



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of City Growth Department

Date: 18 January 2022

Subject: RECORD OF PLANNING APPEALS
SUBMISSIONS & DECISIONS

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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 City Council for the refusal of planning permission for the erection of front and rear dormers to increase habitable roof space at 12 Kaye Place, Sheffield, S10 1DY (Case No: 21/02871/FUL).
(ii) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for the replacement of existing hoarding with a digital advertising display hoarding on the gable end of the building at The Bhaji Shack, 85 Chesterfield Road, Sheffield, S8 0RN (Case No: 21/02851/FUL).
(iii) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for the erection of first-floor front extension to dwellinghouse at 21 Greenacre Way, Sheffield, S12 2TZ (Case No: 21/02616/FUL).
(iv) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for the erection of 15.0m high monopole with wraparound base cabinet and associated ancillary works (Application for determination if approval required for siting and appearance) at land opposite 53 East Road, East Bank Road, Sheffield, S2 3PX (Case No: 21/02433/TEL).
(v) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for alterations to roof to form additional habitable accommodation including erection of front and rear dormers to dwellinghouse at 100 Fulton Road, Sheffield, S6 3JN (Case No: 21/02256/FUL).
(vi) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for erection of 17.5m Monopole with 6no. antennas, 1 GPS module, 2no. equipment cabinets, 1no. meter and ancillary works (Application to determine if approval is required for siting and appearance) at site opposite 196-198 Abbeydale Road South, Sheffield, S7

2QL (Case No: 21/01925/FUL).

(vii) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for permanent clear glazing to oriel window facing no. 23 Stumperlowe Park Road (Application under Section 73 to remove/vary condition 4 (obscure glazing) of planning permission no. 18/02587/FUL (Erection of a two/single-storey rear extension to dwellinghouse including Juliet balcony, first-floor front extension and raised patio to rear)) at 25 Stumperlowe Park Road, Sheffield, S10 3QP (Case No: 21/02191/FUL).

(viii) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for the erection of two-storey side extension to dwellinghouse at 45 Thorpe House Avenue, Sheffield, S8 9NH (Case No: 21/01963/FUL).

(ix) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for the demolition of rear detached garage, erection of a two-storey side extension and single-storey rear extension, excavation of part of rear garden to form patio area and alterations and extension to front driveway of dwellinghouse (Amended Description) at 60 Woodstock Road, Sheffield, S6 6TG (Case No: 21/01644/FUL).

(x) An appeal has been submitted to the Secretary of State against the City Council for the refusal of planning permission for Alterations and extensions to roof to form additional habitable space including erection of rear dormer with Juliet balcony, erection of two-storey side extension, single-storey front extension and single-storey rear extension with raised decking to dwellinghouse at 11 Heather Lea Place, Sheffield, S17 3DN (Case No: 21/01469/FUL).

3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of 15.0m monopole with associated cabinets and ancillary works (Application to determine if approval is required for siting and appearance) at land opposite 1-3 Burngreave Road, Sheffield, S3 9DA (Case No: 21/01778/TEL) has been dismissed.

Officer Comment:-

The Inspector considered the main issue to be the effect of the siting and appearance of the monopole on the character and appearance of the area, given the location adjacent to Ellesmere Green, a public open space which acts as a focal point within the streetscene and provides a peaceful contrast to the busy urban location. He considered that the monopole would be of an excessive scale and be dominant and imposing, particularly when compared

to the slimline nature of the prevailing street furniture and in the context of the wide views which would be afforded of the structure from surrounding vantage points. It would rise significantly above the trees on the green and any screening would be diminished in the winter months, making the monopole dominant against the backdrop of an attractive open space.

Furthermore, the evidence presented in relation to the site search area was found to be lacking, with no reference to the consideration of siting the equipment on existing buildings or on other less sensitive sites nearby, as alluded to in the officer report. The Inspector found that insufficient evidence had been presented in relation to alternative siting options.

