



Walsall Council

Planning and Building Control

Planning Committee 06 March 2025

Report of Head of Planning and Building Control

Plans list item number

Plans List Item number: 2

Reason for reporting to the planning committee.

Called in by Councillor Hassan on the grounds that the proposed development would not cause significant harm to the amenities of the surrounding area from parking/ traffic/ noise/ disturbance/ odour or loss of TPO trees and that it will improve what is already there with a more quality and modern building. There will be no detrimental impact to neighbours or to the street scene. There are many different designs of buildings. The size of the building is not out of place in the street with some houses in close proximity either being the same size or much larger

Application details.

Application reference: 24/1607

Site location: 65, MELLISH ROAD, WALSALL, WS4 2DG

Application proposal: Full planning application for a replacement 6 bedroom detached dwelling.

Application type: Full Application: Minor Use Class C3 (Dwellinghouses)

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/1607>

Applicant: Rameez Ahmad 65, MELLISH ROAD, WALSALL, WS4 2DG

Planning agent: Pritpal Chana, Pritpal Chana Architects Ltd Pritpal Chana Architects Ltd, 216 Orphanage Road, Birmingham, B24 0AD

Ward: St Matthews

Red line location



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Recommendation

Refuse permission

Site and surroundings

A site visit was carried out on 13th February 2025.

The application site comprises a large, detached dwelling set back from the highway. The prevailing character of this section of Mellish Road is one of detached dwellings of similar proportions. Recent years have shown modernisation to the dwellings in this area which has created an evolving character amidst the traditionally designed dwellings.

There are no Listed or Locally Listed Buildings or other Heritage Assets in the vicinity of the site. The area is a low risk of flooding and low risk for features of coal mining. The site falls within the Cannock Chase SAC. There are no protected trees within the application site or surrounding sites.

Planning history

23/1183	Proposed 5 bedroom replacement dwelling with ancillary rear outbuilding to be used as a play room/Gym	Grant Permission Subject to Conditions	2024-01-22
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Relevant policies

National Planning Policy Framework (NPPF)

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". The NPPF is a material consideration in the determination of a planning application.

Human rights and reducing inequalities

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a

relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultee comments (officer summary)

Environmental Protection

No objections subject to condition to address the installation of any solid fuel burning appliance, approval of a construction management plan and a survey to identify and safely manage any potential asbestos containing materials.

Local Highway Authority

No objection subject to conditions to secure implementation and drainage of the frontage parking area, maintenance of a pedestrian visibility splay. Advisory notes provided.

Severn Trent water

No objections subject to a condition to secure approval of drainage plans for the disposal of foul and surface water flows.

West Midlands Fire Service

No objections This proposal will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

Public comments (officer summary)

Support

0 comments received in support of proposal

Objection(s)

1 comment received objecting to proposal for the following reasons:

- Stress and anxiety created by building works
- Potential loss of access to neighbouring site during building works
- Do not consent to access to neighbouring land for construction activity/scaffolding

Determining issues

1. Principle of development
2. Cannock chase SAC and HRA
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage

8. Ground conditions and environment

Assessment of the proposal

Principle of Development

The principle of development has already been established by application 23/1183 as detailed in the planning history, as this is a replacement dwelling in an established residential location and the proposal would be acceptable subject to the following matters being satisfactory.

Considering the reasons given for call-in of this application for consideration by the members of the Planning Committee, it is accepted that the proposed development would not cause significant harm to the amenities of the surrounding area from parking/ traffic/ noise/ disturbance/ odour or loss of TPO trees and the main considerations set out in this report relate to the proposed design and impact on neighbouring amenity.

Cannock Chase SAC and HRA

This proposed application is located within the 15km zone of influence of the Cannock Chase SAC but does not result in a net increase in dwellings and therefore no mitigation measures would be required.

Design, Layout and Character

The retention of a hipped roof design with a similar slope angle to the neighbouring dwellings would accord with the requirements of the SPD Designing Walsall Appendix D which requires the retention of hipped roofs where this is characteristic of the street scene.

Separation distances to either adjacent neighbouring dwelling are sufficient to limit the potential for terracing effect and to retain the clear gap between dwellings that is characteristic of the existing situation.

