



Subject: RECORD OF PLANNING APPEALS
SUBMISSIONS & DECISIONS

Date: 15 October 2024

Report of: The Head of Planning

Report to: Planning and Highways Committee

Author of Report: Abby Hartley

Summary:

List of all newly submitted planning appeals and decisions received, together with a brief summary of the Inspector's reason for the decision

Reasons for Recommendations

Recommendations:

To Note

Background Papers:

Category of Report: OPEN

1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

2.0 NEW APPEALS RECEIVED

(i) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the erection of dwellinghouse with integral garage and associated parking at 1 Cawthorne Grove, Sheffield, S8 0NB (Case No: 24/01516/FUL).

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse advertisement consent for the replacement of existing advertising hoarding with a digital advertising screen at 180 Penistone Road North, Sheffield, S6 1QA (Case No: 24/01397/HOARD).

3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double sided digital 6 sheet advertising panel on new bus shelter at shelter opposite 560 Retford Road, Sheffield, S13 9WF (Case No: 24/01034/HOARD) has been dismissed.

Officer Comment:-

The Inspector noted the main issue was the effect of the panel on the visual amenity of the area.

They noted the existing shelter on the site had no current advertising panels and was situated on a strategic road into the city but with a verdant and residential character of domestic scale.

The Inspector agreed with officers that the prevalent character, and absence of commercial activity or signage would result in a conspicuous, isolated presence that would be unduly prominent in its green setting in conflict with UDP policy BE13 and paragraph 135 of the NPPF and harmful to visual amenity, and dismissed the appeal.

(ii) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double sided digital 6 sheet advertising panel on new bus shelter at bus shelter adjacent to Meadowcourt, Meadowhall Road, Sheffield, S9 1BS (Case No: 24/01024/HOARD) has been dismissed.

Officer Comment:-

The application site is on a flat straight stretch of road, to the north side of Meadowhall Road. Directly to the rear of the site are low level commercial/office buildings, whilst on the opposite side of the highway lies the River Don which is separated from the highway by a brick wall, tall trees sit behind the wall on the river bank.

The Inspector identifies that when travelling along the highway in both directions, the trees provide an almost continuous expanse of greenery framing the view and softening the commercial character. They also note that there are no other illuminated advertisements and the only advertisements visible are directly related to the existing businesses.

The Inspector concludes that the appeal proposal would create a stark contrast and intensify the commercial context to the detriment of the green surroundings. Further, the advertisement would create additional bulky massing and attract additional and undue prominence which would be accentuated by the illumination and changing images. The proposal would harm the visual amenity of the area and conflict with UDP Policy BE13 and Paragraph 135 and 141 of the Framework.

(iii) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double sided digital 6 sheet advertising panel on new bus shelter at bus shelter opposite Meadowhall Riverside, Meadowhall Road, Sheffield, S9 1BS (Case No: 24/01023/HOARD) has been dismissed.

Officer Comment:-

The application site is on a flat straight stretch of road, to the south side of Meadowhall Road. Directly to the rear of the site lies the River Don which is separated from the highway by a brick wall, tall trees sit behind the wall on the river bank.

The Inspector identifies that when travelling along the highway in both directions, the mature trees and vegetation soften and frame the view to both sides. Along with the openness above the river, this provides some tranquillity within the area's broader commercial character, notwithstanding busy traffic periods.

The Inspector notes that the existing shelter is set directly against this verdant river backdrop and is the only feature breaking up a long stretch of wall. They conclude that the appeal proposal would create a stark contrast and intensify the commercial context. Further, the advertisement would create additional

bulky massing and attract additional and undue prominence which would be accentuated by the illumination and changing images. The proposal would harm the visual amenity of the area and conflict with UDP Policy BE13 and Paragraph 135 and 141 of the Framework.

(iv) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double-sided digital 6 sheet advertising panel on new shelter at shelter fronting Berkeley Precinct, Ecclesall Road, Sheffield, S11 8PN (Case No: 24/01018/HOARD) has been dismissed.

Officer Comment:-

The Inspector noted the main issue was the effect of the panel on the visual amenity of the area.

The Inspector noted the existing shelter was free of advertisement panels on a heavily trafficked arterial route, in an area with a thriving and busy commercial character comprising shop and business frontages on the southern side of Ecclesall Road, with mainly residential properties opposite, all softened by the presence of street trees.