He concluded that the siting and appearance of the monopole would be significantly harmful and that the harm would not be outweighed by the need for the installation, given the lack of evidence presented. He therefore dismissed the appeal.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of 15.0m Monopole with associated cabinets and ancillary works (Application to determine if approval is required for siting and appearance) at land at Jessop Street near the junction with Eyre Street, Sheffield, S1 4QW (Case No: 21/01634/TEL) has been dismissed.

Officer Comment:-

The Inspector considered the main issues in this case to be the effect of the siting and appearance of the proposal on the safety and mobility of pedestrians and cyclists; the character and appearance of the CIQ Conservation Area and whether any identified harm is outweighed by the benefits having regard to any alternative available sites.

They concluded that the siting of the equipment would compromise the safety and mobility of pedestrians and cycles due to the decreased width of the shared pedestrian cycleway and the resultant increase in the potential for conflict as a result.

On the impact on the conservation area, they concluded that the proposal would not harm the character and appearance because of the industrial and commercial nature of the area.

On the matter of alternative sites, the Inspector found that there was scant information provided by the appellant in this regard such that there was not enough evidence to say whether this was indeed the only available site in the search area.

The Inspector therefore dismissed the appeal on the basis of the harm it would cause to the safety and mobility of pedestrians and cyclists and the lack of evidence that it could not be sited elsewhere within the search area

(iii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of a 17.5 m high streetpole with 6 antennas, 1 GPS module, 2 equipment cabinets and 1 meter (Application to determine if approval is required for siting and appearance) at Hastilar Road South at the junction of Richmond Road, Sheffield, S13 8EG (Case No: 20/04429/TEL) has been dismissed.

Officer Comment:-

The Inspector considered the main issues in this case to be the effect of the siting and appearance of the proposal on the character and appearance of the area and the setting of a nearby listed building.

The Inspector noted that the mast would be much taller than nearby trees and street furniture and would be highly visible to passers-by. The large size would be visually discordant, out of scale and overly prominent in the setting.

They also concluded that the height of the mast would adversely impact on the setting of the Grade II Listed Church of St. Catherine of Siena and particularly compete with the bell tower and erode the dominance of this landmark building, which would harm its significance.

They therefore dismissed the appeal and also referred to the lack of evidence in terms of reviewing alternative, potentially less harmful sites, in the local area.

(iv) To report that an appeal against the delegated decision of the Council to refuse planning permission for the continuation of use of part of ground floor of dwellinghouse (Use Class C3) as a cosmetics clinic (Sui Generis) at 8 Church Glebe, Sheffield, S6 1XA (Case No: 20/02676/FUL) has been dismissed.

Officer Comment:-

The main issues in this appeal were:

- the level of on-site parking provision and the resultant effect of the development on highway safety; and,
- the effect of the development on residential character and the living conditions of neighbours with regard to noise and general disturbance.

The Inspector found that, in practice the site has no more than two off road parking spaces for use in association with the cosmetic clinic and may on occasions only have one. The business employs two part time therapists, with one to two patients receiving treatment on site at any one time. This indicates a parking demand of four cars and, on occasions, more.

The Inspector acknowledged that a shortfall in on-site parking provision displaces parking onto the road and reduces the intervisibility between road users and children to the detriment of highway safety. It was also noted that

the site is not well served by public transport.

In relation to the first issue, the Inspector concluded that the change of use of part of the ground floor to a cosmetics clinic does not provide sufficient off-street parking and endangers pedestrians causing unacceptable harm to highway safety, contrary to policy H14 (d) of the Sheffield Unitary Development Plan (UDP) and paragraph 111 of the National Planning Policy Framework.

The clinic is open for appointments six days a week from 10:00 hrs to 18:00hrs on Mondays to Fridays and until 16:00hrs on Saturdays. The Inspector felt that a successful clinic would have a steady flow of clients throughout the day and that such frequent comings and goings, on a quiet, residential cul-de-sac with normally little traffic, would degrade its high quality residential character and harm the living conditions of neighbouring residents. The delivery of supplies in large lorries and vans collecting waste was also considered to be out of keeping with the character of the cul-de-sac.

