



Planning Committee

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

Plans List Item Number: 6

Reason for bringing to committee

Called in by Councillor S Nasreen as the reasons for refusal are considered to be subjective and, in their opinion, the proposed development is not detrimental to the street scene and should be considered by Planning Committee

Application Details

Location: 49-51, Eastbourne Street, Walsall, WS4 2BN

Proposal: ERECTION OF 2 NO. 3 BEDROOM, SEMI-DETACHED DWELLING HOUSES WITH OFF STREET PARKING TO THE FRONT

Application Number: 20/0068

Case Officer: Helen Smith

Applicant: Mr Ali

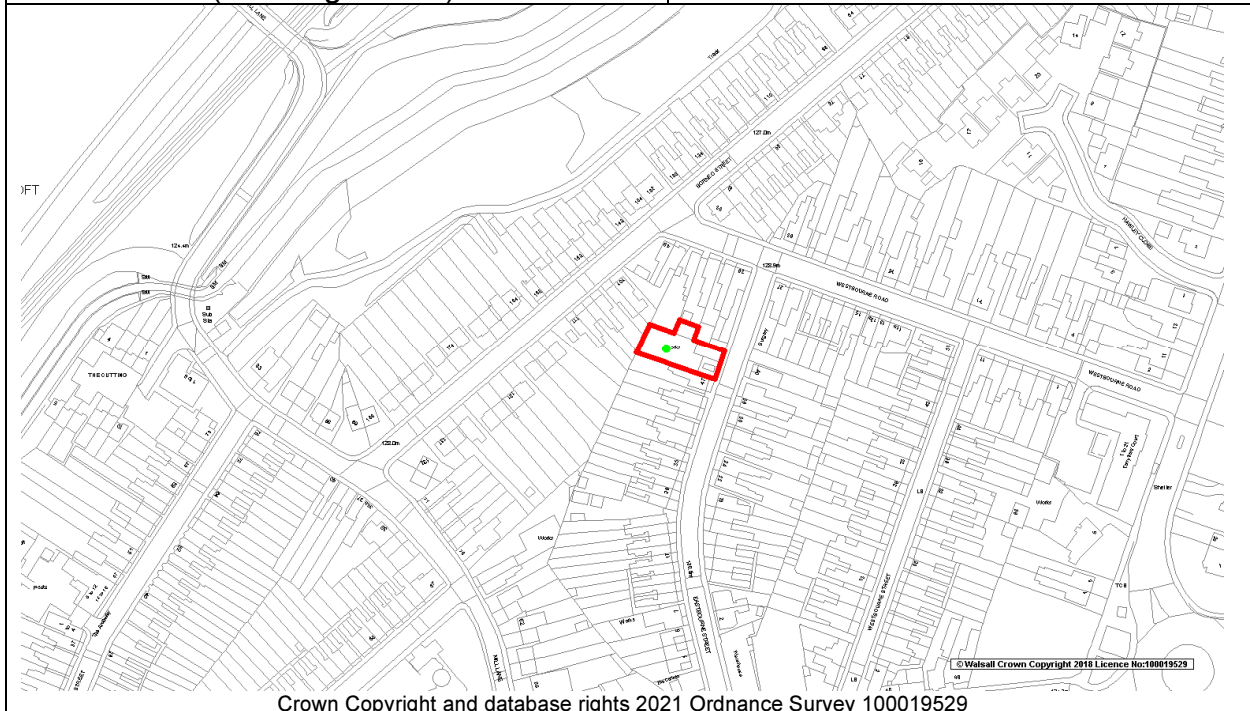
Ward: St Matthews

Agent: M.K. Cotton

Expired Date: 23-Mar-2020

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

Time Extension Expiry:



Recommendation

Refuse

Proposal

This planning application proposes the erection of two no. semi-detached dwellings on the site of a former dairy which has already been demolished and the site prepared for re-development.

The proposal includes the following details and measurements for each plot;

Plot No. 1

- Located to the south of Plot No. 2 and adjacent to 47 Eastbourne Street
- Rectangular shaped plot measuring 35 metres in length and 6.8 metres wide
- Set-back 6.1 metres from the back of the footpath
- 2 off-street parking spaces on the frontage
- 101 sq. metres private rear amenity space
- Separation distance of 24 metres to first floor rear habitable room windows in houses at the rear fronting Borneo Street
- Gable roof design, 7.5 metres high to the ridge
- Living room, dining room, W.C. and Kitchen at ground floor with side facing windows opposite the common boundary with no. 47.
- 3 bedrooms at first floor with a bathroom and 2 en suite shower rooms
- The new dwelling would be positioned 3.1 metres back from the front elevation of no. 47.
- 0.8 metres wide gap between the side wall of no. 47 and the new dwelling on Plot no. 1
- Proposed ridge and eaves height would be lower than the existing ridge and eaves height of no. 47

