

Report to the Planning Committee

30 April 2025

Subject:	Decisions of the Planning Inspectorate
Contact Officer:	<p>Alison Bishop Development Planning Manager Alison_bishop@sandwell.gov.uk</p>

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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Living in Sandwell	<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>
Thriving Economy in Sandwell	<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>
Healthy in Sandwell	<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>
One Council One Team	<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:-

Application Ref	Site Address	Inspectorate
DC/24/69947	14 St Cuthberts Close West Bromwich B70 6TP	Dismissed
DC/24/69700	10 Hall Road Smethwick B67 6SG	Dismissed
DC/23/68927	Land at Titford Road Oldbury B69 4QD	Allowed with conditions

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.
Corporate parenting	None

7. Appendices

APP/G4620/D/25/3359125

APP/G4620/D/24/3355203

APP/G4620/W/24/3350164



Appeal Decision

Site visit made on 12 March 2025

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2025

Appeal Ref: APP/G4620/D/25/3359125

14 St Cuthberts Close, West Bromwich, Sandwell B70 6TP

- 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 Upkar Singh against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/24/69947.
 - The development proposed is a 2 storey front extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on living conditions at the next door property 16 St Cuthberts Close, in terms of natural light and outlook.

Reasons

3. 14 and 16 St Cuthberts Close are both 2 storey detached houses, sitting side by side within a residential area. The proposal is to build an extension across the front of No 14, with a new 2 storey section sitting up to the shared side boundary with No 16.
4. No 16 has a home office on that side, with a glazed door/window combination facing directly towards No 14. This was apparently formed by sub-dividing the space from the kitchen. I consider the home office to be a habitable room which would often be occupied, including during daytimes, as part of the normal residential use of the house.
5. The office door/window combination at No 16 faces north, so that it receives very little direct sunlight. The proposal would thus cause little overshadowing, even though it would sit very close to and directly opposite the home office. The proposed new 2 storey wall would, however, severely reduce the amount of general daylight (light from the sky) reaching the office, making it much darker throughout the day. The high brick wall would furthermore be an extremely dominant and imposing feature in the outlook from that door/window, to an extent that would be severely overbearing.
6. The Council refers to a 45 degree guideline for assessing issues like this, but I have not been provided with a copy of any such policy or guidance. The appellant disputes its relevance for side-facing windows. Whether or not a 45 degree

guideline is applicable, the proposed extension would clearly make the home office a much less pleasant room.

7. I conclude that the proposal would unduly harm living conditions at No 16 next door, due to loss of light and outlook. It therefore conflicts with the aim of the Council's Supplementary Planning Document *Revised Residential Design Guide*, to ensure that development avoids undue impact on neighbouring properties. This is in line with the aim of Black Country Core Strategy policy ENV3 and Site Allocations and Delivery Development Plan Document policy SAD EOS9 to achieve high quality design and with the National Planning Policy Framework's aim to create places with a high standard of amenity for existing and future users.
8. The appellant also refers to a recent appeal decision allowing a 2 storey extension at No 16¹. The Inspector for that appeal observed that the extension would be on the southern side of the plot, adjacent to an area of open space, so that there would be no impact on any neighbouring properties. The circumstances in that case were therefore significantly different. I have assessed this case on its own merits.
9. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR

¹ APP/G4620/D/21/3288256



Appeal Decision

Site visit made on 15 January 2025 by M Jones

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal Ref: APP/G4620/D/24/3355203

10 Hall Road, Sandwell, Smethwick B67 6SG

- 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 M Nadeem against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/24/69700.
 - The development proposed is two storey side and forward front porch.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the appeal dwelling and local area.

Reasons for the Recommendation

4. The appeal dwelling is situated on Hall Road, a residential street with a mix of detached and semi-detached houses. Although there are a range of designs, exterior materials and roof types, I saw that the predominant house type on Hall Road and the surrounding streets is a semi-detached dwelling with a cat-slide roof and a dominant front gable feature either shared across the pair, similar to that of the existing appeal dwelling, or smaller dual gables. Other houses are of much simpler form, with hipped roofs and a single storey element across the front. A large number of houses on the street have been altered or extended in some way with some of these extensions being particularly bulky and substantial.
5. The proposed development would increase the width of the appeal dwelling and materially increase its footprint. The proposed front gable would add substantial bulk and width to the front of the property and create a dominant feature, resulting in the loss of the distinctive articulation of the front elevation. The limited depth of this two-storey side element would also be evident from the road, resulting in a front-heavy appearance to the dwelling. Consequently, the proposed development would be incompatible with the form and design of the existing dwelling.

