



Planning Committee

Report of Head of Planning and Building Control on 07 April 2022

Plans List Item Number: 5

Reason for bringing to committee

This application has been called in by Councillor Mazhar for consideration by the Planning Committee on the grounds that the application requires delicate judgement.

Application Details

Location: 8, BURTON FARM ROAD, WALSALL, WS4 2HN

Proposal: FIRST FLOOR SIDE EXTENSION WITH REAR FACING JULIET BALCONY

Application Number: 21/1740

Case Officer: Rebecca Rowley

Applicant: Spooner Architects

Ward: St Matthews

Agent: Spooner Architects

Expired Date: 31-Jan-2022

Application Type: Full Application:
Householder

Time Extension Expiry: 15-Apr-2022



Recommendation:

Refuse

Proposal

This application is a resubmission following previous refusals for the same proposal at 8 Burton Farm Road, Walsall.

This application, two previously refused applications, a subsequent dismissed appeal decision and a non-determined application, all relate to a first floor extension to a detached house to provide a fourth bedroom with en-suite with a new family bathroom. All previous applications are detailed in the planning history.

The extension would have a side gable roof and be set back 1m from the front elevation of the dwelling with a ground floor front pitched roof and sit in alignment at the rear with the existing first floor rear elevation. The first floor rear bedroom would have a Juliet balcony.

Dimensions

- Width from existing side elevation: 5.5m
- Depth: 9m
- Height to eaves: 4.9m (to match existing)
- Roof ridge height: 6.6m (0.2m below existing roof ridge)

Site and Surroundings

The application house is a simple, modern design with a front facing gable roof and an attached garage and porch to the side with a false pitch to the front. It is sited at the left hand end of a row of 4 houses of the same original design from 2-8 Burton Farm Road. There are distinctive and uniform gaps of 5.2m wide between the side elevations of each house across the roof of the attached side garages. The remainder of Burton Farm Road and the surrounding streets on this estate comprises two storey houses and bungalows also of simple design with either front or side facing gable roofs.

The side of the existing garage is constructed up to the shared side boundary with no. 6 Burton Farm Road. No. 6 is an identical design and there is a 1m separation distance between the ground floors of the houses. No. 6 has a first floor side facing landing window with an outlook towards the application site.

There is a grass verge with mature trees opposite the application site, which obscure views of the rear of houses on Mellish Drive beyond. There is a separation distance of 24m to no. the rear of no. 4 Homestead Close which is located to the rear of the

application site.

Relevant Planning History

- 07/0778/FL/H4 – two storey side extension – refused – 27/06/2007

Refusal reason:

1. Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.

The extension would therefore appear cramped and incongruous, and out of keeping with the design of the existing house and the character of the street, and would be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Residential Development Standards.

- 17/0506 – First floor side extension above garage – refused permission – 05/06/2017

Refusal reason:

1. Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.

The extension would therefore appear cramped and incongruous, would look disproportionately wide in relation to both the host dwelling and to the other similarly designed detached houses and would therefore be out of keeping with the design of the existing house and the character of the street in this location, as such the proposal would therefore be contrary to the National Planning Policy Framework including paragraph no's 56, 57, 58, 63 and 64; Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and Appendix D of Designing Walsall SPD.

- Appeal against 17/0506 (APP/V4630/D/17/3181865) - Appeal dismissed – 13/10/2017

The Planning Inspector concluded:

-The proportions of the side extension would not be subordinate to the host property

-Almost double the width of the property at first floor level

-Overall width and scale of the extension together with the depth would be viewed as an incompatible and incongruous addition to the front gable design and proportions of the host dwelling

-Resultant loss of space at first floor between no's 6 and 8 would disrupt the distinctive rhythm of the group of properties

-Have a harmful effect upon the character and appearance of the host property and the area

-The different character and appearance of no.10 and onwards ensures they are visually distinct from the rhythm of the group of properties up to no.8

-Other examples of extensions in local area have been based upon different development plan policies which applied at the time

-The example given at no.2 Rushall Close clearly illustrates that such extensions are discordant additions which reduce first floor gaps and change the nature of relationships between properties to the detriment of the character of the area

In the grounds for appeal the appellant identified other similar examples of first floor extensions to the side. The planning inspector commented:

-First floor extensions in Mellish Drive and Stencils Drive also impact upon the spaces between properties and are not a reason to allow such now.