Plot No. 2

- Located to the north of Plot No. 1
- Irregular plot shape measuring 34.6 metres in length and a width of between 6.6 and 12.1 metres.
- The plot has a rectangular area added in which is located to the rear of the private garden serving 43 Westbourne Street
- The proposed new dwelling would infill this rectangular extension to the plot
- Adjacent to the rear gardens of 39 to 45 Westbourne Road
- Set-back 6.1 metres from the back of the footpath
- 2 off-street parking spaces on the frontage
- 100 sq. metres private rear amenity space
- Separation distance of 18 metres to rear habitable room windows of houses in the rear fronting Borneo Street
- Separation distance of 14.4 metres to rear habitable room windows of houses fronting Westbourne Street to the two storey blank side elevation of Plot no. 2
- Part gable roof design, 7.5 metres high to the ridge
- Mono-pitch roof to a proposed side wing extension between 6.7 and 4.9 metres high.

- Side wing extension would sit to the rear of an existing garage and outbuilding located outside the red line defining the application site
- Living room, dining room, W.C. and Kitchen at ground floor with side facing windows opposite the blank side elevation of Plot no. 1
- 3 bedrooms at first floor with a bathroom and 2 en suite shower rooms

An area of landscaping would be introduced between the four parking spaces to remove a 5th car parking space that would have straddled the boundary between plot no's 1 and 2.

Site and Surroundings

The application site is known as the Old Dairy and is understood was last used for commercial purposes but has been vacant for a long period. The site is at the northern end of Eastbourne Street which is a residential road characterised by mainly terraced houses with on-street parking. The frontage of the site is dominated by a single storey building, part is domestic and part commercial.

The plot is rectangular with an additional rectangular area added on that is located to the rear of 43 Westbourne Road and formed part of the rear garden of this plot in the past.

The site is 1.1 km walking distance from the Butts Local Centre which includes local shops. Mill Lane open space is 293m walking distance away. The nearest bus stop on Lichfield Road is 270m walking distance away which is served by regular bus services. Mill Lane open space. The boundary with Walsall Town Centre is 630m away.

Houses fronting Westbourne and Borneo Street have rear facing habitable room windows.

No. 47 Eastbourne Street sits to the south of the application site and is a detached late Victorian dwelling with a plan and simple design and a blank wall facing the application site.

Relevant Planning History

18/0670 – Demolition of existing building and the erection of a pair of 3 bedroom semi-detached houses and the conversion of existing storage building to a 2 bedroom house – GSC 16/8/18

BC60275P – Outline Residential Development – GSC 11/2/02

40 Eastbourne Street

15/0550/FL – Retention of a detached 3 storey dwelling. GSC 8/6/15.

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 5 – Delivering a sufficient supply of homes**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**

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. 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.

Reducing Inequalities

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. 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

- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- 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
- HOU1: Delivering Sustainable Housing Growth
- HOU2: Housing Density, Type and Accessibility
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Walsall Site Allocation Document 2019

HC2: Development of Other Land for Housing
T4: The Highway Network

Supplementary Planning Documents

Designing Walsall

- DW1 Sustainability
- DW3 Character
- 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

Fire Officer – No objections subject to compliance with Approved document B, Volume 1, Dwellings, 2019 Building Regulations which can be included as an informative note for the applicants.

Local Highway Authority – No objections subject to the inclusion of planning conditions in respect of parking, surfacing and drainage

Pollution Control – No objections subject to the inclusion of planning conditions requiring the agreement of a construction management plan, air quality low emission scheme and contaminated land site investigations.

Severn Trent Water – No objections and they do not require a drainage condition to be applied. They recommend the inclusion of an informative note in respect of public sewers potentially located within the site.

Strategic Planning Policy – No objections

Representations

Councillor S Nasreen has called this application before planning committee for the following reason;

‘the reasons for refusal are considered to be subjective and, in their opinion, the proposed development is not detrimental to the street scene’ (*The reasons for refusal set out in the report are material planning considerations and based in planning policy, not subjective opinions*)

Concerns have been raised by two residents at one address on the following grounds;

- Overlooking from bedroom window over neighbouring gardens and impact on privacy

NOTE: (Local Planning authority comments in brackets and italics)

Determining Issues

- Principle of Development
- Design, Layout and Character of the Area
- Amenity of Future Occupiers and Neighbours
- Ground Conditions
- Air Quality
- Parking and Access
- Local Finance Considerations

Assessment of the Proposal

Principle of Development

The NPPF says that decisions should encourage the effective use of land by re-using land that has been previously developed. This is a previously developed site. The NPPF also says that housing applications should be considered in the context of the

presumption in favour of sustainable development. The development of brownfield land is encouraged and not the only way to support sustainable economic development to deliver the homes that the country needs.