6. No 12 has a bulky, full gabled front extension and lacks articulation, creating an imbalance to the existing pair. Adding a large gable to the frontage of the appeal dwelling would not rebalance the pair however, as the proposed roof would be taller and steeper than that of No 12. While it would instead more closely match the pitch of the shared gable, it appears that it would not be as tall as that existing feature.
7. Therefore, the proposal would result in the pair having three large, bulky gable features of different size and appearance across the frontage. Furthermore, the submitted drawings show different window designs to those on the main dwelling and No 12 in terms of shape, style and glazing arrangement, despite being labelled as matching the existing dwelling. This would further distinguish the extension from the existing dwellings.
8. The proposal would not therefore lead to a balanced and coherent frontage between these two dwellings as argued by the appellant. Rather, it would create a substantial triple-gabled frontage across the pair of dwellings with little articulation. This would exacerbate the bulk and massing of the shared frontage and result in an over-intensive development and a prominent and dominant shared frontage incompatible with, and unsympathetic to, the street scene.
9. I recognise that there are no local policies specifically restricting the size of developments, so a large extension may be permissible in principle. However, local policy is clear that extensions must respond to their surroundings, including by virtue of their scale and design. Further, it is clear from the Residential Design Guide 2014 Supplementary Planning Document (SPD) that over intensification of dwellings, will be resisted, and that extensions should be subservient and proportionate to the original dwelling.
10. The appellant indicates that other nearby properties that have undergone similar or larger extensions. Each proposal is determined on a case-by-case basis and the context and relevant factors to be considered are likely to be different in each case. As such, previous approvals do not necessarily set a precedent for future development. In this case I do not have the full details of how these other examples came to be built.
11. Nevertheless, whilst I accept that the extensions of Nos 7, 12, 33 and 40 are substantial, dwellings with bulky extensions are in the minority in this street scene. Most dwellings are of a more modest scale with a similar form and scale to the appeal dwelling meaning any substantial extension is likely to stand out in the street scene. In any event, Nos 7, 33 and 40 have designs more sympathetic to most of the other dwellings on the street for example through the retention of articulation. They also generally match in materials, form and detailing. Consequently, these examples do not justify the harm I have identified above.
12. The fact that No 12 has already been extended also means that the context for assessing the effect of the appeal development on the pair of dwellings is different from when No 12's side extension was first proposed. I must consider the appeal proposal with that existing development, and for the reasons above have concluded that the cumulative effect of both extensions would have a harmful impact on the street scene.
13. Consequently, the proposed development would harm the character and appearance of the existing appeal dwelling and the local area, contrary to policies ENV3 of the Black Country Core Strategy 2011 and SAD EOS 9 of the Site

Allocations and Delivery Development Plan Document 2012 which require developments to be compatible with their surroundings, of a reasonable scale and high-quality design. Furthermore, it would conflict with the design guidance in the SPD.

Other Matters

14. The appellant argues that the development will be sustainable development as required by the National Planning Policy Framework (the Framework). The proposal will result in only minor economic benefits, given that this is a domestic extension, which carries limited weight. Expanding the occupants' living space and making it more adaptable would be a private benefit, and it has not been demonstrated that the existing, extended, dwelling does not already provide liveable accommodation, so I give the potential social benefits limited weight. Making effective use of the site is supported in the Framework, however lack of ecology harm is a neutral impact. There is no substantive evidence before me on the use of innovative and sustainable materials to demonstrate an environmental benefit. Therefore, these matters carry very limited weight.
15. Furthermore, the Framework is clear that good design is a fundamental aspect of sustainable development. For the reasons above the proposal is not good design, therefore it does not benefit from the support of national policy. These matters do not therefore justify the harm that would result from the proposal.
16. A lack of objections is a neutral matter so does not weigh in favour of the proposal or override any of the considerations referred to in this report.
17. The appellant states that they would accept conditions to render the proposal acceptable. However, it is unclear what changes to the design and form of the extension are being suggested, so I cannot be certain that they would address the harm identified. In any event, material changes to design should not generally be secured by condition as this would deprive interested parties from understanding and commenting on the detail of proposals. Such a condition would not therefore be reasonable.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

M Jones

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's report and agree with the reasoning and recommendation. On that basis the appeal is dismissed.