In conclusion the planning inspector dismissed the appeal stating that *the development would harm the character and appearance of the host property and the area and would therefore be contrary to local and national policies which when taken together the policies seek to ensure high quality design, with regard for local character and distinctiveness.*

- 18/0193 – First floor extension to side above garage and dining room – decline to determine - 18/07/2018 - on the grounds that the applicant had not addressed either the Council's concerns or the Planning Inspectors decision and thus the application was a repeat application.

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 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 in the process and can speed up decision making. 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
- ENV32: Design and Development Proposals
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

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

Walsall Site Allocation Document 2019

EN1: Natural Environment Protection, Management and Enhancement

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

Consultation Replies

Local Highways Authority

Support

Representations

None received

Determining Issues

- Has the application overcome the previous reason for refusal?
- Other material matters

Assessment of the Proposal

Has the application overcome the previous reason for refusal?

Specifically:

“Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap to the side at first floor level that is occupied on the ground floor by the garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the gap to the boundary with the adjoining house number 6, and the addition of the dormer to the front at first floor level would harm this simplicity of roof shape.

The extension would appear cramped and incongruous, would look disproportionately wide in relation to both the host dwelling and to the other similarly designed detached houses and would therefore be out of keeping with the design of the existing house and the character of the street in this location.”

One defining character of the row of houses from no. 2-8 Burton Farm Road is the minimum 5.2m wide gaps between the first floors of the dwellings. Since the previous refusal, no. 2 Burton Farm Road has constructed a first floor side extension of similar design to this proposal. No. 2 is located at the right hand end of this row of dwellings from no. 2 to no. 8 which have side garages situated to the right hand side of the main dwelling. Therefore the extension has not affected any of the gaps between the dwellings and it is considered that there have been no changes that have altered this defining character of the street in this location.

The original plans submitted with this application, included a front catslide roof with front dormer, reflecting a similar design to that which was refused by both application 07/0778/FL/H4 and application 17/0506. The only alterations were an additional set back of the dormer from the front wall of the house and a small hip that had been included at the top corner of the roof. Whilst the small hip would have created an additional triangular gap between the apex of the roofs of the application dwelling and the neighbouring property, with a width of 1.5m and a depth of just 0.9m, it is considered that this would not be sufficient to overcome the previous reasons for refusal, as the majority of the extension would still occupy the same width as the refused designs and would have the same impact.

After the application was called in for consideration by the Planning Committee, the applicant's agent submitted the amended plans that are now being considered. These plans are almost identical to the plans that were non-determined by application 18/0193 on the grounds that they failed to address the Council's concerns or the Planning Inspectorates decision and thus was considered to be a repeat application.

The amended proposal extends the first floor to create a flat front elevation which would overcome the part of the previous refusal reason in relation to the addition of the dormer to the front at first floor level, that would harm this simplicity of roof shape.

However, this amended application does not take account of either the Planning Inspector's conclusions or the previous reasons for refusal, both of which cite the overall width and scale of the extension. The proposed width of 5.5m is exactly the same as the proposed width for each previous application with a roof ridge height 0.1m taller.

The proposed extension would result in the width of the house being almost doubled at first floor, resulting in the loss of the gap to the boundary to number 6 and would impact and harm the simplicity of roof spacing and rhythm between properties. The extension would appear cramped, incongruous, and not subservient to the host property and out of keeping with the design of the existing house and the character of this part of Burton Farm Road.

The planning statement submitted with this application references the street elevation plan that has been submitted and states:

“Having looked at other properties on the estate, which has varied design and accommodation, I don't consider there to be any justification to retain what is referred to as a 'wide gap' between the properties, when there is a clear requirement to enhance these below standard properties and to bring them up to date with a much improved design and modern day facilities.”

