



## SHEFFIELD CITY COUNCIL Planning & Highways Committee

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**Report of:** The Head of Planning

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**Date:** 18 April 2023

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**Subject:** RECORD OF PLANNING APPEALS  
SUBMISSIONS & DECISIONS

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**Author of Report:** Abby Hartley

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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

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**Reasons for Recommendations**

**Recommendations:**

To Note

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**Background Papers:**

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**Category of Report:** OPEN

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## 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 single-storey rear extension to dwellinghouse, erection of retaining walls and stepped access to rear garden at 20 Underwood Road, Sheffield, S8 8TH (Case No: 22/04083/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 installation of telecommunications upgrade and associated ancillary works (application for determination if approval required for siting and appearance) at Gleadless Road North BT pole, Daresbury Road Junction, Sheffield, Lowfield, S2 3AE (Case No: 22/02629/TEL) has been dismissed.

Officer Comment:-

The Inspector identified the main issues as:-

- a) the effect of the siting and appearance of the proposal on the character and appearance of the area; and
- b) if there is any harm, whether this would be outweighed by the need for the installation to be sited as proposed, having regard to the potential availability of alternative sites.

They noted the proposal was an upgrade of an existing facility near the junction with Daresbury Road which contains many street lights, traffic signals and densely planted trees. The new site in contrast was an area of informal open space, though also containing street lights and adjacent to two storey housing.

On a) they concluded the monopole would appear as an obviously engineered

feature of significantly greater scale and bulk than other street furniture, out of scale and dominant within its context and the street scape. The Inspector felt the height would be further emphasised by the topography exacerbating its prominence and not sufficiently screened by nearby trees. In addition the ancillary cabinets would add to visual clutter contrasting with otherwise well placed street furniture.

The inspector felt the proposal was contrary to the aims of Policies BE14 and H14(I) of the UDP and Policy CS74 (c), (e), (diii) and (h) of the Core Strategy, in addition to paragraphs 115 and 130 of the NPPF.

In respect of b) the Inspector noted the appellant's reliance on the upgrade of an existing site, albeit relocated, rather than adequately exploring alternatives and concluded it had not been adequately demonstrated that there are no suitable alternative sites which would give rise to less harm.

They therefore dismissed the appeal.

#### 4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for the removal of existing 4no billboards and erection of 3no 48 sheet internally illuminated LED digital freestanding billboards at Four Board Advertising Right at TTS Car Sales, Archer Road, Sheffield, S8 0LA (Case No: 22/01485/HOARD) has been allowed conditionally.

##### Officer Comment:-

The Inspector considered the main issues to be the effect of the development on amenity and public safety.

In terms of amenity, he noted the commercial nature of the site and its surroundings, with many properties with considerable amounts of signage, and also that residential property was separated from the site by a wooded embankment. Although more modern in appearance than the existing 4 'paper' hoardings on the site that the new panels are to replace, he felt they would not be more obtrusive or result in undue harm to the amenity or local distinctiveness of the area.

With regard to public safety he noted the proposed hoardings would be positioned obliquely to the highway for road users and those of the nearby traffic lights in comparison to the existing adverts. As with amenity, the Inspector considered the area already had a commercial character and appearance where adverts are commonplace, including the 4 poster panels currently on site. In that context the Inspector did not consider the hoardings would interfere with the traffic lights or cause considerable distraction to present a public safety impact.

He therefore allowed the appeal.

## 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 erection of a canopy to the side of the premises at 990 Abbeydale Road, Sheffield, S7 2QF (Our Ref: 20/00333/ENUD, Planning Inspectorate Ref: APP/J4423/C/23/3317254).

## 7.0 ENFORCEMENT APPEALS DISMISSED

(i) To report that an appeal against the Enforcement Notice issued by the Council for the breach of conditions 2, 6 and 7 imposed by planning permission 94/1522P (Appeal A), the unauthorised raising of the land level, use of land as part of the residential curtilage of Ivy Cottage, and the erection of a retaining wall around the land (Appeal B) at Slack Fields Lane and Storth Lane, Warncliffe Side, Sheffield, S35 0DW (Case Ref 21/00567/ENUD), Planning Inspectorate refs: APP/J4423/C/21/3289754 (Appeal A) and APP/J4423/C/21/3289755 (Appeal B)).