L McKay

INSPECTOR



Appeal Decision

Site visit made on 19 March 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal Ref: APP/G4620/W/24/3350164

Land at Titford Road, Oldbury B69 4QD

- 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 Countryside Partnerships, Asda and McLagan Investments Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68927.
 - The development proposed is Erection of 60 affordable dwellings with associated landscaping and works.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 60 affordable dwellings with associated landscaping and works at Land at Titford Road, Oldbury B69 4QD in accordance with the terms of the application, Ref DC/23/68927, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. During the appeal, the appellant submitted a dated legal agreement made as a Deed pursuant to section 106 of the 1990 Act and imposing obligations on the site (s106 agreement). I have had regard to it in reaching my decision.

Main Issues

3. The main issues are:
 - Whether air quality for future occupiers of the proposed development would be acceptable, with particular regard to fine particulate matter (PM_{2.5}) targets;
 - the effect of the proposed development on the living conditions of existing occupiers, with particular regard to noise and air quality; and
 - the effect of the proposed development on highway safety.

Reasons

Air quality

4. One of the leading environmental risk factors globally, air pollution is a serious public health issue, increasing morbidity and mortality, the disease burden and preterm births, and is associated with various types of cancer. As set out in the Council's Black Country Air Quality Supplementary Planning Document (SPD), new developments have the potential to be affected by poor air quality; and this is capable of being a material consideration as part of the planning process in order to limit exposure and protect people from unacceptable risks to their health.

5. The proposed development is categorised by the SPD as ‘medium development’ due to the number of vehicle trips it would generate. However, the Council’s Public Health consultation response to the planning application sets out that, once operational, the appeal proposal would not by itself make existing pollution concentrations significantly worse and the submitted Air Quality Assessment (AQA, dated October 2023) shows the predicted PM_{2.5} impacts as negligible.
6. Despite the proximity of various roads and junctions in the locality, including the M5 motorway, Wolverhampton Road and Tittford Road, the submitted Technical Note (TN, dated 08/02/2024) also identifies that road traffic accounts for only a very small proportion of PM_{2.5} at the appeal site. Nevertheless, PM_{2.5} from whatever source is a harmful pollutant, with the Environmental Improvement Plan 2023 (EIP) identifying it as the most damaging pollutant to human health.
7. As per the Air Quality Standards Regulations 2010, the current national standard limit value for PM_{2.5} is an annual mean concentration of 20 micrograms per cubic metre (µg/m³). The AQA calculates that the concentration of PM_{2.5} on the site in 2026 would be well within this limit.
8. However, the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 and the EIP, which effectively implement the Environment Act 2021, contain future legal targets for PM_{2.5}. This includes a maximum annual mean concentration target in ambient air of 10 µg/m³ by the end of December 2040, with an interim target of 12 µg/m³ by the end of January 2028; and a population exposure reduction target of at least 35% by the end of December 2040 compared to 2018 levels, with an interim target to reduce population exposure by 22% by the end of January 2028.
9. To address these targets, the TN, providing further detail than the AQA, models the 2018 and 2028 scenarios. The updated modelling identifies that the highest concentration of PM_{2.5} on the site in 2028 – at 7.41 µg/m³ – would be well within the interim target. Whilst the 2040 scenario has not been modelled¹, the above figure is also within the long-term target and the available evidence does not suggest that PM_{2.5} concentrations on the site are likely to rise. The proposed development would therefore be in an area with levels of PM_{2.5} which would be within both the 2028 and 2040 maximum annual mean concentration targets.
10. However, the modelled difference between the 2018 baseline and the concentration in 2028, at just under a 10% reduction, would fall short of the 22% interim reduction target. Nevertheless, that target relates to population exposure and, being a national target, is not of itself directly related to individual developments which would not increase emissions, such as the appeal proposal. For example, with PM_{2.5} not being part of the Local Air Quality Management framework, the Air Quality Strategy identifies that local authorities should support the delivery of national PM_{2.5} targets by taking action to reduce emissions from sources within their control.
11. I am also mindful that the National Planning Policy Framework (Framework) sets out that planning decisions should assume pollution control regimes will operate effectively; and it is clear to me that significant effort and resource is being put in to achieving the long-term reduction target. In addition, the submitted Chief Planner

¹ Because the 2040 DEFRA background concentrations had not been projected at the time of writing the TN, it does not model the 2040 scenario.

