



Planning Committee

Report of Head of Planning and Building Control on 10 March 2022

Plans List Item Number: 7

Reason for bringing to committee

Called in by a Councillor G S Sohal on the grounds that sensitive planning decision making is required and community interest

Application Details

Location: 3, CHARLEMONT ROAD, WALSALL, WS5 3NG

Proposal: PROPOSED NEW 6 BEDROOM TWO STOREY DETACHED DWELLING WITH LOFT ROOMS AND A DETACHED DOUBLE GARAGE TO THE REAR WITH NEW VEHICULAR ACCESS FROM CANBERRA ROAD.

Application Number: 21/1624

Case Officer: Helen Smith

Applicant: Mr Choudhury

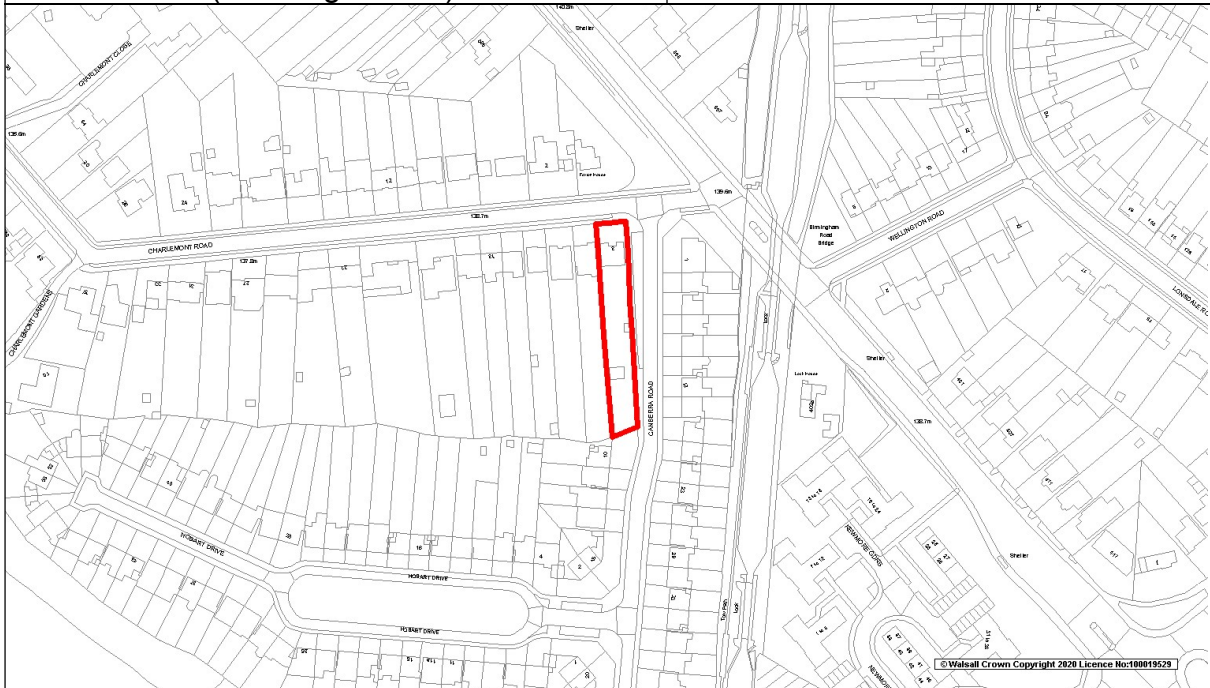
Ward: Paddock

Agent: Neil Boddison Associates Ltd

Expired Date: 03-Feb-2022

Application Type: Full Application: Minor Use Class C3 (Dwellings)

Time Extension Expiry:



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Recommendation

Refuse Permission

Proposal

This application proposes extensive changes to an existing house and consequently the planning application has been considered as a proposed new dwelling with a new detached double garage to the rear. The applicant has advised that this proposal is to assist with the health requirements of an existing family member.

