



## SHEFFIELD CITY COUNCIL Planning & Highways Committee

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**Report of:** Director of Regeneration and Development Services

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**Date:** 13 August 2013

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**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

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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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## DEVELOPMENT SERVICES

REPORT TO PLANNING &  
HIGHWAYS COMMITTEE  
13 August 2013

### 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 a single-storey front extension, re-roofing and render to side elevation of garage at Edgedale Garage, 2 Edgedale Road, Sheffield, S7 2BQ (Case No 13/00757/FUL)

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to grant conditionally planning permission for application to extend permission for a further 3 years (Application under Section 73 to vary/remove condition No.1 as imposed by planning permission 10/00775/CHU - Continuation of use of land as a car wash site between 0800 - 1800 hours and as a car park between 1830 - midnight on any day) at Arena Hand Car Wash, Broughton Lane, Sheffield, S9 2DE (Case No 13/00122/FUL)

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to grant part refuse part advertisement consent for 3 banner signs at Toys R Us, Unit A, Meadowhall Retail Park, Attercliffe Common, Sheffield, S9 2YZ (Case No 13/01438/ADV)

(iv) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for a Side extension to dwellinghouse with storage area under (amended description) at 11 Chestnut Drive, Sheffield, S35 1YZ (Case No 13/00828/FUL)

### 3.0 APPEALS DECISIONS - DISMISSED

(i) An appeal against the decision of the Council at its meeting of 23 October 2012 to refuse planning consent for erection of a dwellinghouse at Curtilage Of 6 Watersmeet Road, Sheffield, S6 5FA has been dismissed (Case No 12/02503/FUL)

Officer Comment:-

The Inspector considered the main issue in this appeal to be the effect of the proposed development on the character and appearance of the surrounding area.

The existing character of this road is of semi-detached dwellings and bungalows in a linear pattern with the appeal property and the attached dwelling being set back providing a sense of openness at the highway junction. To provide a reasonably sized rear garden, the proposed dwelling is set forward of numbers 6 and 8 and so would encroach upon the junction and diminish the openness to an unacceptable degree compromising the character of the area.

With regard to the design of the proposed dwelling, the Inspector was of the view that the asymmetrical roof and random fenestration and two-storey bay feature have very little architectural affinity with the other dwellings in the surrounding area which have a discernible consistency in form scale and proportions and which provide visual rhythm and creates a pleasant residential environment. This also detracts from the character and appearance of the surrounding area.

Consideration was given to the existing screen hedging around the site but as it was of finite life span or could be removed in future, it would leave the proposed dwelling far more prominent. The proposal would also contribute to the housing mix but it was considered that this should not be at the expense of its environmental quality.

The Inspector considered that the proposal would cause serious harm to the character and appearance of the locality and contravene UDP and Core Strategy policies and so dismissed the appeal.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning consent for alterations to car showroom including installation of roller shutters for use as additional bays to repair garage/MOT testing centre, rendering of building and erection of 1.8 metre boundary wall (Retrospective application) at The Meersbrook Garage, 1 - 7 Meersbrook Road, Sheffield, S8 9HU has been dismissed (Case No 13/00177/FUL)

Officer Comment:-

This is the first of two appeals relating to the same site (see enforcement appeals below).

The background to this case is that the garage had expanded without planning permission, and there followed unsuccessful retrospective planning applications, and a lawful use application that was refused and dismissed on appeal.

This appeal related to a further application for planning permission that was

supported by a noise report, in order to seek to remove concerns about noise impact from the use.

The Inspector considered there to be two main issues. These were whether the increased activity from the change of use and alterations would:-

- Result in noise nuisance to residents; and
- Create highway safety issues due to excessive parking and poor visibility.

On the matter of noise, the Inspector noted the submission of a noise report, following appropriate methodology (BS4142) and which established low levels of noise, unlikely to lead to complaints. He accepted the Council was right to be concerned about intermittent workshop noise but felt that the survey had appropriately considered this, and that the Council's Environmental Protection Service (EPS) endorsement of the report was significant as were the absence of complaints about noise outside the application process.

Therefore whilst he accepted there was likely to have been a noise increase since the change of use, the Council endorsed noise report carried significant weight and in the absence of contrary evidence presented by the Council, and the absence of complaints he concluded that any increase would not be so great as to cause material harm to neighbours.

Concerning the parking issue, he concluded that although there is a significant amount of parking available on site, from the evidence and his observations, it is often insufficient, supporting neighbours' concerns that the use has become too intensive for the site.

The visibility issue relates to the height of the boundary wall around the site, at 1.8m, causing driver/pedestrian visibility problems at the site entrance/exit. The Inspector noted the visual improvement the site due to the wall alterations, but agreed with the Council that the poor visibility it created represented a significant hazard to highway safety. He further felt that the situation could be resolved by planning conditions that required a reduction in height of specific sections next to entrances to allow for visibility, and refusal of permission was not therefore justified on this point alone.