March 2023 Planning Newsletter sets out that the metric is a national average, some places will reduce exposure more and others less, and the exposure reduction target cannot be directly applied locally. Furthermore, the scale of the development proposed means that, both alone and cumulatively, the appeal proposal cannot reasonably be described as either having a significant effect at the population scale or being likely to hinder the government's ultimate achievement of the legally binding 2040 population exposure reduction target.

12. Although the World Health Organisation's guidelines on PM_{2.5} set a lower limit, the guidelines do not form part of the country's air quality or planning regimes; and whilst the development would not be in an area modelled to have PM_{2.5} reductions in line with the interim population exposure target, it would nonetheless be in an area that is within the current, interim and long-term limit values/maximum targets. The PM_{2.5} concentrations on the site are also clearly reducing. I therefore conclude that air quality for future occupiers of the proposed development would be acceptable, with particular regard to PM_{2.5} targets. Consequently, I find that it accords with Policy ENV8 of the Black Country Core Strategy (BCCS). Amongst other aspects, this sets out that new residential development should, wherever possible, be located where air quality meets national air quality objectives.
13. However, Policy SAD DC 4 of the Site Allocations and Delivery Development Plan Document (SADDP) sets out that the Council will only permit pollution-sensitive developments close to potentially polluting uses where it can be shown that there would be no detrimental impact on future occupiers' health; and the submitted evidence indicates that there is currently no known safe level of PM_{2.5} below which there are no adverse effects on human health. For example, the submitted Air Quality Assessment (AQA) sets out that the current evidence has not identified thresholds for effect at the population level, meaning that even low concentrations of pollutants are likely to be associated with adverse effects on health; and the WHO classify PM_{2.5} as carcinogenic. On this basis, the appeal proposal does not accord with a strict reading of SADDP Policy SAD DC 4.

Existing occupiers

14. The appeal site is situated between housing and a supermarket, beyond which is the M5 motorway. The surrounding area also includes various other highways, including the relatively large Wolverhampton Road and the smaller Titford Road. Although previously developed, the appeal site is overgrown and contains extensive trees and other vegetation.
15. It has been put to me that the site's ecology currently absorbs noise and airborne contaminants and that the loss of trees and other vegetation on the site would thus exacerbate noise and air pollution for existing residents on Titford Road. However, there is little substantive evidence that the existing planting on the site significantly or effectively offsets or reduces noise and/or air pollution reaching existing residents. In addition, the AQA shows that the proposed development would not change the levels of nitrogen dioxide, particulate matter (PM₁₀) or PM_{2.5} (in 2026) at various points along Titford Road. The submitted Noise Assessment also identifies the Asda store building and changes in land levels/heights as effecting noise levels rather than planting.
16. In any event, even if the site's existing trees and other vegetation were to absorb noise and airborne contaminants, the available evidence indicates that the site

could be cleared without the need for planning permission. The proposed development would also retain some planting along the existing watercourse, include additional planting in that corridor, and incorporate soft landscaping throughout the remainder of the site. Furthermore, the Council's Public Health consultation response sets out that, once operational, the development would not by itself make existing pollution concentrations significantly worse.

17. For the above reasons, whilst I acknowledge existing residents' concerns, I conclude that the proposed development would not harm their living conditions, with particular regard to noise and air quality. I therefore find that it accords with BCCS Policy ENV8. Amongst other aspects, this refers to development which would be likely to generate significant air quality impacts.

