



Walsall Council

Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 15 July 2021

Plans List Item Number: 6

Reason for bringing to committee

Called in by a Councillor

Application Details

Location: 400 , West Bromwich Road, Walsall, WS5 4NS

Proposal: REPLACEMENT 7-BED SEMI-DETACHED DWELLING

Application Number: 20/1634

Case Officer: Rebecca Rowley

Applicant: Ghulam Farooq

Ward: Palfrey

Agent: PAUL CLIFTON ASSOCIATES

Expired Date: 10-Mar-2021

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

Time Extension Expiry: 30-Jun-2021

Recommendation

Refuse



Current Status

At the Planning Committee meeting of 21st June 2021 Members resolved to defer this item to the next available Planning Committee meeting due to technical issues arising at that time.

The following section of this update report will set out any changes since the original report (which follows), including matters to be addressed which were contained within the previous supplementary paper.

Supplementary Paper

The Council's Tree Officer recommended refusal on the following grounds:

'There is a large prominent Sycamore tree situated adjacent the southern boundary of the site which has not been referred to in the application or plans. The tree isn't currently protected by a Tree Preservation Order. The proposed new dwelling, parking area and garage (which is labelled as existing but would appear to have been demolished) encroach close to the tree. and the tree would likely have to be severely pruned or more likely removed. The locality has few mature and prominent trees. It is considered the tree has demonstrable visible public amenity value and its loss (or severe pruning) would be detrimental to the landscape character of the area.'

A further refusal reason is therefore recommended as follows:

3. The proposed new dwelling, parking area and garage encroach close to the Sycamore tree that is situated adjacent the southern boundary of the site which would have to be severely pruned or more likely removed. There are few mature and prominent trees in the locality and this tree has demonstrable visible public amenity value. The loss (or severe pruning) of this tree would be detrimental to the landscape character of the area, contrary to the requirements of saved UDP policy GP2. The tree has not been referenced in the application and no arboricultural report has been submitted to consider the impacts of retention, removal or replacement of this tree, contrary to the requirements of saved UDP Policy ENV18 and the Supplementary Planning Document Conserving Walsall's Natural Environment policies NE7, NE and, NE9.

Any Other Updates

The application has been called in by Councillor Bashir for the following reasons:

- The proposed extension will not have an overbearing impact on neighbouring buildings as there will be sufficient space between the proposed extension and other buildings. Officers have failed to take into account the size of the plot in determining the overbearing effect
- The space available for the extension allows for the development to take place and to keep an sufficient open amenity space around it
- There is minimal impact on neighbours, highways or on the amenity of nearby residents
- The street scene is not impacted significantly as the building adjacent the proposed development is not similar and sufficient space is maintained between both properties

Conclusion

The recommendation remains to refuse permission of this application for the same reasons that were put to the last Planning Committee, plus the additional reason for refusal outlined above.

THE ORIGINAL REPORT FOLLOWS:

Proposal

This application seeks permission to replace the existing 3 bedroom semi-detached dwelling at 400 West Bromwich Road with a 7 bedroom semi-detached dwelling. The house would have a hipped roof design with a front elevation facing the junction of West Bromwich Road and Fullbrook Road and a turn in the front elevation around the corner facing onto West Bromwich Road. The design would be simple with flat elevations and a ground floor pitched canopy above the porch and ground floor front bay on the elevation facing the junction. Proposed facing materials have not been specified.

The proposed house will provide; at ground floor a hallway, w.c, lounge, bathroom, kitchen, utility room and living area. On the first floor there will be 7 bedrooms, 3 of which would have en-suite bathrooms and one of the rooms with an en-suite would also have a dressing area.

The proposed replacement house measurements are:

- 7.1m to the main roof ridge with a hipped end on the left hand side.
- 4.9m to the eaves on the principal and rear elevation
- No chimneys are proposed
- 3.2m to the pitched porch roof and front canopy on the ground floor front elevation
- 12.2 m wide at the front facing toward the junction of West Bromwich Road and Fullbrook Road. A 9.8m width from the boundary with the attached semi would be aligned with the neighbouring property, the next 2.4m width to the left hand side of this would be stepped back by 1m.
- As the principal elevation turns the corner away from the junction, the elevation facing West Bromwich Road would be 7m wide.
- The front to rear depth of the section facing the junction would be 7.8m
- The front to rear depth of the section facing West Bromwich Road would be 6.8m

The existing site driveway would be retained on the southern side of the plot and a turning area, plus 2 vehicle parking spaces would be created in front of the elevation facing West Bromwich Road. The plans show retention of a detached garage at the end of the existing driveway, which can also be viewed on historic aerial images. However, it was confirmed at site visit that this has been demolished.