The increased roof height would not project above the height of neighbouring no. 67 Mellish Road and would sufficiently respect the prevailing roofline of the context row of houses on this side of Mellish Road.

Proposed facing materials are considered would integrate with the mixed and evolving street scene.

However, the forward projection of the proposed development in conjunction with the heavy glazing of the two-storey front gable elevation is considered would create an overly dominant and incongruous building amongst this row of dwellings. The applicant was advised of this at the pre-application stage. It is acknowledged that there is an existing central first floor portrait window and some feature first floor front gable glazing could be accepted at a reduced scale to the existing proposal. It was also advised at the pre-application stage that the apex glazing in the two front gable window features on either side of the main front gable would be an incongruous design, and that first-floor front windows should be of a height and design to match the neighbouring dwellings.

On balance, it is considered that the design of the proposed glazing in the front elevation would not integrate with the more traditional appearance of the row of dwellings that the site dwelling would be located amongst, and when seen in conjunction with the excessive forward projection of the replacement dwelling, the front elevation would have an overly dominant appearance in this street scene. This would be detrimental to the visual amenity of the street scene contrary to the requirements of the Black Country Core Strategy policies CSP4 and ENV2, saved policies of Walsall's Unitary Development Plan GP2 and ENV32 and the SPD Designing Walsall DW3.

Amenity of neighbours and future occupiers

The front elevation of the development is compliant with the 45-degree code and the requirements of saved UDP policy GP2 and is considered would have limited impact on the amenity of neighbouring occupants.

The proposed development would not project significantly beyond the rear elevation of no. 67 Mellish Road and is considered would have limited impact on the amenity of these neighbouring occupants in terms of outlook or light availability.

The proposed first floor rear master bedroom balcony is centrally located across the rear elevation and inset so that it would not project beyond the first floor rear elevation. The inseting of the balcony area and separation distance of 4.1m to the boundary with no. 67 Mellish Road and 5.7m to the boundary with no. 63 Mellish Road would limit sideward views towards neighbouring sites, so the balcony would be unlikely to cause any significant additional levels of overlooking towards neighbouring rear gardens above and beyond that which would be created by a regular habitable room window opening in this position.

The proposed single storey rear elevation adjacent to the boundary with no. 63 Mellish Road would project 9.4m beyond their nearest neighbouring habitable room rear window. 7.4m of this total depth would be composed of solid brick elevation topped with metal capping with a total height of 3.4m measured from ground level at the application site, and the remaining 2m depth of a timber trellis roof above an open patio area. The 45-degree code as detailed in the SPD Designing Walsall Appendix D, would be breached by this part of the development, with an additional distance of 3.2m of solid brick elevation projecting past the 45-degree line of view from the neighbouring window. It is accepted that given the northerly orientation of this row of houses with the sun facing towards the front elevations of the dwelling throughout the majority of the day, that this breach would have limited impact on their light amenity, but the depth and height of the proposed rear side elevation would extend the existing view of brickwork from their rear window, and when using their rear patio area, it is considered would unduly impact on their outlook, contrary to the requirements of saved UDP policy GP2. The impact would be exacerbated by the decrease in land

levels at the rear of the dwellings from the application site, down to neighbouring no. 63 Mellish Road.

There is an existing outbuilding along the boundary with no. 63 Mellish Road which projects 3.9m beyond their rear window and there is a breach of the 45-degree code created by this existing structure. As this structure has been in situ for many years and reflects the regular outlook for the occupants of no. 63, a side elevation constructed up to this depth at the rear of the replacement dwelling would be acceptable. The applicant was advised at the pre-application stage that the breach of the 45-degree code in this position was unacceptable therefore they are aware of the Council's concerns regarding the impact of the extension on the neighbour's outlook.

Whilst the front of the replacement dwelling would not cause any significant harm to the amenity of neighbouring occupants and the two storey rear element including the inset balcony could be supported, the excessive depth of the single storey rear element of the replacement dwelling, which would create a breach of the 45 degree code contradicts the requirements of saved Unitary Development Plan policy GP2 (Environmental Protection) and the Supplementary Planning Document Designing Walsall Appendix D (Numerical Guidelines for Residential Development), both of which are intended to protect the amenity of neighbouring occupants and therefore on balance the proposed design cannot be supported.