They noted also the relatively cluttered nature of the street consisting of shopping precinct totem signs, freestanding digital advertising panel, car park and traffic signs, telecom mast and cabinets, bins, charity bins, bike stands lighting columns and traffic lights. They agreed with officers that in this context the presence of a bulky panel would be cumulatively harmful particularly as it would create a 'full pavement width view of advertising in conjunction with the freestanding unit and totem sign'.

They concluded that the panel was in conflict with Policy BE13 and S10 of the UDP and paragraphs 135 and 141 of the NPPF and dismissed the appeal.

(v) To report that an appeal against the delegated decision of the Council to refuse planning permission for the alterations and extension to roof including hip to gable extension and rear dormer extension with provision of Juliet balcony to rear of dwellinghouse at 7 Laverdene Way, Sheffield, S17 4HL (Case No: 24/00669/FUL) has been dismissed.

Officer Comment:-

The main issue was the effect of the hip to gable extension on the character and appearance of the area.

The Inspector noted the prevalence of hipped roof forms in the area and that the hipped roof utilised on the previous two storey side extension to the property had ensured the pair of semi-detached dwellings positively reflected this overriding order and consistency of appearance.

Conversely they agreed with officers that the proposed gable roof would not reflect this character and would emphasise the greater width of this dwelling resulting in imbalance in the pair of dwellings, and detracting from the

cohesiveness of the wider street scene.

As is common in such cases the appellant drew attention to a large number of examples of extensions undertaken in the locality, including on properties opposite the application site, but the Inspector considered they were not directly comparable to the case here, or were from too far afield to contribute to established character in the vicinity of the appeal site.

The appeal was therefore dismissed owing to conflict with UDP policies BE5 and H14, Core Strategy policy CS74, Supplementary Planning Guidelines 1 and 2 and NPPF paragraph 135.

(vi) To report that an appeal against the delegated decision of the Council to refuse an application for the pruning and removal of trees (Tree Preservation Order No. 808/051) at 23 Grove Road, Sheffield, S17 4DJ (Case No: 22/03618/TPO) has been dismissed.

Officer Comment:-

The appeal was against the delegated decision to refuse the application 22/03618/TPO, dated 3 October 2022, as recorded in the decision notice dated 9 November 2022.

The work proposed was to Fell Pine T1, Reduce Cherry T2 by up to 50%.

The relevant Tree Preservation Order (TPO) is the Sheffield City Council TPO relating to Grove Road Sheffield, which was confirmed on 15 June 1979.

The Council confirmed during the application that the cherry tree is not included in the TPO and consequently formal consent for works is not required and as such it is not considered further as part of the appeal.

The main issues are the effect of the works on the character and appearance of the area, and whether sufficient justification for those works has been given.

The Inspector agreed that the pine is a mature specimen sited close to a low stone boundary wall along the frontage of 23 Grove Road (No 23). However, he did not find any evidence to suggest that the wall is unstable or anything to indicate that the tree is structurally unsound, diseased or damaged.

There are many mature trees lining Grove Road which gives the area a very pleasant sylvan character. The pine makes a modest contribution to the Grove Road's verdant character and appearance.

The Inspector also notes in other matters that it would be an extreme solution to fell trees where their owners consider maintenance has reached excessive levels. It would also lead to a gradual erosion of the attractiveness of streets where trees make a significant contribution to local distinctiveness and would be contrary to the purposes of the legislation

In conclusion, the Inspector in the report states that there is a presumption in

favour of the retention of protected trees and in this case, the inspector found insufficient evidence to warrant felling, and the appeal was dismissed.

4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double-sided internally illuminated digital 6 sheet advertising panel on new bus shelter at shelter where Ecclesall Road meets Moore Street, Sheffield, S3 7UW (Case No: 24/01083/HOARD) has been allowed. (Appeal A)

(ii) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double-sided internally illuminated digital 6 sheet advertising panel on new bus shelter at shelter 29m from 133 Ecclesall Road, Sheffield, S11 8HY (Case No: 24/01168/HOARD) has been allowed. (Appeal B)

Officer Comment:-

The above appeals relate to bus shelters on opposite sides of the road.