In relation to the second issue the Inspector concluded that the development is detrimental to the amenities of the locality and the living conditions of nearby residents by virtue of the general disturbance and noise resulting from the vehicular activity it generates, contrary to policy H14 of the UDP and paragraph 130f of the National Planning Policy Framework.

(v) To report that an appeal against the delegated decision of the Council to refuse planning permission for the retention of terrace over single-storey rear extension and erection of 1.8m obscure screening (resubmission of 20/00197/FUL) at 18 Town End Road, Sheffield, S35 9YY (Case No: 20/01965/FUL) has been dismissed.

Officer Comment:-

The main issues were the effect of the development on the living conditions of the occupiers of neighbouring properties and the effect of the development on the character and appearance of the area.

The Inspector found that the proposed privacy screen would lead to the creation of an imposing structure of substantial height and length that would appear significantly oppressive and dominant in views from the patio and rear windows of the property to the east, resulting in harm to the living conditions of the occupiers of the neighbouring property contrary to Policy H14 of the Sheffield Unitary Development Plan, paragraph 130 of the National Planning Policy Framework and Guideline 5 of the Supplementary Planning Guidance Designing House Extensions (SPD).

However, as views of the development are likely to be limited to those gained from the gardens and yards of neighbouring dwellings and the roof terrace would only be partially enclosed by the screen, and taking into account the existing nature of the flat roofed extension and three storey building, the Inspector also found that the roof terrace and 1.8 metre high screen would appear subordinate and would not dominate the host dwelling, preserving the

character and appearance of the area and complying with Policy H14 of the UDP, paragraph 130 of the National Planning Policy Framework and Guideline 2 of the SPD.

4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for the demolition of outbuildings and erection of single-storey rear extension and rear undercroft garage/store with associated alterations to ground levels, provision of ramp, landscaping and associated works at 117 Machon Bank, Sheffield, S7 1GQ (Case No: 21/00480/FUL) has been allowed.

Officer Comment:-

The Inspector noted the main issue to be that of highway safety.

He noted the proposal involved a partly sunken garage with direct opening onto the highway (via footway) of Emily Road, and that the safety of pedestrians here was the Council's main concern owing to lack of visibility.

He also noted that the recent approval of a similar scheme on the opposite side of the road was an important material consideration that whilst not setting a precedent, was directly comparable.

He also noted the Council's concerns about the structural integrity of the highway owing to the partly sunken nature of the garage though considered these not to be a planning matter, but correctly resolved through other legislation (Highways Act).

He gave significant weight to the provision of off-street parking offering the potential for alleviating very high levels of on street parking in the area and considered this partly offset any concerns about pedestrian/vehicle conflict.

Influenced by the recent comparable approval, he did not consider the poor pedestrian/vehicle intervisibility would be harmful to highway safety, found no conflict with policy H14 of the UDP, or paragraph 111 of the NPPF and allowed the appeal.

(ii) To report that an appeal against the Committee decision of the Council to refuse planning permission for the demolition of public house, and ancillary buildings (Use Class A4), and erection of 8no dwellings (Use Class C3) including associated undercroft car parking and formation of access to the highway - (Amended drawings and Asset of Community Value (ACV) Statement) at The Plough Inn, 288 Sandygate Road, Sheffield, S10 5SE (Case No: 19/02130/FUL) has been allowed.

Officer Comment:-

The main issue in this case was the effect of the proposed development with regard to the loss of an Asset of Community Value (ACV).

The Inspector acknowledged that the status of the building as an ACV is a material consideration in the appeal and had no doubt that its listing in both 2015 and 2018 satisfied the tests of The Localism Act 2011 at that time. The Inspector noted, however, that there has been a significant amount of time since the public house closed and that in its present condition, general deterioration, and vandalism, it would not be a viable commercial enterprise.

