

# Report to the Planning Committee

**19 February 2025**

<b>Subject:</b>	Decisions of the Planning Inspectorate
<b>Contact Officer:</b>	Alison Bishop Development Planning Manager <a href="mailto:Alison_bishop@sandwell.gov.uk">Alison_bishop@sandwell.gov.uk</a>

## 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 Council Plan?

Growing Up in Sandwell	<p>A great place for Children to grow up and to ensure a brighter future for children and young people.</p> <p>Children and young people in Sandwell are able to grow up in a safe, stable loving home.</p> <p>All children and young people have the same opportunities to achieve their full potential and are supported by adults, including parents and carers, to establish high aspirations.</p>
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<p>Living in Sandwell</p>	<p>Improving the local environment with a focus on cleanliness, ensuring that the community takes pride in its surroundings.</p> <p>Safe and affordable homes.</p> <p>Quality green spaces.</p>
<p>Thriving Economy in Sandwell</p>	<p>The Sandwell Local Plan serves as the blueprint for future development, guiding housing and employment growth while ensuring new infrastructure investments like transport and schools.</p> <p>Good homes that are well connected.</p> <p>Encourage a positive environment where businesses and our community and voluntary organisations are supported to grow; and investment into the borough is maximised, creating job opportunities for local residents.</p>
<p>Healthy in Sandwell</p>	<p>Commitment to fostering a community where every resident has the opportunity to lead a healthy and fulfilling life.</p> <p>Peoples needs for care and support are reduced or prevented through early intervention and prevention programmes.</p> <p>Carers feel supported in carrying out their caring role.</p> <p>Residents are protected from harms to their health and wellbeing.</p>
<p>One Council One Team</p>	<p>Sandwell Council's ethos of 'One Council One Team' reflects a commitment to unity and Collaboration, striving for excellence in serving the community.</p> <p>An outstanding corporate parent, with all of the young people in our care reaching their full potential.</p> <p>All of our residents, including our children and young people, are active participants in influencing change – through being listened to, their opinions are heard and valued.</p>

## 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:-

<b>Application Ref</b>	<b>Site Address</b>	<b>Inspectorate</b>
DC/24/6897A	Land at Springfield Industrial Estate Oldbury B69 4HH	Appeal allowed with conditions
DC/24/69388	961 Wolverhampton Road Oldbury B69 4RR	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.
<b>Corporate parenting</b>	None

## 7. Appendices

APP/G4620/H/24/3348021  
APP/G4620/D/24/3350586



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## Appeal Decision

Site visit made on 2 December 2024

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 January 2025**

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**Appeal Ref: APP/G4620/H/24/3348021**

**Land at Springfield Industrial Estate, Oldbury, Birmingham B69 4HH**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against conditions imposed when granting express consent.
  - The appeal is made by Wildstone Estates Limited against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/24/6897A was approved on 20 May 2024 and express consent was granted for the display of an advertisement subject to conditions.
  - The advertisement permitted is proposed free-standing digital advertising screens.
  - The conditions in dispute are Nos 9 and 10 which state that:
    9. Notwithstanding the details provided, the intensity of the illumination of the screens permitted shall not exceed 300cd/m<sup>2</sup> throughout the period of this consent.
    10. In accordance with guidance set out by the Institute of Lighting Professionals Lighting Guide the rate of content change of advertisements shall be limited to no more than once every fifteen seconds.
  - The reason given for the conditions is in order to ensure the safety of users on the M5 motorway and enable it to continue to be an effective part of the Strategic Road Network in accordance with Section 10 (2) of the Highways Act 1980 and Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development.
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### Decision

1. The appeal is allowed and express consent Ref DC/24/6897A for proposed free-standing digital advertising screens on land at Springfield Industrial Estate, Oldbury, Birmingham B69 4HH granted on 20 May 2024 by Sandwell Metropolitan Borough Council, is varied by deleting conditions 9 and 10 and substituting them for the following conditions:
  - 9) Notwithstanding the details provided, the intensity of the illumination of the screens permitted shall not exceed 300cd/m<sup>2</sup> in the hours of darkness and the maximum daytime luminance values set out in table 10.5 of the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05/23) 'The Brightness of Illuminated Advertisements including Digital Displays' (2023) in cd/m<sup>2</sup>.
  - 10) The rate of content change of advertisements shall be limited to no more than once every ten seconds.