The appeal sites host simple glazed panelled bus shelters which incorporate an internally backlit double sided paper poster display to one end. The shelters lie to either side of Ecclesall Road, a key arterial route into the city. Appeal A is located to the back of the northern pavement, on the edge of a grassed area and in front of a mature tree belt. Appeal B sits within the southern pavement, with a cycle lane running behind and access/parking infrastructure beyond.

The Inspector notes that the general character of the area is of a busy and modern edge of city centre commercial area with active uses at ground floor and framed by mid to high-rise buildings.

The Inspector identifies the presence of the existing advertising panels within the bus stops and gives weight to the existence of these. They state that the new advertising panels would be wider and bulkier, increasing their prominence, which would be accentuated by their illumination and changing images.

The Inspector considers that the brightness would be perceived similarly to the existing panels and that conditions can control brightness and frequency of image change. Furthermore, despite the presence of trees to site A, the advertisements are seen within the juxtaposition of the surrounding highway infrastructure and dominance of surrounding buildings. In this instance the increased size and illumination would not be of such a magnitude to cause a harmful impact in comparison to existing, even taking account of cumulative impact.

The Inspector concludes that the panels would not be harmful to the visual amenity of the area. The appeals are allowed subject to conditions.

(iii) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double-sided internally illuminated digital 6 sheet advertising panel on new bus shelter outside Asda, Handsworth Road, Sheffield, S9 4AD (Case No: 24/01021/HOARD) has been allowed.

Officer Comment:-

The Inspector noted the main issue was the effect of the panel on the visual amenity of the area.

The panel is to replace an existing smaller and less bulky panel within an existing bus shelter, and the Inspector therefore considered the existing panel to be part of the areas character.

They did not agree with officers that the larger panel would be obtrusive, despite being set against a landscaped embankment, concluding that it would be read as part of the commercial setting of the southern side of Handsworth Road, which includes the ASDA supermarket and the prominent signage of the associated petrol station, separated from the opposite residential character by the large carriageway.

They therefore concluded there was no conflict with Policy BE13 of the UDP or NPPF paragraphs 135 and 141 and allowed the appeal.

(iv) To report that an appeal against the delegated decision of the Council to refuse advertisement consent for a double-sided digital 6 sheet advertising panel on new bus shelter at bus shelter adjoining Tesco, Savile Street, Sheffield, S4 7UD (Case No: 24/01019/HOARD) has been allowed.

Officer Comment:-

The main issue was the effect of the proposed advertisement on the visual amenity of the area.

The Inspector observed that Savile Street is a heavily trafficked arterial dual carriageway, incorporating a hardstanding middle verge and a bus layby. It was noted that the appeal shelter is set within the relatively wide northern pavement. Further observations were that vistas are dominated by the adjacent large format Tesco building and car park, and a tall modern office building and bulky car park opposite the site. Along with a few street trees to both sides of the road, self-seeded vegetation growing up the Tesco multi-storey car park behind the shelter acts to soften the hard urban massing in the Inspectors view. Overall, they felt that the prevailing character is of a relatively busy and modern commercial area.

The Inspector took the view that the size of the advert and the digital illumination would not be of such a magnitude so as to cause a harmful impact, or unduly intensify the existing commercial context. Nor did they consider that its additional bulk would cause a cumulative cluttering effect within the street scene. Based upon those considerations the Inspector found

that the proposal would not be harmful to the visual amenities of the locality in their view having regards to UDP Policy BE13 and the NPPF and allowed the appeal.

5.0 CIL APPEALS DECISIONS

Nothing to report.

6.0 NEW ENFORCEMENT APPEALS

Nothing to report.

7.0 ENFORCEMENT APPEALS DISMISSED

Nothing to report.

8.0 ENFORCMENT APPEALS ALLOWED

(i) To report that an appeal against the Enforcement Notice issued by the Council for the unauthorised execution of operational development consisting of the material change of use of the Land to a laundry within use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and associated plant and machinery at Abbey Glen Ltd, 10 Carley Drive, Sheffield, S20 8NQ (Inspectorate Ref: APP/J4423/C/24/3340817) has been allowed.

Officer Comment:-

History - Planning consent (subject to conditions) was granted in April 2003 for the erection of the unit for Class B1 – Business (now Class E) use with ancillary offices and provision of car parking accommodation, reference 02/03682/FUL.

