

## Planning Committee

Report of Head of Planning and Building Control on 01 April 2021

Plans List Item Number: 7

### Reason for bringing to committee

Councillor Application

### Application Details

**Location:** 44, MELLISH ROAD, WALSALL, WS4 2ED

**Proposal:** RETROSPECTIVE APPLICATION FOR THE RETENTION OF A DORMER WINDOW TO THE REAR

**Application Number:** 20/1282

**Case Officer:** Leon Carroll

**Applicant:** Mr Suky Samra

**Ward:** St Matthews

**Agent:** Mr James Brookes

**Expired Date:** 28-Dec-2020

**Application Type:** Full Application:  
Householder

**Time Extension Expiry:**

### Recommendation

Delegate to Head of Planning and Building Control to Grant Planning Permission Subject to Conditions and finalising of planning conditions



## Proposal

This proposal is retrospective and relates to the retention of a dormer window to the rear. The dormer is located facing sideways on a recently constructed two storey rear extension.

The new dormer measures:

2.3m wide

2m high

3m deep

## Site and Surroundings

The application site is an extended two storey detached dwelling which is located on Mellish Road, whilst the side of the property adjoins Rushwood Close. The area is characterised by detached dwellings with a mix of large and small plots which come together to form an area of established residential character.

## Relevant Planning History

07/1523/FL/H1: First floor side and rear extension and lean-to roof over single storey rear extension: Permission Refused 5 October 2007. Appeal dismissed.

08/1440/FL: Proposed first floor side extension over garage and retention of ground floor extension to rear: Permission Refused 9 December 2008

09/0011/FL: Proposed first floor side extension over garage: Permission Refused 8 April 2009

19/0277: First floor side extension including new front gable feature and altering to main roof, first floor rear extension, plus loft conversion. GSC 06/08/20

20/1119: Variation of condition 2 for application 19/0277 - first floor side extension including new front gable feature and altering to main roof, first floor rear extension, plus loft conversion. GSC 15/12/20

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

The NPPF sets out the Government's position on the role of the planning system in

both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- ENV32: Design and Development Proposals

### **Black Country Core Strategy**

- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development

- DW10 Well Designed Sustainable Buildings

## Consultation Replies

**Pollution Control** – No specific requirements.

## Representations

One letter of objection from a nearby neighbour was received on the following grounds (*Officer comments in italics*):

- The dormer window has already been constructed (*the officer's site visit confirmed that the dormer has already been constructed. However retrospective planning applications must be considered by the LPA on their own merits*).
- Other unauthorised works have taken place (*the LPA has a duty to consider the proposed works as set out in this current application. Any unauthorised works or deviations from previously approved plans are a separate matter for planning enforcement to consider*).

## Determining Issues

- Design and appearance
- Impact on residential amenity

## Assessment of the Proposal

### Design and Appearance

The proposed dormer window is located to the rear of the existing dwelling and is screened to a large extent by the two rearward projecting extensions which have recently been constructed. The dormer is not considered to be excessively large, and will not be overly prominent from public vantage points. On balance, the proposal is considered would not result in any significant additional harm to the character or appearance of the application house or to the surrounding area and a refusal would not be warranted in this instance.

A condition would be included to secure the use of appropriate external materials to ensure satisfactory appearance.

### Impact on Residential Amenity

Whilst the proposed dormer window will be side facing, it is considered that the proposal would not result in overlooking of Nos 2 and 4 Rushwood Close due to the existing two storey rear projecting extension at the application house which has been constructed following recent planning approvals. There is potential for some degree of overlooking of No 6 Rushwood Close, albeit at a 45 degree angle. However as the proposed dormer window is only to serve a non-habitable store room, it is considered

reasonable to impose a planning condition requiring the window to be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above internal floor level. This would help to minimise any perceived overlooking or loss of privacy to neighbours and is considered acceptable on these grounds.

The proposed dormer window will not result in any additional loss of outlook for neighbours or cause any overshadowing. Overall, and subject to the above planning condition, the proposal is considered acceptable and would not result in any adverse impacts on the living conditions of the occupants of neighbouring dwellings.

### **Conclusions and Reasons for Decision**

The proposed dormer window extension would not have any significantly adverse impacts on the character and appearance of the existing dwelling or the wider street scene, and would not harm the living conditions of the occupants of neighbouring dwellings. Taking into account the above factors it is considered that the application should be recommended for approval.

### **Positive and Proactive Working with the Applicant**

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. The National Planning Policy Framework encourages pre-application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

### **Recommendation**

Delegate to Head of Planning and Building Control to Grant Planning Permission  
Subject to Conditions and finalising of planning conditions

### **Conditions and Reasons**

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Block and Location Plan Dwg No 51 received 2<sup>nd</sup> November 2020
- Proposed Floor Plans and Elevations Dwg No 53 Revision B received on 15<sup>th</sup> March 2021

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. The development hereby permitted shall not be constructed other than using the materials as described on approved plan 'Proposed Floor Plans and Elevations Dwg No 53 Revision B' received on 15<sup>th</sup> March 2021 and the facing materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan.

4. Notwithstanding the details submitted, the dormer window hereby permitted shall not be constructed other than as obscure glazed to Pilkington (or equivalent) privacy level 4 and there shall be no opening parts lower than 1.7metres from the floor level of the room they serve and the window shall thereafter be retained as such for the lifetime of the development.

Reason: To safeguard the amenities of the neighbours and to comply with saved policy GP2 of the Walsall Unitary Development Plan.

**END OF OFFICERS REPORT**