### Officer Comment:-

The appellant appealed against the service of the notice on multiple grounds, namely ground (a) that planning permission should be granted to allow use of Slack Fields Lane for access to the three dwellings created under planning permission 94/1522P, ("the 1995 permission") when it was not possible to use Owler Gate for access (due to bad weather) as required by condition 2; (b) that the matters alleged in the notice have not occurred, (c) if the matters alleged have occurred, they do not constitute a breach of planning control, (d) that at the time the notice was issued it was too late for enforcement action to be taken, (e) that the notice was not served correctly, (f) that the requirements of the notice exceed what is necessary to remedy the breach of control alleged, (g) that the time given to comply with the notice is too short.

On the Ground (a) (appeal failed). The main issue in this case was highway safety for vehicles and pedestrians using the Lane. Condition 2 states: "The sole means of access to and egress from the site shall be gained from and to Owler Gate." The Inspector concluded that allowing the condition 2 to be modified would increase the hazards on the already narrow unmade lane and moreover the appellant's suggested modification to the condition to refer to "emergency access" and "bad weather" (permitted use in such events) would

be imprecise and unenforceable, being subjective terms that do not meet tests of Paragraph 56 of the National Planning Policy Framework.

Ground (b) and (c) (Appeal failed) The 1995 Permission required a physical barrier to be provided to stop use of Slack Fields Lane by vehicles. The barrier is provided and retained but unauthorised development in the adjacent field to the barrier and the Lane, (see Appeal B below), has created the possibility for vehicles to bypass the barrier (a 'means' of access). The Inspector concluded, notwithstanding the intended purpose of the Appeal B (Enforcement Notice 2) development, that there was as a consequence of it, a 'means' of access / egress in breach of Condition 2 of planning permission 94/1422P and further he concluded that there is evidence to show that the barrier had been bypassed (rounded) by a vehicle driving over the new means.

Ground (d) (Appeal failed). The appellant also argued that there was an uninterrupted breach of condition 2 over the proceeding ten years. The Inspector concluded that there probably had been low level sporadic use of the lane in breach of condition 2 (before the Enforcement Notice 2 / Appeal B development took place through opening and closing the barrier) such that it would not have been possible for the Local Planning Authority to take enforcement action, each breach being a separate event with significant gaps in between, rather than a continuous breach. On the balance of probabilities this appeal failed.

Ground (e). Appeal was withdrawn at the Inquiry.

On Ground (f) (This appeal succeeded in part). The notice required a wall to be constructed along the full length of Slack Fields Lane above the barrier, (to replace a wall removed to facilitate Enforcement Notice 2 / Appeal B development), to prevent the bypassing of the barrier on the lane. The Inspector agreed that building a full wall to comply with the condition 2 was excessive. It was agreed at the public inquiry between the parties that if the Appeal B (Enforcement Notice 2) was dismissed then the requirement to build a wall should be deleted from the Appeal A notice. Appeal B was dismissed, and the Inspector varied the notice to delete the requirement to build a long wall from this Appeal A / Enforcement Notice 1.

On Ground (g) (appeal failed). The Inspector noted the deletion of the requirement to build a wall from the Enforcement Notice 1 and concluded that 2 months was sufficient to comply with the notice in its other respect – stop the use of Slack Fields Lane for access / egress to the Slack Fields Farm dwellings.

(ii) To report that an appeal ("Appeal B") against the Enforcement Notice ("EN2") issue, Field off Storth Lane and Slack Fields Lane, Wharnccliffe Side, S36 0DW, (adjacent to and, for the benefit of, Ivy Cottage, Slack Fields Farm) (Planning Inspectorate Ref: APP/J4423/C/21/3289755) has been dismissed.

The appellant appealed against the service of the notice on multiple grounds, namely ground (a) that planning permission should be granted for the infill of a significant portion of the field to raise the land level up to that of the adjacent Ivy Cottage on Slack Fields Lane and allow the material change of use of the developed land as garden in connection with Ivy Cottage, (b) that the matters alleged in the notice have not occurred as a matter of fact, (this ground of appeal was withdrawn just prior to the public inquiry starting), (c) that if the matters alleged did occur they do not constitute a breach of planning control, (e) that the notice was not served correctly, (f) that the requirements of the notice exceed what is necessary to remedy the breach, (g) that the time given to comply with the notice is too short.