Highway safety

18. Although Titford Road is a residential street, is rather cramped in places and has extensive on-street parking, it is a relatively busy route. During my site visit, I also observed increased levels of traffic and some congestion in places – partly due to double and/or illegally parked vehicles – during the school pick-up and around the evening rush hour, with vehicles seemingly using Titford Road as a through-route.
19. The proposed development of 60 dwellings would clearly increase the number of vehicles using Titford Road and the surrounding highway network. The submitted Transport Statement (TS) identifies that it would be likely to generate just over 300 daily vehicle trips, with 38 two-trips in the morning peak and 33 two-way trips in the evening peak. However, equating to approximately one extra vehicle every two minutes, this is not significant given the site's built-up context and the number of vehicles using Titford Road. Due to the proximity of various local services and facilities, including the nearby primary school, the number of trips predicted by the TS is also likely to represent a worst-case scenario. Indeed, the calculations in the Council's Addendum report show fewer trips generated by the development.
20. I recognise that existing residents clearly find the real-world situation is different to the number of vehicles that Titford Road can theoretically handle and I saw some congestion on my site visit and parked vehicles slowing the passage of some drivers. However, the TS sets out that the number of vehicles using Titford Road is well below its design capacity and that it would continue to operate with significant spare capacity with the development in place. With the additional number of vehicles using Titford Road not being significant, the effect of the development on congestion on the street is also likely to be negligible. In addition, the submitted evidence indicates that, over a five-year period (up to May 2023), there was only one recorded crash on Titford Road.
21. Whilst the junction with Wolverhampton Road is likely to be trickier to negotiate than some other junctions due to, amongst other reasons, its gradient, it is signal-controlled; and the additional vehicles using the junction due to the development proposed would be insignificant in relation to its capacity and the number of vehicles already using it. As per the submitted evidence, the number of recorded crashes in the vicinity of the junction over a more than five-year period (up to May 2023) is also negligible in relation to the volume of vehicles passing through it.
22. For the above reasons, I conclude that the proposed development would not harm highway safety. The Local Highway Authority also neither objected to the proposed development nor raised concerns with regards to its effect on highway safety or

traffic and congestion in the locality. I therefore find that the appeal proposal accords with paragraph 116 of the Framework. This sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other matters

23. Although forming part of a Potential Site of Importance, the available evidence indicates that the site does not meet the threshold to be designated as a site of local importance for nature conservation. Nevertheless, it contains numerous habitats, including scrub, woodland, a watercourse and areas of tall ruderal, rough grassland and recolonising ground; and it falls within a wildlife corridor. As per the submitted Ecological Appraisal (EA, dated October 2023), the woodland and watercourse are also locally important ecological features, and the site's habitats provide opportunities for various protected species, including roosting, foraging and commuting bats, badgers and other mammals, reptiles and birds.
24. With a significant part of the site being cleared to make way for the proposed housing, the development would clearly result in the loss of a number of habitats, including a priority habitat (lowland mixed deciduous woodland), to the detriment of wildlife. However, some habitat on the site would be retained, including the watercourse and nearby vegetation along it and an area of woodland. The EA also identifies replacement habitat to partially offset the losses, such as tree and shrub planting and wildflower grassland creation, along with measures to improve the quality of the retained woodland and watercourse to further partially mitigate for the loss of habitats. A wildlife corridor would therefore be retained and the habitat within it improved compared to the existing situation. Other measures are also proposed, such as use of sensitive lighting, providing small holes in boundary treatment to allow movements of animals, and the provision of boxes/domes/piles for animals to shelter and nest.
25. Whilst the measures contained in the EA would help to mitigate and offset the effect of the development on flora and fauna, there would nevertheless be a residual negative impact on a number of habitats and species. However, the site is not a designated nature conservation site and the construction-related measures in the EA would ensure that protected species and retained habitats would not be harmed during clearance and construction. Overall, the ecological harm would therefore not be significant. It seems to me that the removal of fly-tipped waste, which I saw numerous examples of on my site visit, would also improve the site's environmental condition. In addition, subject to compliance with other relevant legislation, such as the Wildlife and Countryside Act 1981, I note that the site could be cleared without the need for planning permission in any event.
26. A number of other matters have been raised by various parties and I have taken them all into account. This includes: the availability of other sites for the proposed development; the distance to bus stops for some of the proposed dwellings; parking issues; concerns about pedestrian safety – including school children – crossing the new site access; issues regarding the proposed access to the Asda store and route through the site, including safety, crime and anti-social behaviour; increased risk of flooding from the loss of trees and other vegetation; access issues for emergency vehicles; the school being unable to take on extra pupils; the effect on the living conditions and mental health of existing residents from

construction works and future occupiers' use of the site access and Tifford Road, including with regards to disruption, noise and light pollution, overlooking and loss of peace, privacy, outlook and natural light; wildlife being in decline nationally; increased carbon footprint; the local community wishing the site to be turned into an open green space; and the previous proposal for industrial units being refused permission.