This is a sustainable location within an existing residential area with shops, a primary school, open space and bus stops all within walking distance. The principle of housing in this location is therefore considered acceptable, subject to all other material considerations as set out below.

Design, Layout and Character of the Area

The NPPF says that developments should respond to local character, it is proper to seek to promote or reinforce local distinctiveness, address the integration of new development into the built environment. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character. BCCS Policies CPS4, HOU2, ENV2, ENV3; UDP saved policies GP2, 3,6 and ENV32 and Designing Walsall Supplementary Planning Document, require development to be informed/influenced by their context and reinforce locally distinctive elements.

The current site is vacant and of poor condition within a residential area. The opportunity to bring the site back into beneficial use, including the introduction of gardens is welcomed however any scheme is considered should be appropriate to its setting.

The character of the area is defined by narrow semi-detached and terraced properties at the back of the footpath with narrow private areas to the front. There is a recently built detached house directly opposite the application site with two front dormer windows and under croft parking.

There is a narrow gap of 0.8 metres width between the side elevation of the proposed new dwelling at Plot no. 1 and 47 Eastbourne Street. Whilst this is marginally less than the 0.9 metres wide recommendation referred to by Appendix D of Designing Walsall it is considered that as terraced dwellings are characteristic of this street this reduction is acceptable in this instance.

The proposed layout of Plot no. 2 is considered to be contrived and designed to make use of an awkwardly positioned rectangular area of land to the rear of 43 Westbourne Street with the resulting dwelling having a poor design and layout for future occupiers. The introduction of a two storey building with a mono-pitched roof on this area of land is considered would result in a structure that fails to respond to local character, by being out of keeping with the established pattern of development. This is considered would result in the new development appearing incongruous in the street scene to the detriment of the character of this area and contrary to both national and local planning policies.

The proposed new dwellings of plot's 1 and 2 have a lower height than 47 Eastbourne Street with a deeper set back from the front than adjacent houses. Excluding the proposed mono pitched two storey infill mentioned above, it is considered the remaining layout is appropriate for the street scene and allows off-street parking.

Excluding the mono pitch two storey element of the proposal discussed above, the proposed semi-detached houses with widths, eaves height, ridge height, plus proposed window proportions, stone and corbelling detailing are similar to the neighbouring houses.

Waste and recycling bins would be stored permanently in the street scene as there is no direct access from the street to the rear of the properties. It is likely that bins would be stored on the landscaped area between the parking spaces for the proposed two houses. Whilst this is not ideal for the street scene and disappointing that space could not have been made to accommodate moving the bins to the rear of the development. On balance, it is considered insufficient to recommend refuse for this reason alone, however, as the proposal is being recommended for refusal in this instance, it is reasonable to include this concern in the reasons for refusal.

Amenity of Neighbours and Future Occupiers

The application plot sits to the north of 47 Eastbourne Street and as this neighbouring house has a blank side elevation facing the application plot it is considered that the proposal would have a limited additional impact on neighbours existing light and amenity.

Neighbours are concerned regarding overlooking from proposed new bedroom windows and loss of privacy within rear gardens. The area has late Victorian housing which is characterised by rear two and single storey outrigger extensions and narrow gaps between facing habitable room windows. Consequently, it is considered that any additional overlooking from bedroom windows would not be significantly worse than the existing situation. The secondary side facing window in bedroom no. 3 of Plot no. 1 could be conditioned to be obscurely glazed with any opening parts 1.7 metres higher than the floor of the room they serve to reduce overlooking of gardens, should the development be acceptable.

The proposed separation distance of 14.4 metres between rear habitable room windows in houses fronting Westbourne Street to the two storey blank side elevation of Plot no. 2 would exceed the minimum recommended separation distance of 13 metres between blank walls in excess of 3 metres high as referred to in Appendix D of Designing Walsall SPD.

Rear facing habitable room window to window separation distances between plot no. 2 and houses to the rear fronting Borneo Street of 18 metres would be less than the recommended minimum separation distance of 24 metres referred to by Appendix D of Designing Walsall SPD. Whilst this would be a reduction of 6 metres it is considered that as the rear separation distances between houses on Borneo and Eastbourne Street narrows towards Westbourne Street this proposal would not have a significantly worse impact on neighbours' existing privacy.

The limited separation distances between south facing, side windows in the houses on plots 1 & 2 and the shared boundaries and blank walls in excess of 3 metres high are considered to be a characteristic of this area and type of housing.