- a separation distance of 12.8m would be retained between the south side of the dwelling and the adjacent row of flats.

Site and Surroundings

The application dwelling is a left hand side semi-detached house, of simple design with a hipped roof. Facing materials are cream coloured rendering and plain clay roof tiles. It is located on a large corner plot, facing the junction of West Bromwich Road with Fulbrook Road, with a grassed area in front and to the side of the house and a driveway accessed from West Bromwich Road to the southern side of the plot with sufficient space to park 3 vehicles. The application plot measures around 30m wide at the front tapering to 14m wide at the rear and is around 20.5m deep. The house is set back a minimum of 10m from the front boundary with the highway on West Bromwich Road.

This existing main dwelling comprises of three bedrooms and a bathroom at first floor, with ground floor, living room, kitchen, bathroom and hall.

The existing house measurements are:

- 7.1m high to the roof ridge
- 4.9m high to the eaves
- 6.6m deep
- 6m wide

Fulbrook Road, which is an estate road comprises pairs of semi-detached houses of a similar original design to the application dwelling; this section of West Bromwich Road, which is a District Distributor, comprises blocks of 3 terraced houses of a similar design to the application house. A number of nearby corner houses on this estate, that are located on similar shaped plots, as well as other similar semi-detached corner plot houses in the wider locality, have extended at the side of the property.

The adjacent dwelling to the north west side is attached semi no. 1 Fullbrook Road. The principal and rear elevation are in alignment with the application dwelling.

To the south side of the application site is a two storey row of flats, no.s 404 to 418 West Bromwich Road with a separation distance of 20m from the side of the application dwelling. The space in between is open with long lines of sight obscured only by one mature tree on the south side boundary of the site.

A closed boarded fence runs from the rear corner of the application dwelling to the south side boundary to enclose the rear garden. The garden angles away from the rear of the property, sharing the south west side boundary with the garden of neighbouring no. 1 Fullbrook Road. The outlook from the rear of the property is towards this neighbouring garden and other gardens of Fullbrook Road beyond. There are no neighbouring properties to the rear that would be directly impacted by this proposal.

The front of the property faces directly towards no. 377 West Bromwich Road with a separation distance of around 47m across the highway. The area to the south east side of the existing house faces towards no.s 387 and 389 West Bromwich Road with a separation distance of around 38m across the highway.

Planning History

None

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 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. 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
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP4: Place Making
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

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
- Appendix D

Consultation Replies

Local Highway Authority

In respect of the above application, the Highway Authority **supports** the application, subject to the submission of plans demonstrating a revised parking and access layout including a turning facility to allow vehicles to exit the property in a forward gear. A condition has been included to secure this provision and advisory notes have been provided for the applicant.

Pollution Control

Support subject to conditions to ensure the implementation of a Construction Management Plan, acoustic glazing and ventilation in the windows facing the highway to achieve a sound reduction of Rw 38dB, together with acoustic passive ventilation that achieves a sound reduction, Rw 38 dB in the open position and a condition to address the installation of and solid fuel burner and associated chimney/flue.

Severn Trent Water

No objections and no drainage condition required.
An Informative Note has been provided for the applicant

Strategic Planning Policy

No response received

Tree Preservation Officer

Awaiting Response – to be updated in Supplementary Paper

West Midlands Fire Service

An Informative Note has been provided for the applicant

West Midlands Police

No response received

Representations

None received

Determining Issues

- Principle of Development
- Design, Character and Appearance of the Area and Streetscene
- Amenity of Nearby Residents
- Impact on Protected Trees
- Parking

Assessment of the Proposal

Principle of Development

The site is situated within an established residential area within easy walking distance of shops and regular bus services along West Bromwich Road. The site is considered to be in a sustainable location consistent with guidance in the NPPF, BCCS and UDP.

The principle of a replacement dwelling is considered appropriate in this location, subject to design, character, amenity and parking.

