

## Planning Committee

Report of Head of Planning and Building Control on 31 October 2022

Plans List Item Number: 4

### Reason for bringing to committee

Called in by Councillor Nasreen on the grounds that the design of the proposal requires wider consideration

### Application Details

**Location:** 11, DELVES ROAD, WALSALL, WS1 3JZ

**Proposal:** FIRST FLOOR SIDE EXTENSION; SINGLE STOREY REAR EXTENSION; SINGLE STOREY FRONT AND PORCH EXTENSION PLUS LOFT COVERION WITH REAR DORMER AND GARAGE CONVERSION

**Application Number:** 21/1693

**Case Officer:** Rebecca Rowley

**Applicant:** Mr Sayf Ali

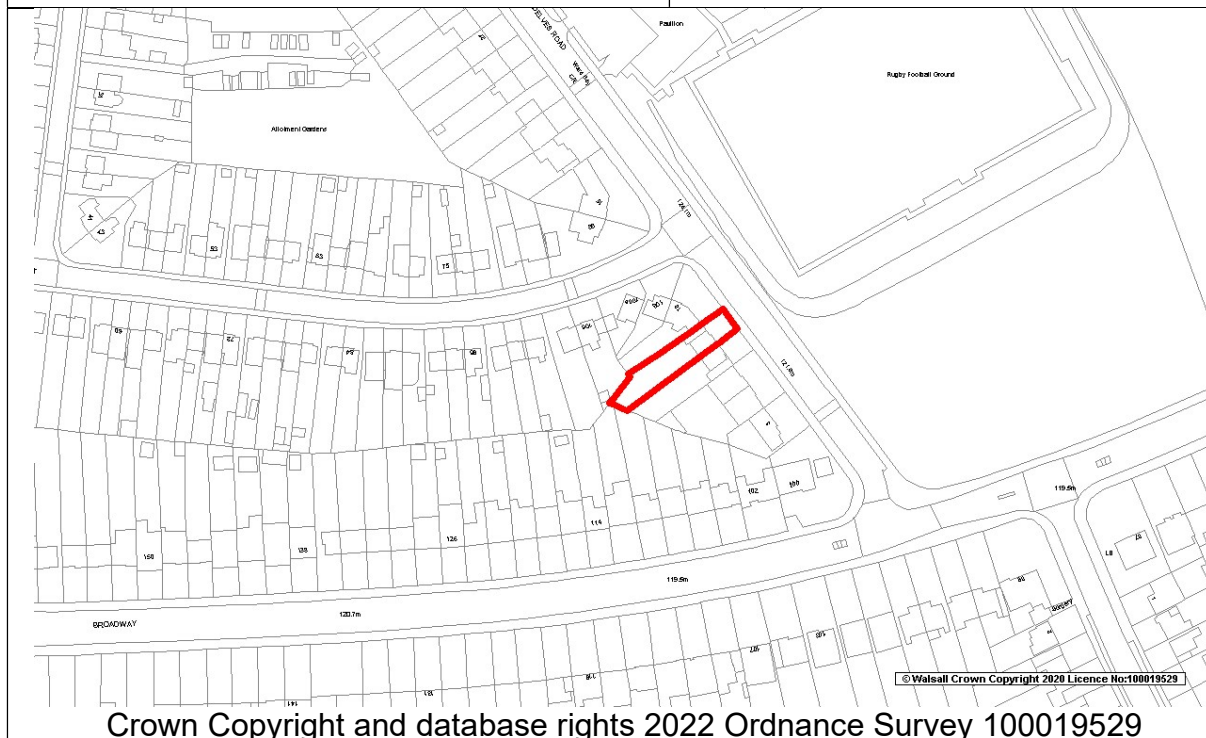
**Ward:** Palfrey

**Agent:**

**Expired Date:** 13-Jan-2022

**Application Type:** Full Application: Householder

**Time Extension Expiry:** 04-Nov-2022



### Recommendation

Refuse Permission

## Proposal

### **Two storey side extension with hipped roof**

To create ground floor study (loss of existing garage) and toilet and first floor ensuite bedroom

Width: 3.1m

Depth: 7.4m

Height to eaves: 5.8m (as existing)

Height: 8.1m (as existing)

### **Single storey rear extension with pitched roof**

To create kitchen and utility room

Depth: 5m

Width: 8.9m

Height to eaves: 2.9m

Height: 3.5m

### **Ground floor front and porch extension**

Depth: 1.6m

Width: 5.1m

### **Loft Conversion with rear dormer**

To create bedroom no.s 4 & 5 and bathroom

Dormer depth: 3.1m

Dormer width: 5.8m

Dormer height: 1.9m

## Site and Surroundings

The application dwelling is a traditional inter war right hand semi-detached property with a hipped roof, front gable feature and bay window with attached side garage.