The key features of the proposed development are as follows;

Proposed New Dwelling

- 2.5 storeys with a two storey front gable feature and vertical triangular glazing
- Gable roof design
- 1.1 metres forward of the front elevation of 5 Charlemont Road
- Boxed rear first floor bedroom window
- 6 bedrooms in total
- Loft bedroom and storage area
- Enclosed first floor rear balcony area
- Chimney breast on the side elevation facing Canberra Road
- 8.61 metres high to the ridge line
- 10.6 metres wide (two storey element)
- 16.1 metres deep (two storey element)
- 5.4 and 6 metres deep stepped single storey rear extension
- Set back 6.5 metres from Charlemont Road
- Set in between 1.2 and 0.7 metres from the side boundary with Canberra Road
- First floor gap of 1.1 metres between the proposed dwelling and the side boundary with 5 Charlemont Road
- Separation distance of 0.3 metres between the proposed single storey rear extension and the side boundary with 5 Charlemont Road
- Side facing non-habitable room windows including a high level window facing the boundary with 5 Charlemont Road at ground and first floor
- Side facing secondary habitable room windows and non-habitable room windows facing houses fronting Canberra Road at all three floor levels
- Rear angled glazed doors at ground floor
- Roof lights in the side and rear facing roof slopes
- Single storey rear extension would be stepped down to accommodate the lower ground level to the rear

New Garage

- 17.2 metres separation distance from the proposed new dwelling in the rear garden
- Positioned 0.5 metres from the rear garden boundary with 5 Charlemont Road
- Set in 4.9 metres from the side boundary with Canberra Road to create a gated driveway
- 6.5 metres deep
- New vehicle access would be created across verge and off Canberra Road
- Between 2.7 and 3.2 metres high with a mono-pitched roof design
- The new access would be opposite no's 7 and 9 Canberra Road

- The plans indicate there would be inset double gates off Canberra Road, inward opening and with a pedestrian visibility splay

The application is supported by the following documents;

Internal/External Bat Survey prepared by Dr. Stefan Bodnar, dated January 2022 which concludes the following;

- The existing building has negligible bat access potential and negligible roost opportunities for bats
- No further bat surveys are recommended
- Recommends that a single bat box is installed on the southern face of the building
- Procedures for emergencies if bats are discovered should be included and the advice of a licensed ecologist sought

Pre-Development Tree Survey BS5837:2012 prepared by Dr. Stefan Bodnar deposited January 2022 which recommends;

- Tree and Ground protection measures for the existing group of trees at 5 Charlemont Road
- Site clearance works should commence outside of the bird breeding season between mid-March to mid-July

Topographical Survey Plan dated August 2020 which shows that there is a 5 metres land level difference from the front to the rear boundary of this site (139.05 to 134.08 metres above sea level)

The submission is supported by a street scene drawing.

Site and Surroundings

The application plot is located on a corner at the road junction with Charlemont Road and Canberra Road. The land levels reduce in a southerly direction with the garden levels sloping down adjacent to Canberra Road. The application plot is 12.8 metres wide and 88.5 metres in length. The remaining private amenity area would exceed 600 sq. metres.

The existing house has a dual cat-slide roof design fronting Charlemont Road with a central front entrance door which has an Art Deco style brick surround and a part render and part brick exterior finish. There is a rear balcony and a rear dormer window in the existing house.

There is a rear garden patio area with steps down into the garden of no. 3 and stepped approximately 1.8 metres high timber fencing along the common rear garden boundary .

This part of Charlemont Road is residential in character and consists of large detached houses of varying design with the neighbouring houses having a 1930's character consisting of two storey gable features with traditional bow and angled bay windows and cat-slide roofs. Canberra Road consists of more uniformly designed, pairs of semi-detached houses.

There is a grassed verge along the highway adjacent to Canberra Road and the side boundary of the application plot. There is an existing dropped kerb on Canberra Road providing vehicle access to an existing garage/shed in the rear garden of the application plot.

The application plot has timber closed boarded 1.8 metres high fencing along its boundary with Canberra Road and a set of double gates. The neighbour at 5 Charlemont Road has a group of trees near to the proposed new detached garage.

The site is located within a Bat Buffer Zone and is a Coal Development Low Risk Area. Rushall Canal sits to the east of the application site and to the rear of houses fronting Canberra Road.

The neighbouring properties include;

5 Charlemont Road

This house sits to the west of the application plot with its rear elevation facing south. No. 5 has front and rear facing habitable room windows including a first floor bedroom window at the rear close to the boundary with no. 3. This neighbouring house has a single storey rear extension and a blank side wall facing no. 3.

1 & 3 Canberra Road

No's 1 & 3 Canberra Road site to the east of the application plot and there is a separation distance of 23 metres, between these neighbouring houses across the highway, to the side boundary of no. 3.

9 Canberra Road

This housesits to the south east of the application site and there would be a 25.8 metres separation distance from front habitable room windows in no. 9 Canberra Road and the proposed new garage.