Design, Character and Appearance of the Area and Streetscene

Ground floor front canopies are commonly seen locally and the proposed porch and pitched canopy would reflect the ground floor front porch and pitched canopy at the respective dwelling on the opposite corner of the junction of West Bromwich Road and Fullbrook Road. The existing eaves and roof ridge height would be retained which would achieve a balanced appearance of the roofline across the pair of semi-detached houses on this corner plot.

The proposed replacement dwelling would have simple flat elevations with a hipped roof, which would reflect the design of houses in the local area, specifically those located on corner plots which do not feature the front gable elevations that can be seen along the rows of houses on each street. However, the significant bulk of the 7-bedroom dwelling is considered would be incongruous with the street scene which comprises 3-bed semi-detached and terraced properties.

The depth of the front building line facing towards the junction would be retained. Whilst the existing principle elevation would be retained, its appearance would become dwarfed by the significant extensions to the side of the property. The width of the principal elevation that would be adjacent to and in alignment with the attached dwelling no. 1 Fullbrook Road would be 9.8m. Adjacent to this, a further 2.4m width of the principal elevation would be stepped back by 1m but in the same alignment and with the same roof ridge height, which would give the overall appearance of a 12.2m width to this elevation. When sited adjacent to the 5.6m wide front elevation of no. 1 Fullbrook Road, it is considered that this would create a significant imbalance to the pair of semi-detached properties that would deviate from the original character of pairs of semi-detached dwellings on such corner plots in the locality. Furthermore, this front elevation of the development would turn a corner to face West Bromwich Road for a further width of 7m with the same roof height. The entire building would represent a 215% increase in the footprint of the dwelling compared to the original house. The separation distance from the south side of the dwelling to the adjacent block of flats would be reduced from 20m to 12.8m. The additional footprint is considered would be an overbearing development for the plot and the loss of space between the dwelling and the flats, which has existed for many years since their construction, is considered would significantly alter the street scene in this location to

a level that would be unacceptable.

Whilst it is acknowledged that a number of similar dwellings have extended at the side of the original house, the extensions have been considerably smaller, the nearest examples being no 398 West Bromwich Road on the opposite corner of the junction, and no. 54 Talke Road, approximately 100m from the application site. Both of these examples are of single storey side extensions. No 44 Pattison Street, which is approximately 220m along Fullbrook Road from the application site has a 2 storey and single storey side extension. Whilst it is acknowledged that the additional width of this extension does not demonstrate subservience to the original dwelling and does create an imbalance to the pair of semi-detached houses, this extension was permitted in 2004 prior to the adoption of the SPD Designing Walsall in 2013, which includes policies that are specifically intended to prevent any further deviations from the prevailing characteristics of each area of the borough.

The applicant has not specified details of proposed facing materials or colours and provision of this information would be required before commencement of any development that may be permitted on this site by way of a safeguarding condition.

In weighing the material planning considerations, the proposal is considered would represent an overbearing addition to the plot that would create a significant imbalance to the pair of semi-detached properties. The reduction of the gap between the dwelling and the adjacent block of flats would significantly alter the street scene in this location. The impact of this is considered would cause significant harm to the character of the application dwelling and the street scene, contrary to the requirements of the National Planning Policy Framework, BCCS policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3.

Amenity of Nearby Residents

The ground floor front bay and porch and the rear elevation of the proposed replacements dwelling would meet the requirements of the Council's adopted 45 degree code as outlined in the SPD Designing Walsall Appendix D and are considered would have limited impact on the visual amenity of neighbouring occupants at the attached semi-detached property, no 1 Fullbrook Road or of residents in the adjacent block of flats when viewed from any windows inside their properties. The separation distances to neighbouring properties across the Highway meets the requirements of the SPD Designing Walsall Appendix D and are considered would reflect the relationship that could be expected between opposite houses across a highway and would not cause any further harm to their privacy above and beyond the existing situation. There are no neighbouring occupants to the rear of the application site that would be affected by this proposal, in terms of visual outlook or overlooking from within their properties, to any more significant levels than the existing situation.

