



Planning Committee

Report of Head of Planning and Building Control on 04 March 2021

Plans List Item Number: 8

Reason for bringing to committee

Significant Community Interest

Application Details

Location: 95, PARK HALL ROAD, WALSALL, WS5 3HS

Proposal: FIRST FLOOR REAR AND SIDE EXTENSION AND CONSERVATORY.

Application Number: 20/0927

Case Officer: Rebecca Rowley

Applicant: Mr & Mrs Kaylan

Ward: Paddock

Agent: Adam Design

Expired Date: 05-Oct-2020

Application Type: Full Application:
Householder

Time Extension Expiry: 08-Mar-2021

Recommendation

Grant Planning Permission Subject to Conditions



Officers Report

This application requests permission for the following extensions to a 3 bedroom house:

First Floor Side Extension:

To create 4th bedroom

- Depth: 4.4m
- Width: 2.5m
- Height to eaves: 5.1m (as existing)
- Height: 5m

One rear facing bedroom window is proposed

One side facing en-suite bathroom window is proposed

Ground floor rear Conservatory

- Depth: 2.4m
- Width: 6.4m
- Height to eaves: 2.5m
- Max height: 3.4m

The existing side facing kitchen window will require relocation along the side elevation to accommodate the conservatory extension.

Site and Surroundings

The application dwelling is a 3 bedroom detached house with a main front gable roof and original side garage with first floor extension over. There is also a single storey rear/side extension and detached outbuilding that have been constructed using permitted development rights. Facing materials are brickwork and tiles. There is a driveway in front of the dwelling with sufficient space to park 3 vehicles.

Houses in the street are a mixture of detached and semi-detached houses of similar design. There are many examples of extensions at ground floor and first floor to the side and rear in the locality.

The adjacent dwelling to the west side is no. 93 with a gap of 0.9m. The rear elevation is in alignment with the rear of the application dwelling apart from the rear side extension on the opposite side of the application house to the shared boundary with no. 93, which projects 3m deep.

The adjacent dwelling to the east side is no. 97 with a gap of 1m. No. 97 has a 2m deep rear conservatory which sits 1m back from the rear elevation of the application dwelling adjacent to the shared boundary.

The original rear gardens of houses on this part of the estate are notably shallow with the original rear garden at the application dwelling being only 8.8m deep. The rear window to window separation distance with houses on Falmouth Road is 18m. At the rear boundary is a coniferous hedge which is just over 2m in height.

Relevant Planning History

BC14725P – erection of bedroom with en-suite shower/toilet over garage – granted permission – 17/09/1985

BC33033P – single storey rear extension and alterations – granted permission – 15/07/1991

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 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.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP4: Place Making
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

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

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 SPD are consistent with the NPPF.

Consultee Comments

Park Hall Residents Association – no response

Representations

3 representations were received from 3 separate neighbouring households raising the following concerns:

- Invasion/loss of privacy
- Rear windows overlooking the rear of houses
- Trees have been chopped down at rear leaving the garden open
- It would bring their first floor closer to our property

Determining Issues

- Design of Extension and Character of Area
- Amenity of Nearby Residents
- Parking

Assessment of the Proposal

Design of Extension and Character of Area

Single storey rear and side extensions are a common feature in this area and are considered to reflect the evolving character of the locality. The proposed first floor extension would be located behind an existing first floor side extension and so would be obscured from view from the main public vantage point. The gap between the application dwelling and neighbouring no. 97 would be retained as existing. The single storey rear extension would also have no impact on the appearance of the dwelling within the street scene. Facing materials would match the existing building.

It is considered that this proposal would not cause significant harm to the character of the application dwelling or the locality in accordance with the requirements of BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3 and Appendix D.

Amenity of Nearby Residents

Concerns were raised by neighbouring occupants to the rear of the application site regarding the impact of this proposal on their visual amenity and privacy. The original proposal could not be supported because the proposed first floor rear window would not meet the required 24m separation distance between first floor habitable room windows as outlined in the SPD Designing Walsall, Appendix D. The first floor window separation distance between the original proposal and the nearest rear window at no 11 Falmouth road would have been 16.3m. The original layout of this estate provides many examples where the separation distance between first floor rear habitable room windows is less than what would be required for new development. In the case of the application dwelling and no. 11 Falmouth Road, the first floor rear habitable room window separation distance is 18m. The proposal has been amended to reduce the rear depth of the first floor side extension into alignment with the existing rear elevation. Therefore the rear window separation distance would now reflect the

existing situation and is considered would cause no further harm to the amenity of occupants from mutual overlooking than the existing situation.

