

Report to the Planning Committee

15 May 2024

Subject:	Decisions of the Planning Inspectorate
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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/23/67906	902 Walsall Road Great Barr B42 1TG	Allowed
DC/23/68408	616 Bearwood Road Smethwick B66 4BW	Dismissed

Application Ref	Site Address	Inspectorate
DC/23/68655	47 Peak House Road Great Barr Birmingham B43 7RY	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.
Climate Change	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/C/23/3326340
APP/G4620/W/23/3333849
APP/G4620/D/24/3336913



Appeal Decision

Site visit made on 5 March 2024

by Graham Dudley BA (Hons) Arch Dip Cons AA

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/G4620/C/23/3326340

902 Walsall Road, Great Barr, B42 1TG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr J Nadat against an enforcement notice issued by Sandwell Metropolitan Borough Council.
 - The notice was issued on 21 June 2023.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the property from use as a dwelling house to use as a residential care home.
 - The requirements of the notice are to cease the unauthorised use and to remove all materials and any other items from the property associated with the unauthorised use.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the property from use as a dwelling house to use as a residential care home at 902 Walsall Road, Great Barr, B42 1TG, subject to the following conditions:
 - 1.1. The use hereby approved shall house no more than four young people aged between 11 and 18 at any one time.
 - 1.2. The noise mitigation measures detailed in the submitted noise assessment (Report No 22546-1, dated 26th June 2023) shall be implemented within 6 months of the date of this decision. If the noise mitigation measures are not implemented within 6 months of the date of this decision the use shall cease until implementation of those measures.
 - 1.3. A management scheme shall be submitted to and approved in writing by the local planning authority, identifying management of the property, including staffing, waste disposal, parking, noise control and procedures for complaints.
 - 1.4. Unless within 3 months of the date of this decision a management scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the

local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

- 1.4.1. If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.
- 1.4.2. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained in use.
- 1.4.3. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in these conditions will be suspended until that legal challenge has been finally determined.

Reasons

Ground (a)

2. The main issue is the compatibility of the use with the neighbours, area and building, with particular regard to noise and disturbance.
3. The development plan includes the Site Allocations and Delivery Development Plan Document (DPD). The enforcement notice refers to conflict with DPD Policy SAD H4 – Housing for People with Specific Needs. The policy notes that The Council will encourage and negotiate the provision of housing to cater for the special needs of people, including the elderly, people with mental ill health, and those with physical and learning disabilities, particularly where a need has been identified. They will be considered in relation to, amongst other things, compatibility with adjacent users and the suitability of the site and building.
4. The National Planning Policy Framework [NPPF] has a social objective to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. It is important that a sufficient amount and variety of land can come forward where it is needed, so that the needs of groups with specific housing requirements are addressed.
5. The appeal site had the benefit of planning permission which was for the change of use from residential dwelling into supervised residential home for 4 young people (14-18 years old). The appellant considered this covered its use of the building, but the Council pointed to a Court decision that identified the current use as a C2. They also note that the previous permission has lapsed. There have been LDC applications, but these have been refused. This ground (a) / deemed planning application relates to the allegation.
6. The appellants are experienced in caring for young people to assist them in transitioning into adulthood whilst providing them with an appropriate level of

care to suit their needs, which comprise behavioural and learning difficulties. The operation of the site is to provide residential care for up to four young people between the ages of 11 and 18 who require some form of support. The care and support provided is tailored to the individual. Staff are on-site at all times to provide support to the residents, but they do not live on-site and operate in shift patterns. The pattern of staffing is usually one resident to one member of staff.

7. The appellant is asked to provide places for people and there is a need identified in the housing need assessment. The appellant says that the need for such accommodation to support young people is evidenced in the Council's own needs assessment and that the use accords with Policy HOU2 of the Development Plan. I have taken into account the acknowledged need for such accommodation and that policies and the NPPF promote such uses in appropriate locations.
8. The appellant notes that the use alleged is already occurring, so residential care is already being provided and no further modifications, internally or externally are required by them.
9. The appeal property is semi-detached, with residential properties on either side. The proposed use, whilst falling within Use Class C2, is for a type of residential accommodation and a residential use is not incompatible in principle with the adjacent residential uses. C2 uses have been accepted elsewhere in the Sandwell area, but whether a particular use is acceptable in a particular area is a matter of considering the individual use and location.
10. In some respects, this is similar to a large family use of the property, but there is a significance difference, particularly as the residents are those with some difficulties. In addition, because of their needs there is a significant number of staff required, with associated car and parking requirements/movements. A neighbour complains of the screaming and noises that can occur any time of day or night that keep them awake and cause them significant disturbance. Neighbours also note up to 9/10 cars parked on the drive.
11. This is not a simply a residential area. While there are residences by the appeal site, further along the row there are vets and a funeral director located in converted houses and further along still are blocks of flats, some with shops beneath. The property fronts onto a busy dual carriageway and opposite is a parade of more shops. Most of the nearby properties, including the residences, have most of the garden covered by hardstanding and in many there are a number of cars.
12. Complaints have been received from neighbours by the Council in relation to the current use of the site related to noise and disturbance, from residents, parking and bins. There have also been representations in relation to this appeal related to these matters. A public health officer did visit, but no action was taken, and the appellant asked to talk to the Council to understand the complaints. There is a noise assessment and a management scheme is proposed.
13. I accept that there will be a considerable number of vehicles coming to and going from the property, particularly at change-over times, that would normally not be in character with a residential area. Here, however, there is considerable noise and activity associated with the main road and other properties have large parking areas and cars in front of them. I consider that the additional activity,