The rear garden of no. 1 Fullbrook Road has a southern orientation and replacement dwelling would lie to the east of this garden. The maximum distance between the side boundary of the garden and the two storey rear elevation would be 7.3m, spanning the majority of the length of the garden. It is therefore considered that this proposal with multiple first floor rear bedroom windows would create additional potential for overlooking into this garden which could impact on the privacy of occupants when using their outdoor amenity space. Furthermore, it is considered that a two storey

elevation in this position with a height of 7.1m to the roof ridge would have a significant impact on and light availability to the rear of this property and the garden, as well as an impact on the existing views from this garden towards the application site, to the detriment of the amenity of these neighbouring occupants. The existing outlook from this position is open with long lines of sight.

There are is a ground floor bathroom and w.c proposed, plus a number of first floor en-suite bathrooms and a condition would be required for any permission that may be granted at this site to ensure that these are obscurely glazed to protect the privacy of occupants.

As the site is located on a busy district distributor Pollution Control Officers have requested acoustic glazing and ventilation in the windows facing the highway to achieve a sound reduction of Rw 38dB, together with acoustic passive ventilation that achieves a sound reduction, Rw 38 dB in the open position to protect the amenity of occupants of the application dwelling. A condition to secure this would be required for any permission that may be granted for this site.

Although the proposal is considered would have limited impact on any opposite or rear neighbours, it is considered that this proposal would not meet the neighbouring amenity requirements of saved UDP policy GP2 for the occupants of no. 1 Fullbrook Road in terms of visual outlook and light availability for the rear of their property and on balance would result in an unacceptable level of harm to the amenity of nearby residents.

Impact on Protected Trees

There are no protected trees within the boundary of the application site or any neighbouring sites. There is a mature tree on the south side boundary of the site which is considered to be of visual amenity value within the street scene.

The Tree Protection Officer has been consulted and any conditions that may be required to preserve this tree during construction should be included in any permission that may be granted for this site. This will be updated in the Supplementary Paper.

Parking

In accordance with the requirements of saved UDP policy T13, a 7 bedroom dwelling requires a minimum of 3 off road vehicular parking spaces.

The applicant has demonstrated 3 parking spaces on a hard surfaced area to the southern side and in front of the proposed dwelling, plus the introduction of a turning area that was requested by the local Highway Authority to ensure that cars could exit the site onto West Bromwich Road in a forward gear. A condition would be required to secure this provision for any permission that may be granted for this site.

Conclusions and Reasons for Decision

When assessing the material planning considerations and taking into account the local and national planning guidance, whilst it is acknowledged that the proposal, according to the plans submitted, would not cause harm to neighbouring occupants from within their houses, nor cause harm to highway safety, it would represent an overbearing addition to the plot, create a significant imbalance to the pair of semi-

detached houses that it would be part of, significantly altering their character, and reduce the space to the adjacent block of flats, to the detriment of the street scene. Furthermore it would have a detrimental impact on the outlook for neighbouring occupants at no. 1 Fullbrook Road when using their rear garden and significantly impact on light availability to the rear of their property. This is contrary to the requirements of the NPPF, policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy, saved policies GP2 and ENV32 of Walsall's Unitary Development Plan and Supplementary Planning Document Designing Walsall policy DW3.

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 regarding concerns about the size of the proposed replacement dwelling. Suggested amendments were recommended by the case officer and draft amendments were received which were still considered unacceptable. No amendments to the original scheme were formally submitted and in this instance the Local Planning Authority are unable to support the proposal.

Recommendation

Refuse Permission

Reasons for Refusal

1. The proposed development is unacceptable for the following reasons:
 - The proposed scale and mass of the development is an overbearing addition to the site that would be incongruous with similar properties that are located on corner plots in the locality
 - The proposal would create a significant imbalance to the pair of semi-detached properties
 - The reduction of the gap between the southern side elevation of the dwelling and the adjacent block of flats would significantly alter the street scene in this location.

The impact of the development would result in detrimental harm to the character of the area and to the visual amenity of the street scene. The proposal would therefore be contrary to the National Planning Policy Framework, the Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, and ENV32, and DW3 of Designing Walsall SPD.

2. The bulk of the two storey replacement dwelling located to the eastern side of the eastern rear side boundary of no. 1 Fullbrook Road is considered has the potential to result in significant additional loss of light and shadowing to rear habitable windows and outdoor amenity space during morning through to early afternoon due to the southern orientation of the rear of this plot as well as causing significant harm to the outlook from the outdoor amenity space. The proposal would therefore be contrary to the National Planning Policy Framework and Walsall's Unitary Development Plan, in particular policy GP2.

END OF OFFICERS REPORT