10 Canberra Road

No. 10 sits to the south of the application plot and to the rear of 5 Canberra Road across a separation distance in excess of 65 metres.

Foxton House

This neighbouring house sits to the north and on the opposite side of Charlemont Road to the application plot across a separation distance of 31 metres.

Relevant Planning History

Land to rear garden of 3 Charlemont Road

03/2250/FL/E5 - New 3 bedroom detached dwelling with double garage & detached double garage to no 3 Charlemont Road (Resubmission of 03/1215/FL/E5) – refused permission on 8/1/04 as it was considered the development would harm the character and appearance of the area. A subsequent planning appeal was dismissed by the Secretary of State on 6/10/04.

03/1215/FL/E5 - New 4 bed detached dwelling with double garage & detached double garage to no 3 Charlemont Road – withdrawn 27/10/03

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 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 16 – Conserving and enhancing the historic environment**

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

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- HOU2: Housing Density, Type and Accessibility
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement
- T2: Bus Services
- T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures

- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Canal and River Trust – No objections

Community Safety Team - No objections and recommend the principles of Secured by Design to afford the best protection for the proposed development

Environmental Protection – No objections subject to the inclusion of safeguarding conditions in respect of air quality requirements and the need for a Construction Management Plan, if approved.

Fire Officer – No objections

Local Highways Authority – No objections subject to the installation of a new dropped kerb being installed and the existing vehicle access off Canberra Road being removed and reinstated back to full kerb height.

Severn Trent Water – No objections and do not require the inclusion of a drainage condition. There may be a public sewer located within the application site and the inclusion of an informative note is required, if approved.

Representations

(Officers' comments in italics)

A public petition has been received with 44 signatories' objecting to the proposal on the following grounds;

- Character and appearance
- Trees already removed (*noted but none were subject to Tree Preservation Orders*)
- Discordant appearance within the street scene
- Rear access to new double garage would damage an attractive grass verge
- Extends beyond other houses on Charlemont Road
- Loss of privacy
- Congestion on the road
- Garage use could change in the future (*the garage could be conditioned to remain ancillary to the host dwelling is approved*)

In addition to the above petition representations' have been received from 6 residents which include the above points raised and the following addition objections;

- Concerns about structural damage to own property(*not a material planning consideration in this instance*)
- Drainage should not protrude onto neighbouring property(*not a material planning consideration in this instance*)
- Loss of view (*there is no right to a distant view in planning legislation*)
- Impact on mental well-being especially during winter months (*noted- this is not a material planning consideration*)
- Loss of light and sunlight
- Previous applications refused for development in rear garden (*noted- this proposal is for a different scheme*)
- Parking concerns and highway safety
- What will they use the end part of the garden for (*the application shows that this would remain as private amenity space*)
- Devalue houses (*not a material planning consideration in this instance*)
- Potential for more houses to be built (*planning applications are assessed on their own merits*)
- Already has a garage in the rear garden (*noted- it is not unusual for properties to have more than one outbuildings and the Local Highway Authority would require the removal of the existing dropped kerb access off Canberra Road*)

Determining Issues

- Principle of Development
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Protected Species
- Trees
- Air Quality
- Parking and Access

Assessment of the Proposal

Principle of Development

The application plot is situated in a well-established residential area. Regular bus services are available within walking distance of the site hence the site is considered to be a sustainable location.

The principle of the provision for a new dwelling house is considered acceptable in principle and accords with the aims of both national and local policies, subject to all other aspects being acceptable.

Whilst the applicant's personal circumstances are noted the planning advice is that personal circumstances will seldom outweigh more general planning considerations including any harm and the house would remain long after the current personal circumstances cease to be material.

Design Layout and Character

The proposed position of the dwelling 1.1 metres forward of the front elevation of 5 Charlemont Road along with the excessive scale and depth of the proposal along the Canberra Road frontage and with its wide front gable feature facing Charlemont Road with tall, vertical angled front windows would introduce an incompatible design to the street scene. It is considered that the introduction of this new dwelling in this prominent corner location would appear as an incongruous addition to the street and would be out of keeping with the established street scene. The juxtaposition of this proposal next to 5 Charlemont Road which has a more traditional character is considered would result in a discordant and unsympathetic development which would not integrate with the street scene.

The street scene plans show the new house is approximately one metre taller than the original house and the neighbouring house. Given the concerns that the house is considered to be incongruous in the street scene, the additional height, even at only one metre, can only serve to exacerbate this situation emphasising the discordant and unsympathetic development not integrating in the street scene.