27. However, whilst I take these representations seriously and I recognise the strength of local concern, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. Some of the issues raised, such as regarding lighting, flooding/drainage, construction works and mitigation for the loss of wildlife habitat can also be covered by planning conditions.

Planning Balance

28. Although I have found that the development would not harm highway safety or existing occupiers' living conditions and that air quality for future occupiers would be acceptable, the proposal does not accord with SADDP Policy SAD DC 4 for the reasons set out above. Whilst the Council have not identified the loss of designated employment land as a reason for refusal, the available evidence indicates that the appeal proposal would also conflict with BCCS Policies DEL2 and EMP3 in relation to this matter. This leads me to conclude that the proposed development, despite its accordance with some other development plan policies, conflicts with the development plan as a whole.
29. However, the available evidence indicates that the Council has a significant shortfall in housing supply, with it currently having a supply of a little over two years. This means that Framework paragraph 11d) is engaged.
30. The provision of 60 homes would be a substantial benefit, particularly given the need for new homes in general and the inadequate supply and historic under-delivery of housing in the district. Significantly, and well beyond the minimum policy requirement, the submitted s106 agreement secures all the homes as affordable housing. The proposed development would also provide some employment during construction works whilst future occupiers would be likely to support the local economy through their use of local services and facilities.
31. Furthermore, the Council indicates that the proposal would accord with BCCS Policy CSP1, which seeks to secure housing in regeneration corridors, and the general principles of SADDP Policy SAD H2, which encourages windfall housing on previously developed land; and it is satisfied that the scheme's benefits outweigh any conflict with employment-related policies. Although the emerging Sandwell Local Plan is still to be examined and therefore the weight it attracts is limited, it also allocates the site for housing development and the Council has identified that there are no unresolved objections relating to the allocation.
32. These matters weigh significantly in favour of the development. On the other hand, the appeal proposal would conflict with various development plan policies and future occupiers would be exposed to PM_{2.5}, of which there is currently no known safe level. Whilst the concentration of the pollutant is modelled to reduce on the site, the decrease would not be within the interim population exposure reduction target. The scheme would therefore introduce sensitive receptors in an area where

air quality is not due to improve as much as the EIP seeks in the short term. The proposal would also have a negative impact on a number of habitats and species.

33. However, it seems to me that SADDP Policy SAD DC4 is, on a strict reading of it, potentially very restrictive and could in theory apply to (and significantly restrict) housing development in many unintended situations. The comments from the Council's policy team also indicate that sufficient evidence has been provided to demonstrate that the site is not particularly suitable for employment uses. The policy conflicts identified above therefore attract limited weight.
34. The concentrations of PM_{2.5} on the site are within the current standard and are modelled to be within both the interim and long-term maximum targets. In addition, the Framework sets out that planning decisions should assume pollution control regimes will operate effectively; and the scale of the proposed development means that it would neither effect the level of population exposure nor hinder the government's ultimate achievement of the legally binding 2040 population exposure reduction target. The proposed development would therefore be consistent with Framework paragraph 199 and would not pose a significant risk of poor long-term health outcomes. The SPD also sets out that air quality considerations must be balanced against other aims of the planning system in order to achieve social, economic and environmental goals and meet over-arching national policy requirements.
35. Whilst the development would result in the loss of habitat (including priority habitat), to the detriment of wildlife, the mitigation and compensation measures proposed mean that the residual harm would not be significant. The development would also retain a corridor for wildlife and improve the habitat within it.
36. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and having particular regard to its key policies for making effective use of land and providing affordable homes. The presumption in favour of sustainable development therefore applies in this instance.

Conditions

37. I have had regard to the various suggested planning conditions and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, for clarity and consistency, and to ensure that details are submitted for the Council's approval where and when relevant.
38. In addition to the standard time limit, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Given the site's position and the extent of development, a pre-commencement condition securing a construction and environmental management plan is necessary and reasonable in the interests of wildlife and good environmental management, the living conditions of residents, and the safe and efficient operation of the highway. I have amended this condition to ensure that it also covers ecological protection measures during construction. I have also included an additional pre-commencement condition relating to tree protection measures, as recommended in the submitted Arboricultural Impact Assessment, in the interests of ecology and character and appearance.