Concerns have been raised by residents regarding the impacts of the development during the construction phase. Whilst impacts on mental health do not form a material planning consideration, and permission for access to neighbouring sites for construction purposes is a civil matter between neighbouring landowners, in the event of permission being granted for the development, approval of a construction management plan would be required that would ensure that neighbouring sites are not obstructed during construction.

Highways

The site is located on Mellish Road which is an adopted classified road (A454) and a District Distributor. The site is set well back from the back of footway behind a wide highway verge

The site is currently accessed via Mellish Road, on the south boundary of the site, which provides access to a driveway located at the front of the dwelling. The access benefits from existing dropped kerbs. No changes to the access arrangements are proposed.

The development proposals include evidence of sufficient parking in line with Walsall UPD Policy T13 car parking standards. Four car parking spaces are located to the front of the dwelling.

The Local Highway Authority supports the proposal, subject to conditions to secure implementation and drainage of the frontage parking area and maintenance of a pedestrian visibility splay.

Ecology and Biodiversity Net Gain

A bat survey has been submitted with this application which is still considered to be valid as it was conducted within the last two years. Conditions to secure precautionary working methods to protect bats that could be present at the time of development, and for the installation of two bat boxes would be required.

Whilst the development would increase the footprint of the dwelling by more than 25m² above the existing dwelling, this would occupy an area of the rear of the site that is currently occupied by a patio with no planting. It is therefore considered that this development would be exempt from the biodiversity net gain condition, meeting the de minimis threshold of impacting less than 25m² of existing habitat.

Flood risk / Drainage

The site is in Flood Zone 1 and therefore not in an area at high risk of flooding. Severn Trent Water support the application subject to a condition to secure approval of drainage plans for the disposal of foul and surface water flows.

Ground conditions and environment

There are no known concerns regarding contaminated land or air quality at this site. Environmental Protection have no objections to the proposal subject to conditions to address the installation of any solid fuel burning appliance, approval of a construction

management plan and a survey to identify and safely manage any potential asbestos containing materials.

It is outside of the planning remit to enforce smoke control and therefore it would be irrelevant, unreasonable and unnecessary for a condition relating to solid fuel burning appliances to be included in this application.

Identification and safe removal of asbestos and a construction management plan could be secured by a pre-commencement condition.

Conclusions and reasons for decision

On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report. The proposed design of the front elevation would result in an overly dominant frontage, incongruous with this row of dwellings and the significant breach of the 45-degree code at the rear of the dwelling in respect of the neighbouring site at no. 63 Mellish Road, resulting in views of an excessive expanse of brickwork that would cause harm to the amenity of neighbouring occupants.

The applicant has been advised of these concerns at the pre-application stage and whilst some amendments have been made that are an improvement on the pre-application proposal, the amendments have not gone far enough to achieve a supportable application.

Taking into account the above factors it is considered that the application should be recommended for refusal.

Recommendation

Refuse Permission

Reasons for Refusal

1. The forward projection of the proposed development compared to the existing front elevation line, in conjunction with the excessive glazing of the two-storey front gable elevation and the apex glazing in the two front gable window features would create an overly dominant and incongruous front elevation amongst this row of dwellings of more traditional appearance. This would be detrimental to the visual amenity of the street scene contrary to the requirements of the Black Country Core Strategy policies CSP4 (Place Making) and ENV2 (Historic Character and Local Distinctiveness), saved policies of Walsall's Unitary Development Plan GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) and the Supplementary Planning Document Designing Walsall DW3 (Character).
2. The proposed single storey rear elevation would breach the 45-degree line of view from the nearest neighbouring ground floor habitable room rear window at no. 63 Mellish Road by a distance of 3.2m. This is contrary to the requirements of the Supplementary Planning Document Designing Walsall Appendix D (Numerical Guidelines for Residential Development). The expanse of brickwork created by the excessive depth of the single storey rear part of the dwelling, in conjunction with the height of the elevation, that would appear higher from the neighbouring site due to the decrease in land level at the rear of the dwellings from the application site down to neighbouring no. 63 Mellish Road, would cause harm to the visual amenity of these neighbouring occupants, contrary to the requirements of saved policy of Walsall's Unitary Development Plan GP2 (Environmental Protection).

End of report