The site was first occupied by a clothing factory (School Trends Ltd) but that use ceased and the current occupant (Abbey Glen Ltd) moved onto the site in 2020. Abbey Glen operates the site as an industrial scale laundry business involving the washing, drying and pressing of fabrics utilising large plant and machinery. Abbey Glen did not seek any new planning consent and therefore relied upon planning permission 02/03682/FUL.

The City Council started to receive complaints from surrounding residents largely relating to noise being generated from the premises. Odour was also raised within these complaints. This was initially investigated by Environmental Protection Services under the Statutory Noise Nuisance provisions of the Environmental Protection Act 1990. The Environmental Protection Service assessed the issues; they concluded that odour was not causing an unacceptable impact and secured a number of mitigation measures to attenuate noise from plant and equipment. They subsequently concluded that the site was not a statutory noise nuisance. Nevertheless, there were still issues in relation to noise and odour. The matter was investigated under the planning legislation, and it was determined that it was

expedient to serve a formal notice based on the evidence the Council had and an enforcement notice was served.

The appeal - The appeal was initially made on grounds (a), (c), (f) and (g). The appeal was dealt with as a Public Inquiry. The ground (c) appeal also included an argument under ground (b) in that the appellant argued the use was not a Class B2 use at the time the enforcement notice was issued, and therefore the breach of planning control has not occurred as a matter of fact. The Inspector determined the appeal on the basis that there is also ground (b) appeal.

The Inspector dealt with both ground (b) and (c) appeals together as the two are inextricably linked, ie both rely on whether the use falls within Class B2 use or Class E use of the Town and Country Planning (Use Classes) Order 1987 (the UCO).

Ground (b) appeal is that the alleged breach of planning control has not occurred as a matter of fact. The appeal on ground (c) is whether, the matters alleged in the notice do not constitute a breach of planning control. In both grounds of appeal, the burden of proof is upon the appellant.

The main issues were around noise and odour generated by Abbey Glen. The Inspector determined that mitigation measures were put in place prior to the notice being issued and continued with the mitigation measures after the notice was issued.

Class E(g)(iii) of the UCO is a use for 'any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area'. It does not state '...without detriment to the amenity of residents'. The consideration of whether the development would have detriment to the amenity of the residential area is to be focused on the area as a whole rather than individual residential occupants. The Inspector took a holistic approach in determining whether any effects that might occur have a material effect on the residential area as a whole. In this instance, the Inspector determined that appeal site caused significant harm to the amenity of the residential area up to November 2022, which resulted in a material change of use from the lawful Class B1 use (now Class E use) to a Class B2 use.

However, given that extensive mitigation measures which were implemented these significantly reduced the noise and, indirectly, odour emissions to the extent that they were no longer causing detriment to the amenity of the residential area.

The Inspector also found that there is harm to the living conditions of the occupants of 2 Sandy Acres Drive as a result of the single lorry setting off in the very early hours of the morning from the roadside and disrupting their sleep. However, he did not consider that a single vehicular movement, outside the appeal site, that harms the occupants of a single residential property results in material detriment to the amenity of the residential area as a whole.

In relation to odour the Inspector decided that the smell was not unpleasant or of a high intensity. He stated that both its smell and intensity were little more than one would experience when opening a tumble dryer after it had finished. He came to an overall conclusion that the odour was not offensive, and the appeal site did not significantly impact the amenity of the local residents.

Concerns were also raised by a resident that the odour as 'accumulating' at their property and becoming stronger and having a significantly harmful effect on his wife's physical health. The Inspector acknowledged their concern but stated that there is no substantive evidence to indicate that it is the appeal site causing such severe effects.

The Inspector determined that when the Notice was served Abbey Glen was operating under Class E(g)(iii) of the UCO and had likely been doing so for some time and determined that the notice was wrong, and the ground (b) appeal succeeded.

Given that a laundry under use Class E can operate from the appeal site under the extant planning permission for a B1 use and therefore the matters alleged in the notice do not constitute a breach of planning control. Therefore, the ground (c) appeal also succeeded.

The appeal under ground (a) and the deemed planning application and appeals under grounds (f) and (g) were therefore not considered, the appeal was allowed, and the enforcement notice was quashed.

9.0 RECOMMENDATIONS

That the report be noted.

Michael Johnson
Head of Planning

15 October 2024