Ground (a). (Appeal failed). The Inspector considered whether the development is inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies; the effect of the development on the openness of the Green Belt; whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

The inspector concluded that the development was inappropriate in the Green Belt and considered it harmful. He determined that (1) the development placed approx. 400 tonnes of fill material over an area of 300m<sup>2</sup> significantly raising the levels by between 1m and 1.5m in height and that the development has changed the nature of the land. It was previously an open field providing foreground to the Slack Fields Farm complex and it now reads as part of the farm complex, encroaching further into the field. (2) Although the relocated dry stone retaining wall maintains its role within the wider network of dry stone walls, it nevertheless extends for 60m and has the function of enclosing the Land. It has thus reduced in spatial terms the contribution of the Land to Green Belt openness. Moreover, whilst the change which has taken place is less appreciable the further away it is viewed from, the change in the height and sense of enclosure is highly apparent from the public right of way which runs across the field, adjacent to the Land. Whilst the appellant argued that no residential paraphernalia such as chairs or tables had been put on the Land to this point, the introduction of the Land into the confines of the residential setting, and its use as residential garden, would encourage domestic items to be placed upon it in the future. The additional human activity that arises from the extended garden for Ivy Cottage would be a marked change in character from the previous use of the Land for agricultural purposes. It would also, in visual terms, have the effect of extending the envelope of built development within Slackfields Farm to the east, bringing it closer to the built-up area of Wharncliffe Side and reducing the sense of separation the farm complex has currently.

#### *Other Considerations*

The appellant argued that the operations involved in restoring the Land to its former condition are complex and will result in significant disturbance and interruption. The Inspector accepted that the works to remove the wall, the soil and regrade the Land will result in visual harm to the landscape. However,

determined that such effects will be temporary, and over a limited period, particularly when compared against the Green Belt harm deriving from the permanence of the development.

#### *Very Special Circumstances*

Substantial weight was attributed to the Green Belt harm which arises by reason of inappropriateness in accordance with para. 148 of the Framework and, to the harm which arises to the openness of the Green Belt. In favour of the development, little weight was attributed to the temporary harm arising from the works required to restore the Land to its former condition and, to the alleged fallback position and to the prospect of imposing a condition to remove permitted development rights. The Inspector concluded that the harm arising to the Green Belt by reason of inappropriateness and harm to openness is not clearly outweighed by other considerations and no planning conditions could be imposed which would overcome the identified harm. Very special circumstances necessary to justify the development do not exist. It conflicts with UDP Policies GE1 and GE3, as well as the policies of the Framework.

#### *Alternative*

As aforementioned, the appellant suggested that a wall of similar siting, design and height (as in the notice) could be erected under the GPDO following compliance with the notice. However, whilst the wall without the engineering operations and material change of use would be less harmful to the Green Belt than the development subject of EN2 in its entirety, it would nevertheless have the effect of extending the envelope of built form northwards into the open field. Even with the Land reinstated to its previous contours and use, a wall in the same location would still have the same effect of visually enclosing the Slackfields Farm complex and encroaching into the Green Belt. The erection of a wall would amount to inappropriate development in the Green Belt and not meet any of the exceptions within the Framework. It would also, for the reasons set out, result in harm to Green Belt openness. That overall harm to the Green Belt is not clearly outweighed by other considerations.

Ground (b) This was withdrawn at the Inquiry.

Ground (c) This ground of appeal failed. The appellants argued that the wall was a free standing wall benefitting from permitted development and the infill material was added afterwards, albeit very soon afterwards. The Inspector determined in favour of the Council's case that it was part and parcel of the whole operational development cited in the notice EN2, namely an engineering operation to fill the land and retain the new level with a wall.

Ground (e) This appeal was withdrawn at the Inquiry.

Ground (f) (failed). The appellant argued that a fallback position of permitted development for a free-standing wall but the Inspector rejected this ground of appeal failed.

Ground (g) (succeeded). The Inspector noted that it took 2 to 3 months to complete the development, the need to remove material off site and employ specialist contractors to dismantle and re-erect a dry retaining stone wall. He agreed with the appellants argument that 6 months was required to remedy the harms.

#### 8.0 ENFORCMENT APPEALS ALLOWED

Nothing to report.

#### 9.0 RECOMMENDATIONS

That the report be noted.

*Michael Johnson*  
Head of Planning

*18 April 2023*