



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 09 March 2023

Plans List Item Number:7

Reason for bringing to committee

Applicant is the brother of Councillor Ali

Application Details

Location: 58, REEDSWOOD LANE, WALSALL, WS2 8QP

Proposal: PROPOSED SINGLE STOREY REAR EXTENSION.

Application Number: 22/1376

Case Officer: Claire Woodcock

Applicant: Aamer Waheed

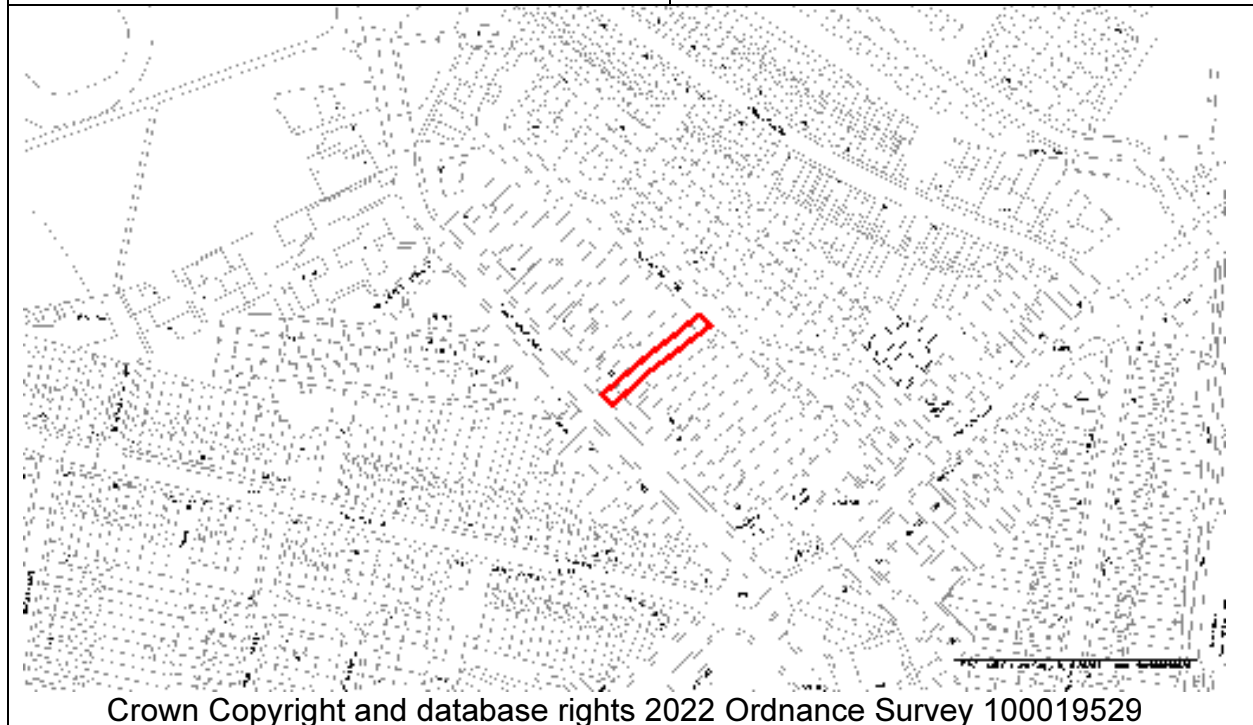
Ward: Birchills Leamore

Agent:

Expired Date: 30-Nov-2022

Application Type: Full Application:
Householder

Time Extension Expiry:



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Recommendation

Refuse

Proposal

The proposal is for a single storey rear extension. The proposed development will provide a larger rear kitchen and lounge.

The proposal includes four windows on the side elevation facing towards number 60 and patio doors with windows either side on the rear elevation facing towards the applicant rear garden.

The single storey rear extension dimensions are:

11 metres deep, measured from an existing two storey rear extension

5 metres wide

Having a tiled apex roof with four roof lights inset

2.2 metres high to the eaves

3.6 metres high overall

Site and Surroundings

The applicant property is a two-storey semi-detached dwelling, with hipped roof and porch extension with canopy above the front bay window at ground floor and is located on a mainly residential area. The prevailing hipped roof design is a consistent character of the surrounding area, where the properties are of a variety of designs, although mainly hipped, and balanced semi-detached 1930's dwellings.

A number of the surrounding properties have rear extensions, with some being large, although to the only changes to the front elevations are modest front extensions.

Number 58 has an existing two storey rear extension plus a single storey rear conservatory, to which the proposed single storey extension will replace and extend the area of the present conservatory.