noise and disturbance would be very little in relation to the general activity in the area and I do not consider that it would cause material harm or be out of character.

14. The building is very well staffed and in some respects activity could be better controlled than say in a normal family situation, with the one to one staffing. A management scheme is proposed to be put in place that would control the use and set out how to complain to the home should problems occur. I accept that there are claims of noise coming through from the home, identified as some screams that can occur at any time of the day or night. This could cause significant disturbance. With the one to one staffing this should generally be well controlled, but some noise will inevitably occur and could unacceptably disturb neighbours. For this reason, I consider that upgrading of the sound insulation of the party wall, as identified by the acoustic report, would be necessary to maintain the neighbour's living conditions.

Conditions

15. I consider that a management scheme is necessary to safeguard the living conditions of neighbours to cover issues such as staffing, parking, noise and disturbance and complaints procedures. I have considered arrangements for waste management but consider that this would be little different from a normal residence and can also be covered by the management plan. I do not consider that a specific condition is required in relation to staffing as this can be covered in the management plan. I consider it is necessary to control the number of occupiers in the interest of the living conditions of the neighbouring occupiers. I have also added the standard 'enforcement' conditions as the use is currently in operation, so there needs to be a process in place, should the conditions not be complied with.

16. Overall, I consider that this use, subject to conditions, would not cause unacceptable noise and disturbance and this would be an acceptable use in relation to the living conditions of neighbours, the building and area. It would not affect the character of the area. I conclude that it does not conflict with Policy SAD4 in that it is not incompatible with adjacent users, site or building.

Conclusion

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the material change of use of the property from use as a dwelling house to use as a residential care home, subject to conditions.

Graham Dudley

INSPECTOR



Appeal Decision

Site visit made on 10 April 2024

by **Rachel Hall BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Appeal Ref: APP/G4620/W/23/3333849 616 Bearwood Road, Smethwick B66 4BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Coakley against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68408.
 - The development proposed is 'pursuant to planning applications DC/20/64484, DC/22/66692 and DC/23/67938, proposed three-storey rear extension to accommodate an additional four single-occupancy bedsits; together with bicycle parking facilities, refuse and recycling storage, and external staircases'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr and Mrs Coakley against Sandwell Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. It is not a matter in dispute that planning permission for conversion of the upper floors of the appeal building to a House in Multiple Occupation (HMO) remains extant (Refs APP/G4620/W/18/3212761 and subsequently DC/22/66692). Also, that the site benefits from planning permission for a two-storey rear extension and change of use to accommodate an eight person HMO (the fallback scheme) (Refs DC/20/64484, DC/22/66692 and DC/23/67938).
4. In the event that the appeal is unsuccessful it appears likely that the fallback scheme would be implemented. Therefore, it represents a valid fallback position to which I afford considerable weight.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether the proposed development would provide adequate living conditions for future occupants of the proposal, with particular regard to access to kitchen facilities.