39. The contaminated land conditions are necessary in the interests of public safety and environmental management. With the submitted drainage details not being sufficiently comprehensive, a condition securing full details of proposed drainage works for the disposal of foul sewage and the management of surface water is necessary in the interests of flooding and pollution. This condition combines two of the Council's suggested conditions. The condition relating to external materials is necessary in the interests of character and appearance. A condition relating to finished floor levels is necessary for the same reason and in the interests of the living conditions of adjoining occupiers. Conditions relating to the estate roads and parking/manoeuvring spaces are necessary in relation to highway safety and accessibility. In accordance with BCCS Policy ENV8, and despite the appellant's stated intention to provide various renewable/low carbon energy and efficiency measures to comply with building regulations, a condition securing full details of the renewable energy measures to be provided is necessary in the interests of climate change.
40. Although some details relating to boundary treatment on the site have been submitted, a condition securing full details of all boundary treatment is necessary for certainty and in the interests of character and appearance and the living conditions of existing and future occupiers. In the interests of wildlife and the appearance of the development, a condition securing full details of all hard and soft landscaping is necessary. Conditions covering cycle and waste storage are necessary in the interests of promoting sustainable transport options and to ensure the satisfactory appearance of the development and highway safety respectively.
41. A condition securing implementation of the measures detailed in the Noise Assessment is necessary in the interests of the living conditions of future occupiers. Combined with the condition securing details of boundary treatment, this condition is sufficient to mean that the other two noise-related conditions suggested by the Council are unnecessary.
42. In the interests of public safety and wildlife, a condition covering external lighting is necessary. In the interests of wildlife and ecology, I have imposed a condition relating to Japanese Knotweed. For the same reasons, conditions securing an ecological enhancement and management plan and compliance with the measures detailed in the submitted EA are necessary. On this basis, and given the EA included a survey of the site, the Council's suggested condition requiring a phase 1 habitat survey of the site is, and as per the Council's Addendum report, not necessary. I have therefore declined to impose that latter condition.
43. I have also not imposed the Council's suggested condition relating to employment opportunities. This is because the proposed development is not an employment generating use and it has not been demonstrated that the condition is necessary to make the development acceptable in planning terms and is directly related to it. In addition, I have declined to impose the suggested condition removing certain permitted development rights because the submitted evidence does not indicate that removing those rights would be necessary to protect the living conditions of existing and future residents. Finally, the conditions listed in the Officer Report relating to electric vehicle charging and low emission boilers are not necessary because these matters, as the Council indicated during the appeal, are now covered by building regulations.

Conclusion

44. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the clear need for more accommodation in the district and the delivery of all the proposed dwellings as affordable housing outweigh the policy conflicts and the harm arising from the appeal proposal. This indicates that the development proposed should be permitted notwithstanding its conflict with the development plan as a whole. The appeal is therefore allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (Drawing No PL-01, Rev B); Topographical survey (Drawing No 30601_T, Rev O); Proposed layout (Drawing No PL-02, Rev N); Proposed boundary treatments plan (Drawing No SKM241-BTP-01, Rev D); Proposed streetscenes (Drawing No SKM241-SS-01, Rev C); Proposed materials plan (Drawing No SKM241-MP-01, Rev C); Fences types A to D (Drawing No NSD 9102); 900mm wall with 900mm closed boarded fence detail (Drawing No NSD 9004); The Worsley; The Atkins; The Allum; The Francis; The Allum Plot 52 (Rev A); The Atkins Plot 4 (Rev A); The Atkins Plot 27 (Rev A); The Atkins Plot 57; The Atkins Plot 58; The Francis Plot 20 (Rev A); The Francis Plot 21 (Rev A); and Site access general arrangement (Drawing No 23204-RPS-XX-XX-DR-C-001, Rev P01).
- 3) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during clearance/demolition and construction works; a scheme for recycling/disposing of waste resulting from clearance/demolition and construction works; delivery, clearance/demolition and construction working hours; and full details of proposed ecological protective measures during clearance and construction works. The approved CEMP shall be adhered to throughout the construction period of the development.
- 4) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a scheme for the protection of the retained trees (the tree protection plan covering those trees which are to be retained in accordance with the approved plans and particulars) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5

and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall be submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