Relevant Planning History

BC58658P 2-storey rear extension. GSC 25-Feb-2002

16/0711 Part double, part single storey rear extension. Refuse 26-Oct-2016
Refused for the following reasons:

1. The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane. For these reasons the proposals are contrary to Black Country Core Strategy policy ENV3, Walsall Unitary Development Plan saved policies GP2 and ENV32 and to Supplementary Planning Guidance: Designing Walsall.

2. The proposed side facing first floor windows of the proposed extension would have their outlook towards the blank rear wall of the neighbouring dwelling at 60 Reedswood Lane, but would be unduly close to this, so that the outlook would have an oppressive quality and the occupiers of the house as extended would experience a low level of amenity. The extension would therefore conflict with policy ENV3 the Black Country Core Strategy; 'saved' policies GP2 and ENV32 in the Walsall Unitary Development Plan; and policy DW3, together with guidance on separation distances in Appendix D, of the supplementary planning guidance, Designing Walsall.

3. The proposal to increase the number of bedrooms whilst only having two parking spaces would not comply with policy as three parking spaces are required for a house with four or more bedrooms. The proposed development is considered contrary to the aims and objectives of the National Planning Policy Framework including paragraphs 56, 57, 58, and 64, Walsall's Saved Unitary Development Plan policies, in particular GP2, ENV32, T7 and T13, and the Supplementary Planning Document "Designing Walsall".

22/1388 Proposed loft conversion with rear dormer and hip to gable roof change.
Refused 17-Feb-2023

Reasons for refusal:

1. The proposed design would not integrate with the original house and would unbalance the pair of semi-detached houses, creating an overbearing, bulky, incongruous feature within the street scene which is particularly prominent at first floor level and would be harmful to visual amenity and overall character of the area. The proposal is therefore contrary to policies ENV32 in Walsall's Unitary Development Plan and DW3 of the Designing Walsall SPD.
2. The application has failed to include conclusive evidence about the possible presence of bats, which are a protected species, or the impact on their roosts or habitats. The application is therefore contrary to Black Country Core Strategy Policy ENV1: Nature Conservation, Paragraphs 179-182 of the NPPF and the Supplementary Planning Document "Conserving Walsall's Natural Environment".
3. The proposed loft conversion with rear dormer and hip to gable roof alteration would have an overbearing and unacceptable impact on the light and outlook to the ground floor windows of number 60 Reedswood Lane due to its excessive height in relation to this neighbouring property and it is contrary to NPPF12 Para. 127, BCCS Policies CSP4, ENV2 & ENV3, Saved UDP Policy ENV32, and Appendix D of the Designing Walsall SPD.

Relevant Policies

National Planning Policy Framework (NPPF)

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 4 – Decision Making**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 56) 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 in the process and can speed up decision making. 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

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV3: Design Quality

Supplementary Planning Document

Designing Walsall

- DW3 Character
- Appendix D

It is considered in this case that the relevant provisions of the BCCS, Walsall's saved UDP policies and Designing Walsall and Conserving Walsall's Natural Environment SPD's are consistent with the NPPF.

Consultation Replies

Coal Authority – No comments

Ecology Officer - Support

Environmental Protection – Concerns raised

Relating to addressing the installation of any solid fuel appliance, and a request for a note to the builder to ensure appropriate Health and Safety measures are implemented.

Representations

None received

Determining Issues

- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways

Assessment of the Proposal

Design, Layout and Character

A number of the surrounding properties have larger extensions at the rear, although the only changes to the front elevations are modest front extensions.

Whilst number 54 has a large single storey rear extension, there does not appear to have been a planning application for this development. However, from the LPA's historical maps, appears to have been present since 2013 and therefore is considered lawful with the passage of time, but does not create a precedence in this location. The design of the rear extension will not be prominent from the street scene of Reedswood Lane due to the narrow separation distances between adjoining properties. Although the extension would be visible from public vantage points of Reedswood Close.

Nevertheless, the proposal is not acceptable in terms of design and appearance due to the scale and mass and siting measuring of the extension measuring 11 metres deep and 5 metres wide is considered will significantly detract from the character of the host dwelling due to its scale.

Amenity of Neighbours and Amenity of Future Occupiers

58 Reedswood Lane is a semi-detached dwelling paired with number 56, which has the benefit of a two-storey flat roof extension at the rear, which is in line with the applicants existing two storey rear elevation of number 58.

The existing conservatory of number 58 breaches the 45-degree guidelines by 2.9 metres in relation to number 56, however this is constructed of a glass roof and glass side elevations which allows light to pass through. Whilst the proposed extension will replace and extend the area of the existing conservatory the depth will be increased from 4.9 metres to 11 metres.

A previous application 16/0711, as detailed in the planning history was submitted, which included a single storey rear extension that measured 8.1 metres. This was refused for the following reason:

'The proposed two and single storey extensions would have an overbearing and unacceptable impact upon the adjacent property, in particular to the habitable room windows on the rear elevation and the garden area of number 56 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window at first floor and the quarter point of the nearest habitable room window on the ground floor at number 56 Reedswood Lane.'