It is sited on a street scene of similar original design. Historic development has led to a character of terracing effect with extensions resulting in limited gaps between pairs of semi-detached houses and lack of subservient features.

The attached semi at no. 9 is of the same original design and has a small single storey extension at the rear of the attached side garage. The neighbouring dwelling to the north western side, no 13 Delves Road is angled towards the application site at the rear as Delves Road turns a corner onto Trees Road so rear windows have views towards the application site garden.

There are no residential buildings opposite the application site, which is occupied by the grounds of Walsall Rugby Club and The University of Wolverhampton beyond.

## Relevant Planning History

None

## 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 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

those specified in drawing no. 22/033/P01 – Proposed Plans and Elevations

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](http://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.

## **Consultation Replies**

### **Environmental Protection**

No comments to make

### **Local Highway Authority**

20/01/22

To take account of the loss of the garage and the increase in bedroom numbers, the Highway Authority will require parking for 3 cars on the property frontage.

A parking layout plan will therefore be required showing three 2.4m x 4.8m spaces

Note: Three side by side parking spaces will not be permitted so the 3 parking spaces

will need to be arranged around the existing access which can be widened by an additional 2 metres.

### **Tree Preservation Officer**

No response received

## **Representations**

The following concerns have been raised by 2 neighbouring occupants (*case officer's comments in italics*)

To the original scheme:

- Overpowering scale
- Does not conform to Walsall Council's planning policies
- Breach of 45 degree policy at ground and first floor in respect of both adjacent neighbours
- Extreme impact on light – front and rear
- Projection past the front building line
- Visual contrast to the adjoining and neighbouring properties.
- Lack of gap to the side boundary – terracing effect
- No set back at the front, no subservience of the roof
- Restrictions imposed on the potential parking
- Requirement to consolidate the frontage and widen the dropped kerb not addressed
- Lack of clarity on the plans regarding downpipes
- Potential encroachment of the boundary at the eaves and by an opening side window (*this window has been removed in the amended plans*)
- Disposal of asbestos garage roof (*this is not a material planning consideration*)
- Devaluing neighbouring property (*this is not a material planning consideration*)
- Party Wall matters and no permission to be given for scaffolding on neighbouring site (*this is not a material planning consideration*)
- Discrepancies in the drawings
- Conflict between the floor plans, elevations and the section.
- The block plan is misleading as it does not show window positions at both ground and first floors.
- The application states that no trees etc. are effected. A mature Oak tree, located some 6m from the rear of the property was cut down in September 2021, presumably in an attempt to avoid issues with conservation. (*There was no Tree Preservation Order in place so the site owner could lawfully remove this tree without permission*)

In response to the first set of amended plans (comments from the same 2 neighbouring occupants)

- Scale and mass
- Lack of separation to the boundary - terracing effect
- Impact on street scene
- Breaching the front building line
- Despite the reduction in the length of the ground floor it still breaches the 45 degree policy
- Not addressed the severe impact on light

- Plans fail to consider Walsall's building policies and with total disregard for their neighbours
- The down pipe at the bottom of the extension on number 13's side may be inadequate for such a roof.
- Drainage of a consolidated frontage
- Disposal of asbestos (*this is not a material planning consideration*)
- We would require assurances that, during any build, our property would remain secure and weatherproof, and that any damage done be repaired immediately. (*this is not a material planning consideration*)
- Inaccuracies in the plans
- Both the original drawings and the more recently submitted drawings have the same numbers and are undated. This needs to be addressed to avoid any confusion.
- Devaluing of our property (*this is not a material planning consideration*)

In response to the second set of amended plans comments were received from one of the original neighbouring occupants raising the same concerns in relation to scale and massing, lack of subservience, potential terracing effect, impact on the street scene, impact on outlook and light availability from the rear extension and other non-material matters.

### **Determining Issues**

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

### **Assessment of the Proposal**

#### **Design, Layout and Character**

A hipped roof design would be retained. Concerns raised regarding the scale and mass of the extensions and the impact on the character of the street scene as well as the projection of the front extension past the front building line. First floor side extensions and ground floor front extensions reflect the design of a number of other extensions in this street scene and in this instance are considered would integrate with the evolving character of Delves Road. Extensions at the rear of the property would be of limited visibility from the public vantage point. Proposed facing materials would reflect the appearance of the existing dwelling and this can be secured by a planning condition.