### Main Issue

2. Advertisement consent was granted, subject to conditions, for free-standing digital advertising screens. This appeal has been submitted requesting to vary two conditions imposed on the consent. Condition 9 restricts the luminance of the screen to no more than 300 candela per square metre (cd/m<sup>2</sup>). Condition

10 restricts the rate of content change of the advertisements on the screens to no more than once every fifteen seconds. The reasons for the conditions specified in the Council's decision is to ensure the safety of users on the M5 motorway and enable it to continue to be an effective part of the Strategic Road Network in accordance with Section 10 (2) of the Highways Act 1980 (Highways Act) and Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development (Circular 01/2022).

3. The main issue is whether the disputed conditions are reasonable and necessary in the interests of public safety.

### **Reasons**

4. The appeal site is located in a mixed-use commercial area on land adjacent to a section of the M5 flyover bridge. The proposal is to erect two digital advertisement screens set on a 17-metre-high tower, visible to users of the M5 motorway.
5. Whilst National Highways (NH) confirm that they cannot demonstrate that a road safety hazard would be a direct result of the proposal, they recommended the imposition of Conditions 9 and 10 to limit the luminance of the advertisement and the frequency of change of the images. These conditions are necessary to ensure the proposed advertisement does not result in a road safety hazard resulting from driver distraction for users of the M5 Motorway.
6. However, a restricted luminance of 300 cd/m<sup>2</sup> in daytime hours is more restrictive than the recommended maximum daytime luminance values set out in the relevant Professional Lighting Guide (PLG05)<sup>1</sup>.
7. Table 10.4 of the PLG05 sets out the maximum value of luminance anywhere on the surface of an advertisement at any time during the night. The table provides different recommendations depending on the characteristics of the area. Given the edge of city centre location, close to an arterial route the appeal site is in Zone E4 which is defined as town and city centres and other commercial areas with high levels of night-time activity. Table 10.4 indicates that for signs of all surface areas in this zone, the maximum recommended luminance is 300cd/m<sup>2</sup> during the night.
8. The appellant contends that the advertisement would be less prominent in daylight hours due to the ambient levels of light and the luminance therefore often needs to be greater than 300cd/m<sup>2</sup> during the hours of daylight. Table 10.5 of PLG05 supports this view and states that during the daytime, sign luminance should not exceed 5,000cd/m<sup>2</sup> in direct sunlight or less, dependent on daylight ambient illuminance. Even though reference has been made to the Highways Act and Circular 01/2022 in the reasons for the disputed conditions, neither the Council or NH have explained the reasons for restricting the luminance to 300 cd/m<sup>2</sup> at all times. No information has been provided to explain why it may be appropriate to disregard the guidance in the PLG05 in this instance.
9. In relation to the image rate of change, the appellant suggests that the frequency of static images changes should be increased to every 10 seconds instead of every 15 seconds in accordance with the PLG05. Even though the

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<sup>1</sup> Professional Lighting Guide PLG 05/23, The brightness of illuminated advertisements including digital displays by the Institution of Lighting Professionals (2023)

wording of Condition 10 also refers to guidance set out by the Institute of Lighting Professionals Lighting Guide, it is unclear from the evidence before me where the figure of 15 seconds is derived from. Furthermore, the Local Highways Authority has raised no objection to the frequency of change being no more than every 10 seconds, which the appellant's Highway Safety Appraisal<sup>2</sup> found to be appropriate in this case. This has not been disputed.

10. I conclude that the disputed conditions are not reasonable and necessary to make the advertisement acceptable in the interests of public safety. However, the appellant's suggested amended wording for Condition 9 to allow higher luminance during the daytime, and to Condition 10 to allow an increased rate of content change to every ten seconds is reasonable and necessary to make the advertisement acceptable, in accordance with PLG05. Therefore, Conditions 9 and 10 should be amended accordingly.