Whilst the current proposal does not include a two storey rear extension, the proposed single storey extension would be joined onto an existing two storey extension and would be of a greater depth than the refused application 16/0711 and would breach the 45-degree guidelines. The current proposed extension breaches 45-degree code by 8.6 metres in relation to number 56 Reedswood Lane and 5.7 metres in relation to number 60.

It is considered the current proposal does not overcome the previous 2016 refusal reason. The current proposal would have an overbearing and unacceptable negative impact upon the amenities by way of shading, overshadowing and overbearing outlook of the habitable room windows on the rear elevation and the garden area of number 56, due to the scale and mass and siting of the extension measuring 11 metres deep by 5 metres wide. For clarity, should members wish to approve this application, scale and mass are material planning considerations with a genuine harm to the neighbour. Scale and mass cannot be set aside by saying they are subjective or by the personal circumstances of the applicant. Personal circumstances are not material planning considerations. Planning committee would need a planning land use reason to firstly explain why they disagree with the report's recommendation and then a planning land use reason for approving the application. Should members have a valid reason, it is suggested conditions are imposed, requiring the roof of the extension to be flat and the side facing windows be high level obscurely glazed and non-opening. Whilst the changes sought via condition would not be enough to outweigh the harm from the scale and mass, they will at least start to offer some mitigation to the level of harm. The correct mitigation would be to reduce the extension in depth to comply with the 45-degree code.

Number 60 Reedswood Lane has a single storey rear extension which is approximately 5.4 metres deep. The applicants existing conservatory complies with the 45-degree guidelines when measured against number 60's rear extension. The current proposed extension would breach the 45-degree code, when measured from the rear patio doors of number 60. Furthermore, there are a number of side facing windows on the single storey extension of number 60, which would face towards the windows of the proposed extension, the gap between the windows would be 3.5 metres, which would lead to unacceptable overlooking between the facing windows of number 58 and 60. However, the proposed windows in the new extension could be conditioned to be high level obscure glazing, which coupled with the existing boundary treatment between the two properties would mitigate some of the harm that would be created.

Number 60 is set to the north-west of number 58. The orientation of the houses and the position of the proposed extension means the sun rises in the east would move across to set in the west. This would result in the proposed extension creating significant shadowing to the nearest habitable windows of number 60 and the most sensitive part of the neighbours rear garden (nearest the house), from the early morning to the late afternoon due to the scale and mass of the extension. Reducing the extension to a low flat roofed extension, would start to mitigate some of the harm from the scale and mass of the extension, however, the proposed extension does need to be reduced in depth to comply with the 45 degree code.

The proposal does not comply with the 45-degree guidance, in relation to the nearest rear facing habitable windows of the neighbouring dwellings of number 56 and 60 due to the scale and mass of the proposed extension resulting in an unacceptable loss of light and outlook.

Concerns have been raised by Environmental Protection, relating to increasing air pollution from the installation of any solid fuel appliance. This could be conditioned and a request for a note to the builder to ensure appropriate Health and Safety measures are implemented due to ground conditions.

Highways

The proposals would not increase the number of bedrooms to the property. Therefore, will not have a detrimental impact on highway safety.

Conclusions and Reasons for Decision

The proposal does not comply with the 45-degree guidance, in relation to the nearest rear facing habitable windows of the neighbouring dwellings of number 56 and 60 and would result in an unacceptable loss of light and outlook. The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Officers have sought amendments to address concerns in relation to the depth of the proposal but amended plans have not been forthcoming to address the concerns.

Recommendation

Refuse

Reasons for Refusal

1. The proposed single storey extensions would have an overbearing and unacceptable impact upon the adjacent properties, in particular to the habitable room windows on the rear elevation and the garden area of number 56 and 60 Reedswood Lane and would result in unacceptable shading and overshadowing of the principal amenity area outside the main rear habitable room windows of number 56 and 60. Furthermore, the proposal fails to meet the Council's 45 degree code guidance from the midpoint of the nearest habitable room window on the ground floor at number 56 and Reedswood Lane.

The proposal would therefore be contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

2. The proposed single storey rear extension would give a separation distance of 3.5 metres to the side facing habitable windows of number 58 and number 60. It is considered that this proposal would lead to an increased level of overlooking between the two dwellings, which would be detrimental to the existing amenity enjoyed at number 60. This application is thus contrary to the Black Country Core Strategy policies CSP4: Place Making and ENV3: Design Quality and Walsall's Unitary Development Plan, in particular policies GP2: Environmental Protection, ENV32: Design and Development Proposals and Appendix D of Designing Walsall SPD

END OF OFFICERS REPORT