In summary, he did not find evidence that the increased noise levels were detrimental to neighbours amenity, and as such there was no conflict with UDP policy H14. He did however conclude that the intensive parking of cars around the site constituted a serious hazard to highway safety that cannot adequately be overcome by conditions.

He therefore dismissed the appeal.

#### Costs Decision

The appellant sought a full award of costs because he contended that the Council pursued the matter of noise impact on residents without any substantial evidence to support their assertions that noise impact justified

refusal of permission and taking enforcement action.

The Inspector considered that the Council's pursuance of an objection relating to noise and disturbance was not founded upon substantial evidence, and furthermore it was pursued in the face of contrary evidence from the applicant/appellant and its own experts (EPS). It had relied upon vague assertions from residents, and the Inspector noted the absence of formal complaints about noise outside the application process. He considered this to be unreasonable in the context of Circular 03/2009.

He was however satisfied that evidence was provided to substantiate the highway safety issues exacerbated by the parking of vehicles associated with the intense use of the site and concluded the Council's decision to pursue this matter was based on valid planning reasons, and sufficient evidence for it to be reasonable within the context of Circular 03/2009.

He therefore concluded that a partial award of costs, relating to the pursuance of the issue of noise and disturbance was justified.

#### 4.0 APPEALS DECISIONS - ALLOWED

(i) To report that an appeal against the decision of the Council at its meeting of 17 April 2012 to refuse planning consent for erection of 387 dwellinghouses, provision of public open space, formation of 2 no. playing fields, landscaping and associated infrastructure at Site Of Parson Cross Centre, Remington Road And Land At Montenev Road And Morrall Road, Sheffield, S5 9AF has been allowed (Case No 11/02168/FUL)

##### Officer Comment:-

The appeal was recovered for the Secretary of State's own determination because it involved proposals for residential development on a site of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. A public Inquiry was held to examine the reasons for refusal of permission.

At the Inquiry, the main considerations were considered to be;

- whether the proposed development would be sustainable,
- the effect on the provision of open space,
- the effect on the character and appearance of the locality,
- the effect on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities and an assessment against the Development Plan and national policies.

Sustainability

The scheme was considered to be an efficient use of brownfield land and in close proximity to shops, services, employment opportunities and transport. Redevelopment would support economic growth, much needed housing would be provided and the houses would be built to Code for Sustainable Homes Level 3. The scheme was considered sustainable. As the Council does not currently have a 5 year supply of housing, this gave a presumption in favour of sustainable development.

#### Open Space

The proposal would result in the loss of open space in the locality. However, the Inspector considered that the proposals would provide facilities for outdoor sport and so would meet the objectives of development plan policy. Significant weight was given to the beneficial consequences of the development which would also contribute to the identified deficiency in children's play facilities through the Section 106 agreement.

#### Character and appearance of the locality

The Inspector considered that revisions to the scheme made during the assessment of the application significantly improved the quality of the scheme by providing a layout (and as a result of addressing other matters) that is more responsive to the existing character and appearance of the locality.

In this respect, the street frontages, along with the highway layout would create a legible street scene with a clear character even where the frontage loses the strength of its definition by the variety within it.

Although the proposed architecture would not be exiting or innovative, the Inspector considered that there would be sufficient variation between house types and treatments to ensure there would be common points to enable the proposed dwellings to successfully respond to local character. There is proposed to be significantly more variation in roofscape than in the surrounding area but it was felt that the strong building lines would compensate for the uncharacteristic roof lines.

The treatment proposed for the estate roads would not provide a clear expression of a street hierarchy and would erode the effectiveness of carriageway width to signal change. However, the Inspector considered that the provision of "gateways or pinch-points, changes in surfacing and the hedge and tree planting, although subtle, would offset the erosion of hierarchy.

There are areas of the scheme where the layout does not result in an effective termination of views and would cause a perception of space "leaking away" such instances could be considered poor design especially within the context of Parson Cross where views are typically terminated by built form intended to serve that function. However, the Inspector considered that whilst these weaker elements of the scheme occur frequently, they are not a predominant

part of the development and need to be considered within the context of the development as a whole.

Overall, the Inspector was of the view that, whilst there were areas that could be improved, the scheme as a whole was not poor design. In the circumstances surrounding this proposal, the Inspector considered it would respect and enhance the character and appearance of the locality and so would add significant weight in its favour.

Secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

The Inspector was of the view that the scheme would transform the physical environment for the better whilst retaining pedestrian permeability through the site for access to local facilities and services. The developer's business model aims to ensure 90% of local people would be able to afford the new dwellings. The legal agreement under Section 106 would enable the provision of affordable housing to be addressed during development of the sites and this adds considerable weight to the proposal.