Reasons

Character and Appearance

6. No 616 is within a run of terraced properties on Bearwood Road. These building frontages show a high degree of uniformity of design. Whilst there is greater variation in form at the rear of the building, there are common features. For example, in rear buildings projecting from the main terraced built form there is a predominance of pitched roofs with rear facing gables. The adjacent building to the north comprises a two-storey flat roof building, extending along the length of its boundary with the appeal site. Whilst a substantial built form, due to the absence of windows on the elevation visible from Adkins Lane, it is unobtrusive in the street scene.
7. There is also commonality in the palette of materials at the rear of the appeal site, comprising red brick and tiled roofs, with some white render. This helps the buildings to blend with the street scene. It also ensures that the rear built form remains subservient to the main built form of the terrace. Consequently, the predominance of traditional form and uniformity of materials is a positive defining feature of the character and appearance of the area.
8. The proposed development would appear to match the length of the two-storey development that exists to the rear of No 618. That building has a pitched roof and rear facing gable. However, the appeal proposal would result in a noticeably higher ridge height to provide three, rather than two storeys of accommodation. Consequently, the presence of the rear extension at No 618 would not shield the proposed third storey from view from Adkins Lane.
9. Although not the main shopping street, Adkins Lane adjoins a bus station and is opposite a public park. As such it is an area of relatively high footfall and there are views into the appeal site from the public realm. From there, although lower in height than the main terraced building's roof, the proposal would appear as a conspicuous addition. This would be emphasised by the proposed flat roof design and absence of a gable end.
10. The prominence of the proposal would be further highlighted by the proposed vertical metal cladding along the length of the third storey. Rather than reducing the bulk of the building, the introduction of a new type of cladding material would draw attention to the excessive height of the proposed built form. This would be further emphasised by the use of vertical fins on third storey windows which would also appear stark and unfriendly.
11. The fallback scheme would broadly match the height of the two-storey building to the rear of No 618. As such, the use of vertical fins on first floor side facing windows permitted in that scheme would not be particularly apparent from the surrounding area. It would also have a pitched roof and rear facing gable, in keeping with the traditional form that is characteristic here. As the appeal scheme would be more harmful than the fallback scheme, the fallback scheme does not alter my reasoning on this main issue.
12. Given the degree of setback between the appeal scheme and houses on Herbert Road, and the absence of windows on the proposed rear elevation, I am not persuaded that the proposal would be particularly intrusive in views from the rear of houses on Herbert Road.

13. Nevertheless, for the reasons given, the proposal would unacceptably harm the character and appearance of the surrounding area. As such, it would conflict with Policy HOU2 and ENV3 of the Black Country Core Strategy (February 2011), and Policy EOS9 of the Site Allocations and Delivery Development Plan Document (December 2012). Amongst other matters, these require developments to achieve high quality design having regard to the character of the locality. It would also conflict with paragraph 135 of the Framework. This includes a requirement for proposals to add to the quality of an area and be sympathetic to local character.

Living Conditions

14. The appeal scheme would provide basic kitchen facilities within each bedroom, along with a table and chair. In addition, a communal kitchen and modest seating area would be provided at groundfloor level. Although access would be from an external door, its location at groundfloor level close to the main residential access to the building would nonetheless provide a modest social space for occupants of the appeal scheme.
15. Accordingly, the proposal would provide acceptable living conditions for its future occupants, with particular regard to access to kitchen facilities. No specific development plan policies were drawn to my attention in respect of this main issue. However, the proposal would accord with paragraph 135.f. of the Framework. This seeks to ensure developments are inclusive and accessible and achieve a high standard of amenity for existing and future users. It would also accord with paragraph 96 of the Framework, which seeks to ensure developments are inclusive and promote social interaction.

Other Matters

16. The proposal could provide relatively affordable living accommodation for 12 people in an accessible location. Construction of the proposal would provide short term benefits to the local and wider economy. The occupants would be likely to stimulate consumer spending, boost local labour supply and help to support local services, which would all constitute modest benefits in social and economic terms. I see no reason to doubt that future occupants of the proposal would integrate well with the local community.
17. However, implementation of the fallback scheme, whilst providing for four less people than the appeal scheme, would be likely to deliver broadly similar social, economic and environmental benefits. It would also achieve investment in the appeal building, but without unacceptable harm to the character and appearance of its surroundings. Moreover, making effective use of the land as supported by chapter 11 of the Framework, should not be at the expense of achieving good design.
18. Relative to the fallback scheme, the appeal scheme would provide an additional communal kitchen of modest benefit to future occupants of the proposal, and provide for four additional people. However, that is not sufficient to outweigh the enduring harm to the character and appearance of the surroundings from the proposed additional storey. An absence of harm in respect of matters such as ecology, impacts on the living conditions of neighbours and an absence of objections from nearby local residents are neutral considerations.

Conclusion

19. Therefore, the proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR



Costs Decision

Site visit made on 10 April 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2024