- 5) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a detailed site investigation shall be completed to establish the degree and nature of the land contamination on the site and its potential to pollute the environment or cause harm to human health. Details of the site investigation and any necessary remediation measures shall be submitted in writing and approved in writing by the Local Planning Authority prior to the commencement of development. All works must conform to Land Contamination Risk Management (LCRM) 2020 (EA, 2020) methods and protocols and be carried out by a competent person.
- 6) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until a remediation and verification scheme(s) has been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) Where remediation works have been carried out in pursuance with the preceding conditions, a post remediation report shall be submitted and approved in writing by the Local Planning Authority before the development is occupied. The post remediation verification report should detail the remedial works undertaken and demonstrate their compliance. The report should be produced in accordance with Land Contamination Risk Management (LCRM) 2020 (EA, 2020).
- 8) With the exception of site investigations, remedial measures and site clearance, no development shall commence until full details of drainage works for the disposal of foul sewage and the management of surface water have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be implemented before any part of the development is first occupied and shall thereafter be retained and maintained in accordance with the approved details.
- 9) With the exception of site investigations, remedial measures and site clearance, no development shall commence until details of the finished floor levels of the permitted development, including their relationship to the levels of the highway and existing developments, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) No development above ground level shall commence until the details of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 11) Prior to construction of the estate roads serving the development hereby permitted, details of the standards to which the estate roads are to be constructed shall be submitted to and approved in writing by the local planning authority. The estate

roads shall be constructed in accordance with the approved details before any part of the development is first occupied and shall thereafter be retained.

- 12) Prior to occupation of the development hereby permitted, the vehicle parking and manoeuvring spaces shall be provided in accordance with Drawing No PL-02 Rev N and shall thereafter be retained for the parking and manoeuvring of vehicles only.
- 13) Prior to occupation of the development hereby permitted, an energy statement detailing the renewable energy measures to be installed to offset at least 10% of the estimated residual energy demand of the development on completion shall be submitted in writing and approved by the local planning authority. The development shall not be occupied until the approved measures have been provided and shall thereafter be retained.
- 14) Prior to occupation of the development hereby permitted, details of the height, type and position of all site and plot boundary walls or fences to be erected shall be submitted to and approved in writing by the local planning authority. The approved boundary walls and fences shall be erected before any part of the development is first occupied and shall thereafter be retained.
- 15) Prior to occupation of the development hereby permitted, full details of all hard and soft landscaping on the site, taking account of the high-level details included in the submitted Landscape strategy plan (Drawing No 8240 / ASP4 / LSP, Rev D), and an implementation programme shall be submitted to and approved in writing by the local planning authority. The approved hard and soft landscaping shall be carried out in accordance with the approved implementation programme. Any trees or plants planted as part of a soft landscaping scheme which within a period of five years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 16) Prior to occupation of the development hereby permitted, details of waste storage to serve the development shall be submitted to and approved in writing by the local planning authority. The approved waste storage shall be provided before the development is first occupied and shall thereafter be retained.
- 17) Prior to occupation of the one-bed flat/apartment units within the development hereby permitted, details of secure cycle parking for each of unit shall be submitted to and approved in writing by the local planning authority. The approved secure cycle parking shall be provided before the one-bed units are first occupied and shall thereafter be retained.
- 18) Prior to occupation of each dwelling within the development hereby permitted, the mitigation measures in the submitted Noise Assessment (by Hepworth Acoustics Ltd, dated October 2023) shall be implemented and thereafter retained.
- 19) Prior to occupation of the development hereby permitted, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved lighting scheme shall be implemented before the development is first occupied and shall thereafter be retained.
- 20) Prior to occupation of the development hereby permitted, a scheme to limit the spread of Japanese Knotweed along the watercourse shall be submitted to and

approved in writing by the local planning authority. The approved scheme shall be implemented before any part of the development is first occupied.

- 21) Prior to occupation of the development hereby permitted, an Ecological Enhancement and Management Plan (EEMP), taking account of the submitted landscape strategy plan (Drawing No 8240 / ASP4 / LSP, Rev D) and the recommendations in section 6 of the submitted Ecological Appraisal (by Aspect Ecology Ltd, dated October 2023) and Technical Note 01 (by Aspect Ecology Ltd, dated 9 February 2024), shall be submitted to and approved in writing by the local planning authority. The EEMP shall be implemented in full in accordance with the approved details.
- 22) The development shall be carried out in accordance with the measures detailed within section 6 of the submitted Ecological Appraisal (by Aspect Ecology Ltd, dated October 2023) and the measures implemented/provided prior to either, as relevant, the commencement of development or first occupation of the development.

END OF SCHEDULE