The scheme would secure a better balance between housing demand and supply and help create high quality sustainable mixed and inclusive communities

## Conclusion

The Inspector considered that this case illustrates the challenges faced by an ambitious local authority which seeks to drive forward the design of a major development to create places of a comparable standard to other schemes referred to, and those of a developer that has a clear appreciation of their market and what will be deliverable on a site with the circumstances that apply in this instance.

In relation to the other considerations raised in this case, which include highway safety, flooding and wildlife, local living conditions and the economy, the appeal proposal complies with UDP policies T25, GE11 and H14, Core Strategy Policy 67, and objectives reflected in paragraphs 17 and 19 of the Framework.

The appellant, in seeking to meet our concerns, has modified its normal approach. The current scheme would provide much needed housing within the City and aid regeneration. It aims to do so in a way that directly addresses the affordability of the dwellings to local people and their potential circumstances. In this regard the proposed dwellings would be low cost market housing, rather than 'affordable'.

In this case, there are no adverse impacts that significantly and demonstrably outweigh the benefits when assessed against the

development plan, and the policies of the Framework taken as a whole.

This being the case, the Inspector recommended to the Secretary of State that the appeal should be allowed subject to conditions.

#### Secretary of State Decision

After consideration of the Inspector's report, the Secretary of State agreed that the main issues were those identified by the Inspector.

The Secretary of State agreed with the Inspector's reasoning and conclusions. He acknowledged that the case illustrates the challenges faced by an ambitious authority seeking to drive forward the design of a scheme and those of a developer that understands its market and what is deliverable in individual circumstances.

After careful consideration of the issues he agreed with the Inspector that in this case the balance of considerations lie in favour of the appeal scheme. The appeal site, although not allocated for development, has been available to the market and considered for housing development for some time. Its development would aid regeneration and provide low cost housing. It would also contribute to meeting the shortfall in five year land supply in a sustainable location.

In seeking to meet the Council's concerns about design, the Appellant has modified its normal approach to development on sites with challenging marketing conditions. The Secretary of State agrees that, although elements of the proposal could be improved, overall it is not a poor design that would warrant a refusal of permission. He agrees that it is a successful response to the locality and the intended market and complies with many elements of development plan policies.

Accordingly, the Secretary of State allowed the appeal subject to conditions and a legal agreement

#### Application for Costs

The appellants considered the Council to have acted unreasonable when attaching a reason for refusal that was subsequently agreed through negotiation. The Secretary of State concluded that the Council had made its position clear in September 2011 and did not act unreasonably by subsequently addressing these matters when the decision was made. Indeed, in accordance paragraph B16 of the Circular, it was necessary for its reasons for refusal to be complete. Accordingly, the local planning authority did not act unreasonably in regard to the first reason for refusal.

With regard to the second reason for refusal, the Secretary of State considered that the Council's reason for refusal identified the harm



and the policy conflict The inquiry clarified the most appropriate approach to the calculation of open space within the context of the extant planning policies. It has not been shown that the Council acted unreasonably in arriving at its conclusion and the resulting second part to the reason for refusal.

The Secretary of State concluded that in this appeal, the Council's evidence has demonstrated a clear understanding of context and why it considered that the appeal scheme would fail to promote or reinforce local distinctiveness. While on balance he disagreed with the Council's conclusion on the appropriateness of the proposed design, it reached its conclusion within the context of locally adopted and national planning policies. The local planning authority did produce sufficient relevant evidence to substantiate the second reason for refusal.

For the reasons above, the Secretary of State considered that the Council's approach to the decision was reasonable. It did not prevent or delay development which should clearly have been permitted with regard to the development plan, national policy and other considerations. Accordingly, he concluded that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated. An award of costs was not justified in this case.

## 5.0 APPEAL – ENFORCEMENT NOTICE

(i) To report that an appeal against a Enforcement Notice served in respect of unauthorised alterations to Car Showroom for use as additional bays to repair garage/mot testing centre and erection of 1.8 metre high walls at Meersbrook Garage, 1-7 Meersbrook Road, Sheffield, S8 9HU has been dismissed

### Officer Comment:-

The enforcement appeal was based on ground (a) and ground (f) of section 172 of the Town and Country Planning Act 1990 as amended.

Ground (a) appeals consider the question of whether planning permission should be granted for the breaches of control set out in the enforcement notice.

The ground (a) appeal is essentially dealt with by the Inspector in consideration of the appeal at 3.0 ii) above, against the refusal of planning permission, and for the reasons set out in that case, the ground (a) appeal failed.

Ground (f) appeals consider the question of whether the steps specified in the enforcement notice are excessive.

The inspector considered the complete removal of the boundary wall was excessive, partly due to the benefit of the visual improvement offered by the wall, and amended the notice to require reduction in height at the crucial points close to the vehicle entrances for visibility reasons.

## 6.0 RECOMMENDATIONS

That the report be noted

David Caulfield  
Head of Planning

*13 August 2013*