

Report to the Planning Committee

25th October 2023

Subject:	Decisions of the Planning Inspectorate
Director:	Director – Regeneration and Growth Tony McGovern
Contact Officer:	John Baker Service Manager - Development Planning and Building Consultancy John_baker@sandwell.gov.uk Alison Bishop Development Planning Manager Alison_bishop@sandwell.gov.uk

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
PD/22/02269	29 Seymour Road Tipton DY4 0EP	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/D/23/3319382



Appeal Decision

Site visit made on 31 August 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/G4620/D/23/3319382

29 Seymour Road, Tipton DY4 0EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mark Welch against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref PD/22/02269, dated 16 November 2022, was refused by notice dated 10 February 2023.
 - The development proposed is described as one additional floor to the footprint of the original house to create two bedrooms and storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the prior approval application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits, amongst other things, subject to conditions and limitations and in the case of the appeal scheme, development consisting of the enlargement of a dwellinghouse by construction of one additional storey, where the existing dwellinghouse consists of one storey, together with any reasonably necessary engineering operations.
4. Appeals are decided against relevant legislation and any judgments at the time the appeal decision is made. Since the application was determined and this appeal submitted, a judgment relating to the interpretation of Class AA of Part 1 of the GPDO was handed down by the Courts¹. Both the main parties have had the opportunity to comment on the relevance of the CAB Housing judgment to this appeal, and I have considered these responses in my decision.
5. In accepting additional comments from the main parties, I do not find any third parties would be prejudiced against as the matters are only relevant to the correct interpretation of external appearance.

¹ CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194

6. The GPDO sets out that the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

Main Issue

7. The main issue in this appeal is whether prior approval should be granted, having particular regard to paragraph AA.2 (3)(a)(ii) of the GPDO in relation to the external appearance of the dwellinghouse.

Reasons

8. The area surrounding the appeal site is residential and is comprised of a mixture of single-storey bungalows, dormer bungalows and two-storey dwellings. The appeal property makes up part of a well-balanced group of five gable-fronted single-storey bungalows. Notwithstanding some minor alterations, including a short front extension at 25 Seymour Road, the row of bungalows exhibits consistent heights, similar roof forms and design. As part of the alterations that have taken place, there is some limited variety to the external facing materials. Overall, the group of bungalows have a cohesive appearance and even rhythm which makes a positive contribution to the character and appearance of the street.
9. Either side of these five bungalows but on the same side of the road are other bungalows with ridgelines running parallel, rather than perpendicular to the road. Despite this difference in roof design and layout, all the bungalows on the row are of a similar height and display a pleasant uniformity in scale when viewed along Seymour Road.
10. The proposal would add an additional storey to the appeal property, designed with matching features, roof form and materials to the existing building. Nonetheless, the addition of the extra storey would create a jarring and discordant change in height in the group of bungalows, which would severely disrupt the harmony of the group and result in a property that would be harmfully at odds with the appearance of the existing dwelling and its immediate surroundings.
11. The appellant has drawn my attention to other nearby bungalows, some of which are of differing design and height. However, other nearby bungalows are located on a different street with two-storey dwellings, including 1 Hazel Road, such that there is no consistent roof height. These examples are therefore materially different to the appeal before me, which would introduce an incongruous form of development into the undisturbed roof forms found on this section of Seymour Road.
12. Consequently, the proposal would not add to the overall quality of the area or be sympathetic to the surrounding built environment as required by Framework paragraph 130. Prior approval should, therefore, not be granted having regard to the external appearance of the dwellinghouse.

Conclusion

13. For the reasons set out above, I conclude that prior approval should not be granted and, therefore, that the appeal should be dismissed.

A Hickey

INSPECTOR