As the first floor rear extension would now be in alignment with the rear of the property it would not be visible for occupants of no. 93 to the western side and is considered would not impact on their amenity. It would also project to the same alignment as the first floor rear elevation at no 97 to the eastern side, and is considered would have limited impact on their amenity.

The ground floor rear conservatory extension would be 2.4m in depth. It does not meet the requirements to be constructed using permitted development rights as it would attach to an existing rear side extension on the eastern side and the total extension would not meet PD requirements. The depth does however meet the requirements of the Council's 45 degree code for assessing the impact of development on neighbouring amenity, does not breach the 45 degree code in respect of ground floor habitable room windows at neighbouring no. 93 and would be obscured from view for occupants of no. 97 by the existing rear/side kitchen extension. It is considered that it would not cause significant harm to the amenity of either adjacent neighbouring occupant. Again, the rear separation distance would be less than 24m but this standard is specified for first floor and above developments so would hold less weighting for a ground floor window. The rear windows of the conservatory would look onto the applicant's own rear garden and there is a rear boundary fence. After the pruning that was referred to in one neighbour representation, 2m high conifers have been retained along the rear boundary. This would obscure views towards dwellings to the rear of the application site.

The addition of the rear conservatory would require removal of the existing west side facing kitchen window which looks onto the applicant's garden. The only window that would be retained in the kitchen would be a rear elevation window which faces the blank south side elevation of the rear outbuilding at a separation distance of approximately 1.5m. It is considered that this would result in an unacceptable outlook from this room and insufficient light availability to this habitable room. Amendments have been secured to include a rooflight in this room to address the reduced light concern and relocate the side facing window along this elevation looking into the rear garden area to give an additional outlook from this room.

Internal rearrangements would create a first floor side facing en-suite bathroom window. A condition will be included to secure obscured glazing in this room to protect the privacy of occupants.

It is considered that this proposal would accord with saved UDP policy GP2, subject to conditions as outlined in the conclusion.

Parking

In accordance with the requirements of saved UDP policy T13, a 4 bedroom dwelling requires a minimum of 3 off road vehicular parking spaces. There is sufficient space on the hard surfaced driveway to park 3 vehicles which accords with this policy.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance and representations received, it is considered that the proposal, according to the plans submitted, would not cause harm to the character of the house or the local area and would not harm the amenity of neighbouring occupants nor cause harm to highway safety in accordance with the requirements of the NPPF, policies CSP4 and ENV2 of the Black Country Core Strategy and saved policies GP2, ENV32 and T13 of Walsall Unitary Development Plan and Supplementary Planning Document Designing Walsall policy DW3 and Appendix D.

The use of safeguarding conditions in respect of the materials and plans to maintain its appearance and obscured glazing to maintain privacy will further ensure that the neighbours amenity is protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

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

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding rear window separation distances, and visual amenity for the existing kitchen, amended plans have been submitted which enable full support to be given to the scheme.

Recommendation

Grant Planning Permission Subject to Conditions

Conditions

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:

- Proposed Plans and Elevations, drawing no. 2 of 2, 2nd amendment, submitted 05/02/2021

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 walls and roof of the development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in the existing building 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 provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no side facing windows, doors, or other openings other than those shown on the approved plans, shall be installed in any part of this development.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with saved policy GP2 of the Walsall's Unitary Development Plan.

5: Notwithstanding the details as submitted, the development shall not be carried out otherwise than in accordance with the east side facing first floor en-suite bathroom window hereby permitted, shall be obscurely glazed to meet Pilkington level 4 or equivalent and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of adjoining premises, and the privacy of occupiers of the application property, and to comply with policy GP2 of Walsall's Unitary Development Plan.

Notes for Applicant

None

END OF OFFICERS REPORT