Concerns have been raised regarding the lack of subservience of the proposed extensions. It is acknowledged that the extension would not be subservient. However, this is reflective of the character that has evolved along this section of Delves Road as a result of historic development prior to the adoption of current local planning policies and would not sustain a refusal reason in this instance.

Concerns have been raised regarding terracing effect and potential encroachment of the eaves across the boundary. The site plan demonstrates development 0.3m within the site boundary. The Local Planning authority are not responsible for determining the exact position of the boundary line and any disputes would be a civil matter to resolve between neighbouring landowners. It is acknowledged that the separation distance would not comply with the requirements of the SPD Designing Walsall Appendix D. However, this is reflective of the character that has evolved along this section of Delves Road as a result of historic development prior to the adoption of



current local planning policies. Furthermore, the lower land level of the application site to No.13 would help to minimise the terracing effect. A refusal reason on this ground would not be warranted in this instance.

### **Amenity of Neighbours and Amenity of Future Occupiers**

The 5m deep ground floor rear extension would breach the 45 degree code in respect of the nearest habitable room windows at both adjacent neighbouring occupants.

The ground floor rear extension, breaching the 45 degree code is considered would cause significant detriment to the occupants of no. 9 Delves Road in terms of visual amenity due to the excessive depth past their rear patio windows serving a habitable living room. There is an increase in land level from the application site to the site of the opposite side neighbour at no. 13 Delves Road, so it is acknowledged that the visual impact would be less for these occupants than those at no. 9, however the angle of no 13 towards the application site at the rear would alter their outlook to a level that is considered unacceptable, plus impact on light availability to their ground floor habitable kitchen windows during the afternoon given the siting of the proposed rear extension to the southern side of these windows. This acknowledges concerns raised by neighbouring occupants regarding both visual and light amenity as well as the clear breach of the 45 degree code.

Concerns were also raised regarding loss of privacy. Proposed rear windows are reflective of the relationship that could be expected between habitable room windows and neighbouring gardens in such residential areas and the proposed rear dormer windows are in a position similar to that which could have been constructed lawfully using permitted development rights were it not part of this wider project.

A number of non-material planning concerns were raised by neighbouring occupants which should be dealt with through Party Wall legislation and concerns regarding the disposal of asbestos on site, for which an advisory note to the applicant should be included.

### **Protected Species**

A preliminary bat survey found negligible evidence of value for roosting bats due to a lack of potential roosting features and no habitats on site which could be used by foraging or commuting bats. Likewise no opportunities for nesting birds. If this application were supported, installation of a bat box and bird box could enhance biodiversity and a condition would be required for soft demolition and to cease working if evidence of bat is discovered.

### **Highways**

The applicant has demonstrated three parking spaces on the frontage of the site to address concerns raised by the Local Highways Authority regarding parking provision and the loss of the garage parking space, which accords with the requirements of saved UDP policy T13 for a 4+ bed dwelling. This provision would require a planning condition to consolidate the frontage and ensure adequate drainage which addresses another concern that was raised. A Grampian condition would also be required to widen the existing dropped kerb access to facilitate entry for the proposed parking arrangement.

## **Conclusions and Reasons for Decision**

The proposal has failed to demonstrate compliance with the 45 degree code and that the amenity of neighbouring occupants would be preserved and thus fails to comply with policy CSP4 of The Black Country Core Strategy, saved Policies GP2 and ENV32 of Walsall's Unitary Development Plan and Appendix D of the Supplementary Planning Document Designing Walsall.

Given that there are no material planning considerations that would weigh in overall 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 impact on neighbouring amenity, specifically reductions to the depth of the rear extension. Reductions have been made to the original scheme but the amendments provided do not address all of the concerns.

### **Recommendation**

Refuse Permission

### **Reason for Refusal**

1. The proposed 5m deep single storey rear extension, by way of its excessive depth would breach the Council's adopted 45 degree code causing significant additional harm to the visual amenity of neighbouring occupants at no. 9 in relation to their ground floor habitable rear living room and no.13 Delves Road in relation to their ground floor habitable rear kitchen window and obscuring natural light to the ground floor habitable rear kitchen window of no 13 Delves Road during the afternoon. The proposal fails to preserve the amenity of neighbouring occupants and thus fails to comply with Policy CSP4 (Place Making) of The Black Country Core Strategy, saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of Walsall's Unitary Development Plan, Appendix D of the Supplementary Planning Document Designing Walsall and the aims and objectives of the National Planning Policy Framework.

### **Notes for Applicant**

None

**END OF OFFICERS REPORT**