Costs application in relation to Appeal Ref: PP/G4620/W/23/3333849616 616 Bearwood Road, Smethwick B66 4BW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Coakley for a full award of costs against Sandwell Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for 'pursuant to planning applications DC/20/64484, DC/22/66692 and DC/23/67938, proposed three-storey rear extension to accommodate an additional four single-occupancy bedsits; together with bicycle parking facilities, refuse and recycling storage, and external staircases'.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case for an award of costs is on substantive grounds. This is firstly based on the applicant's view that the Council's decision prevented or delayed development that should clearly be permitted, having regard to planning policy and material considerations. Second, that the Council failed to substantiate the reason for refusal and provide sufficiently precise justification for the harm arising from the proposed massing, scale and design of the proposal.
4. As will be seen from the appeal decision, I did not find harm in respect of the second reason for refusal relating to the ability of the proposal to provide suitable living conditions for its future occupants. However, for the reasons given in the appeal decision, the proposal would unacceptably harm the character and appearance of its surroundings to the extent that planning permission should be withheld. As such, the Council's decision did not prevent or delay development that should clearly be permitted.
5. In respect of the wording and justification for the first reason for refusal, the effect of a proposal on the character and appearance of its surroundings inevitably requires an element of judgment. Further detail from the Council would have been helpful. Nonetheless, it is sufficiently clear that the Council's concern primarily relates to the impact of the massing, scale and design of the proposal when viewed from Adkins Lane and the rear of properties on Herbert Road.

6. Although I have not found the proposal to be harmful in views from the rear of houses on Herbert Road it is not unreasonable of the Council to have reached that view. As will be seen from the appeal decision, I also conclude that the height of the proposal, the proposed building's form and choice of materials would jar with its surroundings, to the extent that this would be harmful to the character and appearance of its surroundings from Adkins Lane.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Rachel Hall

INSPECTOR

Appeal Decision

Site visit made on 20 March 2024

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/G4620/D/24/3336913

47 Peak House Road, Great Barr, Sandwell, Birmingham B43 7RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Jamie Bruton against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68655.
 - The development proposed is described on the application form as 'front extension, double side and rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.
3. The Council's Delegated Report and reason for refusal do not raise concerns with the proposed extensions to the rear of the property. I have no reason to disagree with that assessment based on the evidence before me and my observations of the site. I have therefore confined my assessment to the proposed front extension and roof alterations.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal building is a two storey detached dwelling on the eastern side of Peak House Road within a residential area. In common with other properties on this road, the appeal property is set back from the road behind a garden and driveway. It is constructed in red brick with a tiled hipped roof and includes bay windows below a gable feature to the front elevation.
6. The property is situated in a linear row of similar inter-war detached and semi-detached dwellings characterised by hipped roofs, projecting gables and two storey bay windows. Although many have been extended, this side of the road exhibits a strong sense of uniformity which contributes to the character of the area. In contrast, there is a more varied built form on the other side of the road, where there are examples of more modern properties.

7. The alteration to the roof of the property from a hipped roof to gable ends would fundamentally change its character and appearance. It would be a dominant addition to the host property and disrupt the largely uniform roofscape on this side of the road which is characterised by traditional hipped roofs.
8. The proposed two storey front extension would be of substantial size and, whilst set down from the main ridge, would be an imposing feature to the front of the property. Whilst two storey bays are an established feature of the area, the proposed front extension would be a bulkier addition than these. It would interrupt the rhythm of the properties on this side of the road, which do not feature such two storey front extensions. Consequently, the roof alterations and front extension would detract from the character of the host property which would no longer integrate successfully with the other properties in this row.
9. I appreciate that design can be a subjective issue and that the scale of the development has been reduced since a previous application. Nevertheless, I find that that the siting, scale and design of the proposal would fail to respond to local character. I also note that the proposed development would be constructed of matching materials. Positive though this would be, it would not make the size, siting or design of it acceptable.
10. Whilst hip to gable extensions have been carried out at 42 Peak House Road and 9 and 12 Gleneagles Drive, I do not have details of the planning history of these cases or the circumstances which led to their approval, and their surrounding contexts are different. The gable end at No 42 is screened by the hipped roof over the first floor side extension. Accordingly, these other cases are not directly comparable to the appeal scheme which I have assessed on its own merits.
11. I conclude that the proposal, due to its siting, scale and design, would be harmful to the character and appearance of the area. It would conflict with Policies ENV3 of the Black Country Core Strategy (2011) and SAD EOS 9 of the Sandwell Metropolitan Borough Council Site Allocations and Delivery Development Plan Document (2012) which seek to ensure that development delivers high quality design that is compatible with its surroundings.

Other Matters

12. Whilst I appreciate that the proposal would provide additional, improved accommodation for the appellant's family, that could be said of many domestic extensions. Moreover, I am not persuaded that the appeal scheme is the only approach to achieving the accommodation sought. Therefore, I attach limited weight to this factor and it does not outweigh the harm I have identified. Although the appellant is dissatisfied with the Council's handling of the planning application, this is a matter between the parties. I have been concerned only with the planning merits of the case. I do not disagree with the Council's assessment that the proposal would not harm the neighbours' living conditions. However, this does not outweigh my findings on the main issue.

Conclusion

13. I conclude that the development would be contrary to the development plan. There are no other material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is dismissed.

M Ollerenshaw - INSPECTOR