furthermore, if for any reason a hearse cannot be parked on the double yellow lines, then a space elsewhere in Pritchard Street would be used. On both accounts, the increased visibility of deceased bodies in a residential area seems ill-fitting.

Conclusion

12. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R Walmsley INSPECTOR



Appeal Decision

Site visit made on 11 January 2022

by **R Walmsley BSc, MSc, MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/G4620/W/21/3284861

Land Adjacent 124 Oldbury Road, Rowley Regis B65 0PH

- 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 Alhaffar against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/65633, dated 7 May 2021, was refused by notice dated 30 July 2021.
 - The development proposed is open car display and sales area.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the proposal on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

3. South west of the appeal site, Oldbury Road is largely commercial in character. This character changes about the point of the appeal site; commercial uses give way to an area that is notably residential in character, given the prevalence of houses and the open area of green space which includes the appeal site. The green space is visually pleasing in an otherwise built-up area. The space also provides an attractive setting to the houses nearby which overlook the appeal site.
4. The appeal site is visually and physically separate from the commercial uses nearby and therefore the proposal would not be appreciated in a commercial context, but a residential one. And so, the open storage of cars together with the associated paraphernalia, including gates, fencing and an office building would appear unduly commercial and conspicuous in a residential context. The open storage of cars alone would create visual clutter which would appear incongruous with the more pleasing and attractive setting of the houses. The fence proposed is more suited to an industrial area and the commercial nature of the site overall with its comings and goings of people and vehicles would jar awkwardly with the residential area around.
5. The appellant's suggestion to provide planting along the site boundary facing Regis Heath Road would provide some visual screening. However, this would

not mitigate the harmful effects identified which relate to the use of the site and the activities that would take place on it.

6. Irrespective of the status of the site and its potential for development, for the reasons given the development would be unduly harmful to the character and appearance of the area, contrary to Policies ENV3 and CSP4 of the Core Strategy (2011) and Policy SAD EOS9 of the Site Allocations and Delivery Plan Document (2021) which, amongst other things, seek development of a high design quality and that respects the visual qualities of an area.

Highway safety

7. Oldbury Road is an A-road which carries high volumes of traffic. Given the number of cars to be stored on site and the provisions for staff and customer parking, the site would attract notable levels of vehicular activity.
8. The appellant suggests that the vehicular activity would be limited to 4 or 5 cars being sold per week but it is not clear how the appellant intends to limit business in this way. Any permission with a condition to this effect would be unreasonable as it would restrict business and so there is every possibility that more than 4 or 5 cars could be sold each week. Added to this would be 1 or 2 replacement cars per day.
9. Whilst customers may be able to view cars online, there would be nothing to stop passing trade, despite the appellant suggesting that this is not intended. Given the prominent position of the site and its location on a major through route, passing trade is highly likely.
10. And so, the site would be subject to a notable number of vehicles moving on and off the site. These movements would be concentrated at one point of access and egress and would interfere unduly with the flow of traffic along Oldbury Road and the safe movement of vehicles.
11. In the absence of a swept-path analysis to demonstrate sufficient turning space in the site for all vehicles, vehicles may need to leave the site in reverse gear. This would be hazardous to pedestrians using the footpath and would cause a further slowing down of and therefore a conflict with traffic on Oldbury Road.
12. Without further details about the parking requirements for customers and staff, 5 spaces for both suggests that there would also be a demand for parking which would create a competition for parking in the surrounding area. This would impede the flow of traffic and jeopardise highway safety.
13. And so, I find that the development would lead to a detrimental impact on highway safety. The Council have not referred to the development plan in refusing the planning application on highways grounds. Nonetheless, the National Planning Policy Framework (2021) (the Framework) is a material consideration. The Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. For the reasons given I have found that this would be the case.

Conclusion

14. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination,

that outweigh the identified harm and associated conflict with the development plan and the Framework. For the above reasons, the appeal is dismissed.

R Walmsley

INSPECTOR