The Inspector was not provided with any evidence to suggest that an application for an alternative community use is forthcoming or evidence of the PH coming forward as a viable community project with local stakeholders and so was not satisfied that it currently offers any community value, positively contributes to the local community or that there is a real prospect of the site being used in the future for a community use.

The Inspector considered that, on the basis of the evidence, it has been demonstrated that the appellant has extensively marketed the property for a satisfactory period and at an appropriate value. There is no substantive evidence of market demand for an alternative use of the PH or community use or project at the site during the last 3 years. Moreover, there are alternative provisions of nearby public houses and community facilities in the area that would meet the day-to-day living needs of nearby residents and the wider community.

With no realistic prospect of the PH and the site returning to its former use in the future the Inspector concluded that the proposal and the loss of the ACV would not lead to the reduction to the community's ability to meet its day-to-day needs. It would not be in conflict with paragraph 93 of the Framework, that has regard to community facilities and, although not cited on the decision notice, there would be no conflict with Saved Policy CF2 of the UDP.

Application for Costs

The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

The applicant made a costs application, submitting that the Planning Committee failed to provide adequate reasons or evidence for attaching significant weight to the status of the public house as an Asset of Community Value (ACV). Thus, the Council failed to produce evidence to substantiate the reason for refusal, which was against the recommendations of the Council's Planning Officer set out in their report to committee.

The applicant also contends that the Council have prevented or delayed development which should have clearly been permitted, having regard to its

accordance with the development plan, national policy and any other material considerations, which includes benefits of the scheme.

PPG1 makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. A Council is not duty bound to follow the advice of its professional officers and this alone would not amount to unreasonable behaviour. However, if a contrary decision is reached the Council should clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

The Inspector noted that it is open to the Local Planning Authority to decide whether listing as an ACV is a material consideration and the weight to be attached to it is one of planning judgement by the decision maker. In this case, the Planning Committee attached significant weight on the basis of the number of representations received and considered that there was still a likelihood that a community group or other interested party could come forward in the future.

The Inspector found, however, that the majority of representations were generalised and there was no objective analysis of the applicant's evidence submitted with the application at that time by members of the committee. There were also no objections raised from statutory consultees. Furthermore, the Planning Committee wrongly placed greater weight on the status of the public house being an ACV, on the basis there was a realistic prospect of the public house being brought back into use.

In addition, the minutes of the Planning Committee do not substantiate any meaningful discussion or consideration of the facts, including benefits or reference to the relevant development plan policies or policies in the Framework, that took place by Members, instead only offering the voting outcomes and general reference to policy regard. They do not set out the full reasons for refusal, which is substantially different in wording to that on the Council's formal decision notice.

As such, there is no substantive evidence to support a decision taken contrary advice to that of the planning officer, who fully addressed both local objections and marketing evidence during the course of the planning application, and recommended planning permission to be granted subject to conditions.

The Inspector concluded that the development should reasonably have been permitted, that it was refused on the basis of local knowledge, general and vague assumptions on the prospect of the public house being brought back into community use, and without any evidence to counter the assessments and conclusions made by the applicant.

The Inspector therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been

demonstrated and that a full award of costs is justified.

5.0 CIL APPEALS DECISIONS

Nothing to report.

6.0 NEW ENFORCEMENT APPEALS

(i) An appeal has been submitted to the Secretary of State against the Enforcement Notice served in respect of the breach of planning control as alleged in the notice which is the unauthorised:

- (1) large scale landscaped rockery, with numerous ornamental plants;
- (2) large temporary building;
- (3) earthworks;
- (4) siting of a very large static caravan;
- (5) excavation works on the land.

At Donkey Field, land at junction with Long Lane and Hagg Lane, Sheffield, S10 5PJ (Planning Inspectorate Ref APP/J4423/C/21/3285589).

7.0 ENFORCEMENT APPEALS DISMISSED

Nothing to report.

8.0 ENFORCEMENT APPEALS ALLOWED

Nothing to report.

9.0 RECOMMENDATIONS

That the report be noted.

Michael Johnson
Head of Planning

18 January 2022