The proposed new double garage would be located at the rear of the new dwelling and would be set away from the highway boundary and next to the western garden boundary with 5 Charlemont Road. This addition would have a mono-pitch roof between 2.7 and 3.2 metres high which is considered would have a limited impact on the character of the area.

The provision of private amenity space in excess of 600m² to the rear of the new dwelling is considered to be adequate and exceeds the recommended minimum provision of 68m² or being 12 metres in length referred to by Appendix D of Designing Walsall SPD.

The proposal would result in the loss of part of the grassed highway verge to create vehicular access to the proposed double garage. This loss is considered would have limited harm and not sufficient to support a refusal reason especially as the Local Highway Authority have raised no objections.

If the application was to be supported planning conditions would be required in respect of materials, floor levels, boundary treatments, pedestrian visibility splays and protections for the neighbour's trees.

Amenity of Neighbours and Amenity of Future Occupiers

The proposed new dwelling house meets the separation distances recommended in Appendix D of SPD Designing Walsall and is considered would not cause any significant harm to the residential amenities of neighbouring properties in terms of outlook, privacy or daylight.

The proposed new dwelling house meets the Council's 45 degree guidance, as

referred to in Appendix D, in relation to the adjacent house 5 Charlemont Road. This advice is the Council's tool to guide development and planning applications in relation to neighbour's light and outlook.

The rear elevation of 5 Charlemont Road faces south and it is considered that this orientation would limit the impacts on existing light available to the occupiers of this neighbouring house.

The 23 metres habitable room, window to window separation distances between the side elevation of the new dwelling house and no's 1 and 3 Canberra Road would be 1 metre less than the recommended minimum separation distance of 24 metres referred to in Appendix D of Designing Walsall SPD. However as this standard is applied less robustly to public areas rather than across private gardens this separation distance is considered acceptable for both neighbours and future occupiers' privacy in this instance.

The proposed rear balcony would be enclosed to the sides and whilst it would face the rear garden and Canberra Road dwellings it is considered that as this would replace an existing similar balcony in the existing house any additional impacts on neighbours' privacy would be limited.

The proposed new garage would be single storey and positioned 23 metres from the rear habitable room windows of 5 Charlemont Road and 25.8 metres from 9 Canberra Road so would not harm neighbours amenities.

The land levels fall to the rear and details of the proposed boundary treatment next to no. 5 have not been provided in order that the impacts on neighbours' amenity can be fully assessed as a result of the difference in ground levels.

The proposed lounge and dining areas would have side facing windows opposite and very close to the blank side elevation of 5 Charlemont Road. Whilst it is considered the proposed lounge area may be dark for future occupiers as this area has an open plan design, with extensive, primary, glazed areas in the rear elevation, this level of amenity would be acceptable in this instance.

If the planning application was to be supported planning conditions would be required in respect of permitted development removal for additional side facing doors and windows, extensions including additional storeys and roof alterations to allow the LPA to make an assessment of the potential for further impacts.

Protected Species

The Internal/External Bat Survey prepared by Dr. Stefan Bodnar, dated January 2022 concludes that the existing building has negligible bat access potential and negligible roosting opportunities for bats. Consequently no further bat surveys are required.

The report recommends that enhancements are included into the potential scheme in the form of the installation of a single bat box to be installed on the southern face of the proposed new building, if approved.

In addition precautionary procedures for emergencies if bats are discovered are recommended and works are ceased immediately and the advice of a licensed ecologist sought.

The Pre-Development Tree Survey BS5837:2012 prepared by Dr. Stefan Bodnar

deposited January 2022 which recommends that any site clearance works should commence outside of the bird breeding season between mid-March to mid-July

If the application was to be supported planning conditions would be required in respect of the installation of a bat box as recommended, clearance works commencing outside of the bird breeding season and precautionary procedures in the event that bats are discovered.

Trees

The Pre-Development Tree Survey BS5837:2012 prepared by Dr. Stefan Bodnar deposited January 2022 recommends that tree and ground protection measures for the existing group of trees at 5 Charlemont Road are agreed and put in place prior to any works commencing on site. There are no protected trees within or adjacent to the application site. If the application was to be supported a safeguarding condition in respect of tree protection could be included.

Air Quality

Walsall Council has adopted the Black Country Air Quality Supplementary Planning Document (SPD).

Environmental Protection Officers have advised that if the application was to be supported, the Applicant would need to consider the requirements of the Air Quality SPD and develop a strategy to comply, with the strategy being implemented prior to development commencing.