Subject to the inclusion of a safeguarding condition regarding overlooking from bedroom 3 of plot 1 it is considered that the impacts of this proposal on neighbours and future occupiers' amenity would be limited.

Should the rest of the development be considered acceptable, a condition would be imposed for the safety and security of future occupiers to reduce their fear of crime, which specifies doors, windows, locks, alarms, boundary treatments and lack of metal/lead in the design as a minimum.

Ground Conditions

The Council's Pollution Control Team have advised that historic mapping indicates that the site was a "Works" from 1954-1976 with no further information being available. No information has been submitted with this application regarding ground conditions at the site therefore a site investigation would be required prior to development commencing should the development be acceptable. However, as the applicant has not supplied these details and the application is being recommended for refusal, this will be included as a refusal reason as it has public health implications.

The application site is located within a residential area; therefore, it is recommended that the Applicant agree a Construction Management Plan with the Local Planning Authority to control noise, dust and debris affecting local residents. Pollution Control have advised that the Construction Management Plan should also contain a restriction of construction working hours however as there is relevant environmental legislation available to deal with noise of this nature the Local Planning Authority can only include this as an informative note. Informative notes in respect of air quality

Air Quality

The Black Country Air Quality SPD requires the installation of mitigation measures which include electric vehicle charging points and low NOx boilers for developments that fall into Type 1 category. Pollution Control Officers have confirmed that this development falls into the Type 1 category and planning conditions can be installed to secure the installation of such measures.

Parking and Access

The proposal is for 2 no. three bedroom dwellings and the parking layout shows 5 spaces across the entire frontage. Whilst the Local Highway Authority would accept this, in saved UDP policy T13 terms only 4 parking spaces are required i.e. 2 per dwelling.

The Local Highway Authority (LHA) commented initially that it was not clear how the middle 'Visitor' space will be managed as it straddles the boundary of the two properties. This has now been removed and planting shown to separate these parking areas on the submitted plans as suggested by the LHA (*with the exception of the block plan that has not been updated*).

There is an existing continuous dropped access across the entire site frontage. The Local Highway Authority considers that 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 2018 paragraph 109.

The inclusion of a planning condition in respect of parking and associated surfacing and drainage will be required by the Local Highway Authority.

Local Finance Considerations

Section 143 of the Localism Act requires the local planning authority to have regard to 'local finance considerations' when determining planning applications. In Walsall at the present time this means there is need to take account of New Homes Bonus monies that might be received as a result of the construction of new housing.

This application proposes two new homes.

The Government has indicated that, for 2019-20, it will award approximately £1,000 per dwelling per year, plus a further £350 for each affordable dwelling, for each net additional dwelling provided. The payment is made each year for a period of 4 years from completion of the dwelling. In 2019-20 the total payments, taking account of completions over the last 4 years, are expected to amount to £2,911,601.

The weight that should be given to this, including in relation to other issues, is a matter for the decision-maker.

Conclusions and Reasons for Decision

The proposed layout of Plot no. 2 is considered to be contrived and designed to make use of an awkwardly positioned rectangular area of land to the rear of 43 Westbourne Street with the resulting dwelling having a poor design and layout for future occupiers. The introduction of a two storey building with a mono-pitched roof on this area of land is considered would result in an addition that fails to respond to local character by being out of keeping with the established pattern of development and to the detriment 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.

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

The economic and social benefits in this instance are considered would not outweigh the impacts of this proposal on the street scene or amenity of residents and 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 despite some helpful changes being made to the proposal in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The proposed layout of Plot no. 2 is considered to be contrived and designed to make use of an awkwardly positioned rectangular area of land to the rear of 43 Westbourne Street with the resulting dwelling having a poor design and layout for future occupiers. The introduction of a two storey building with a mono-pitched roof on this area of land is considered would result in a new dwelling house that fails to respond to local character by being out of keeping with the established pattern of development to the detriment of the street scene and character of this area. 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. No information has been submitted with this application regarding ground conditions at the site therefore a site investigation would be required prior to development commencing. As the applicant has not supplied these details the application is recommended for refusal as it has public health implications. 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, ENV10 and ENV32 of the Walsall Unitary Development Plan, Policy HC2 of the SAD and Supplementary Planning Document: Designing Walsall, Policy DW3.
3. Waste and recycling bins would be stored permanently in the street scene as there is no direct access from the street to the rear of the properties. It is likely that bins would be stored on the landscaped area between the parking spaces for the proposed two houses. This is considered not ideal for the street scene and disappointing that space could not have been made to accommodate moving the bins to the rear of the development. 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.

END OF OFFICERS REPORT