### **Other Matters**

11. The Canal and River Trust have suggested that Conditions 9 and 10 are also required in the interests of the biodiversity and visual amenity of the Old Mainline Canal Corridor. There is no substantive evidence to suggest that amendments to Conditions 9 or 10 would result in any material adverse effects with regards to these matters.

### **Conclusion**

12. For the reasons given above the appeal should be allowed.

*H Marriott*

INSPECTOR

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<sup>2</sup> Technical Note 01, Highway Safety Appraisal Supporting information by Axis P.E.D. Ltd, ref: 3781-01-HTN01 dated July 2024





## Appeal Decision

Site visit made on 19 January 2025

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

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

**Decision date: 24 January 2025**

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**Appeal Ref: APP/G4620/D/24/3350586**

**961 Wolverhampton Road, Oldbury B69 4RR**

- 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. Melap Singh against the decision of the Sandwell Metropolitan Borough Council.
  - The application Ref: DC/24/69388.
  - The development proposed is two storey side and single storey front/side/rear extensions, front canopy, new external render, rear loft dormer window and extended raised patio with retaining wall.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the determination of the application the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

### Main Issue

3. The main issue in this appeal is the effect of the development on the character and appearance of the host property and area in general.

### Reasons

4. The site is within a row of residential properties, characterised predominantly by semi-detached houses. The appeal property is a semi-detached house situated on a corner plot on the junction of Wolverhampton Road and Titford Road. Wolverhampton Road is a busy highway with commercial premises opposite the appeal site.
5. In general properties in the area have an architectural rhythm with balanced features, whilst there are some properties which have been altered the original hipped roof design is still identifiable within the streetscene.
6. The hipped roof on the appeal property and its adjoining neighbour provides symmetry and contributes to the character of the area. The proposed gable along with the two storey side extension would be an incongruous feature within the streetscene.

7. The rear dormer would be large, covering the majority of the rear roof plane, including that of the proposed two storey extension. The dormer would dominate the rear elevation and would be out of keeping with the existing property and the surrounding area.
8. The mass of the proposed development comprising the alteration and addition to the roof, the two storey extension in combination with the single storey extensions would be uncharacteristic in comparison to other properties within the area and would be incongruous with the host property. Whilst the site is screened to a degree by landscaping this does not inhibit views of the site.
9. I understand that a lawful development certificate (LDC) has been issued for a hip to gable enlargement with rear dormer and single storey extension. I have not been provided with substantive evidence to demonstrate that this would be comparable to elements of the proposed development before me. Notwithstanding this the proposed development includes a two storey extension which would increase the mass of the built form from the LDC scheme.
10. I also understand from both parties that a similar development was previously approved by the Council<sup>1</sup> taking into account the same planning policies and Residential Design Guide, Supplementary Planning Document (2014) (the SPD). Whilst this permission has lapsed previous planning decisions are capable of being material considerations. Notwithstanding this the Council is not bound by its earlier decision, however it is required to have regard to the importance of consistency in decision-making.
11. I have not been provided with the details of the previous approval; however, I note that there has been an increased emphasis on good design as set out in the subsequent versions of the Framework since July 2021. Each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.
12. Paragraph 139 of the Framework confirms that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
13. The SPD is clear that domestic extensions which do not fit in visually or are clearly out of keeping with their surroundings, by virtue of their scale, architectural design, proposed materials and impact on neighbouring properties, will be resisted. The SPD also seeks amongst other things for extensions to be proportionate to the scale of the existing dwelling and streetscene. The proposed development conflicts with the SPD guidance.
14. The scale and design of the proposed development would be dominant and incongruous to the host property. I find that the proposed development would harm the character and appearance of the host property and the area in general.
15. The proposed development would be contrary to Policy ENV3 of the Black Country Core Strategy (2011), and Policy SAD EOS 9 of the Site Allocation and

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<sup>1</sup> DC/20/64834 Approved January 2021.

Delivery Development Plan Documents (2012) which seeks amongst other things for developments to be high quality appropriate to their locality.

**Conclusion**

16. For the above reasons I conclude that this appeal should be dismissed.

*C Pipe*

INSPECTOR