Having regard to the design of the development there are concerns that there is the possibility that some form of solid fuel appliance may be installed. Installations of this nature are problematic when located at the rear of dwellings due to the proximity of flue outlets to neighbouring properties. To avoid such issues Environmental Protection Officers have recommended a planning condition prohibiting such installation in the proposed dwelling house however such a condition is not enforceable.

If the application was supported planning conditions in respect of the submission of a Low Emission Scheme to include electric vehicle charging points, low NOx boilers and a construction management plan would need to be included.

Parking and Access

The site has two existing vehicle accesses, one on the property frontage for two cars and an existing garage in the rear garden with an existing vehicle footway crossing leading off Canberra Road.

A new access is proposed to serve the new garage closer to the main dwelling which the Local Highway Authority (LHA) considers is acceptable, subject to a new dropped kerb being installed. The LHA considers that the existing vehicle access off Canberra Road should be removed and reinstated back to full kerb height as they consider that there is no justification for retaining 3 vehicle accesses to a single dwelling.

The proposed parking provision exceeds the requirements referred to in saved UDP Policy T13 – Parking Provision, for a property with 4 or more bedrooms.

The Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

Therefore in light of the comments above, the Highway Authority supports the proposal, subject to the inclusion of planning conditions in respect of hard-surfacing of the garage access area, the installation of a new vehicle footway crossing and the permanent closure of the existing footway crossing and the reinstatement of full kerb height. An informative note should be included for the applicant in respect of mud on the highway and the need to obtain a highway opening permit from the Local Highway Authority if the planning application were to be supported.

Conclusions and Reasons for Decision

In weighing the material planning considerations, taking into account the local and national planning guidance and neighbour comments, it is considered the scale of the proposed new dwelling, its position forward of 5 Charlemont Road, its excessive depth fronting Canberra Road and its wide front gable feature with tall, vertical angled front windows would introduce an incompatible and incongruous design to the street scene. The introduction of this new dwelling would be out of keeping with the established street scene and would result in a discordant and unsympathetic development which would not integrate with the street scene.

Whilst personal circumstances are noted the Local Planning Authority are unable to take them into consideration when determining planning applications. Consequently, the proposal is recommended for refusal.

This proposal is therefore considered to be unacceptable and contrary to the local and national planning policies and guidance set out in this report. 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 spoken with the applicant's agent and suggested that amendments are made to retain the existing character of the dwelling house and consider alternative smaller rear extensions however this has been declined and in this instance the Local Planning Authority are unable to support the proposal.

Recommendation

Refuse permission

Reasons for Refusal

1. The proposed scale of the new dwelling combined with its excessive height, its excessive depth when viewed from Canberra Road, its prominent corner position forward of 5 Charlemont Road is considered would result in this proposal having an overly prominent and discordant appearance in the street scene. The proposal is considered would appear as an incongruous addition to the street and would have a detrimental impact on the character and appearance of the street scene. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, policies HOU2, ENV2, ENV3 of the Black Country Core Strategy, saved policies GP2, and ENV32 of the Walsall Unitary Development Plan, Policy HC2 of the SAD and Supplementary Planning Document: Designing Walsall, Policy DW3.
2. The proposal fails to provide details of the boundary treatment between the application plot and 5 Charlemont Road in order to assess the potential impact

caused by differences in ground levels and the risk of overlooking and loss of privacy for residents if an elevated patio area is added to the rear of the proposed new dwelling. This would be contrary to the aims and objectives of the National Planning Policy Framework, policies ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of the Walsall Unitary Development Plan, and Supplementary Planning Document Designing Walsall, Policy DW3.

First page of submitted petition

Petition to Walsall Council Head of Planning Services

Petition summary and background	We object to the proposed Planning Application 21/1624 at 3 Charlemont Road Walsall WS5 3NG, which is currently under consideration. We do not agree to any car access to the rear of the property from Canberra Road as this has been previously rejected (03/2250/FL/E5). (Please refer to the attached letter)
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now on the proposed Planning Application

Printed Name	Signature	Address
		23 Canberra Road, Walsall, WS5 3NA
		19 Canberra Road, WALSALL, WS4 1EA
		25 CANBERRA Rd WS5 3NH
		41 CANBERRA RD.
		45 e e
		45 e e
		45 Canberra Road
		53 Canberra Road
		62 CANBERRA ROAD
		72 Canberra Road

END OF OFFICERS REPORT