There are no objections to the principle of extending the house and the fact that the house may or may not have modern day facilities is not a material planning consideration. In relation to the “varied design and accommodation on the estate”, this statement fails to consider the refusal reason which specifically identifies, “the character of the street in this location”. It also does not address the planning inspectors concerns which specifically dealt with other examples of extensions; *First floor extensions in Mellish Drive and Stencils Drive also impact upon the spaces between properties and are not a reason to allow such now... the development would harm the character and appearance of the host property and the area and would therefore be contrary to local and national policies which when taken together the policies seek to ensure high quality design, with regard for local character and distinctiveness.*

The Planning Statement also states that the proposal is to provide better first floor sleeping accommodation. The Government advice is 'planning is concerned with land use in the public interest, so the protection of purely private interests, could not be material considerations'.

The applicant has previously referred to other extensions in their appeal and during the processing of the previous application. The planning inspector commented that First floor extensions in Mellish Drive and Stencils Drive also impact upon the spaces between properties and are not a reason to allow such now. The inspector also commented on larger houses generally requiring gaps to either side boundary in order to provide a “breathing space” around the dwelling. In conclusion the planning

inspector dismissed the appeal stating that the development would harm the character and appearance of the host property and the area and would therefore be contrary to local and national policies which when taken together the policies seek to ensure high quality design, with regard for local character and distinctiveness.

Support of this proposed extension would therefore be contrary to the requirements of the National Planning Policy Framework, the Council's planning policies and the conclusions of the Planning Inspectorate.

The Council has been successful in defending appeals where gaps to boundaries are removed or reduced, even where the position of the adjoining house is away from the boundary so that no terracing would have occurred. The Council has also granted permission for large extensions that, by retaining a gap to the side boundary, have respected the character of the street.

As has previously been advised, both to the applicant and planning committee, the Council's Designing Walsall SPD guidance looks to achieve a minimum of 0.9m gap to the boundary to reduce the risk of terracing and help reflect the character of the area. The local planning authority considers the extension would need to be reduced to no more than 3 metres wide (measured externally), as well as a setback of 2 metres from the existing front elevation of the main house, with a lower ridge height, plus a hipped roof, to render it subservient to the main dwelling and to maintain a gap between the dwelling and its neighbour. This would demonstrate the extension has been substantially amended to take account of objections to the earlier proposal, the previous reasons for refusal and appeal dismissal. The changes would also make the extension subservient to the original house, to address the concerns of the local planning authority and the planning inspector.

Councillor Mazhar's call in to Planning Committee on the grounds that the application requires delicate judgement. In this instance, there is no delicate judgement to be assessed, nor can there be a subjective assessment of this proposal. This includes referencing other decisions within the wider housing estate. Again the planning inspector made it clear, this is no justification for the harm this extension creates. In this instance, it is purely a binary assessment: has the applicant overcome the previous reasons for refusal of 07/0778/FL/H4 and 17/0506, plus has the applicant overcome the planning inspector's dismissal of application 17/0506? In this instance, it is clear the applicant has not overcome or tried to overcome the previous reasons for refusal, consequently, the application is recommended as a refusal. This is further enhanced, by the fact the LPA's decision to turn away the repeat planning application 18/0193 in which the applicant had not tried to overcome the previous reasons for refusal or the planning inspector's decision.

Conclusions and Reasons for Decision

It is considered that the applicant has not addressed either the Council's concerns or the Planning Inspectors decision. This is effectively a repeat application that does not overcome the previous reasons for refusal and should therefore be refused again.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and advised that the original plans did not overcome the previous reasons for refusal. After the application was called in, amended plans were submitted which also do not overcome the previous reasons for refusal and in this instance the Local Planning Authority are unable to support the application.

Recommendation

Refuse Planning Permission

Reason for Refusal

1. Most of the houses in Burton Farm Road are a modern design with a uniform depth at first floor level and simple roofs that slope either from the front to the rear or to either side. The latter style, which includes numbers 2 to 8, have a wide gap between the first floor side elevations that is occupied on the ground floor by the attached garage and porch. The proposed extension would result in the width of the house being doubled at first floor, resulting in the loss of the distinctive gap to the boundary with the adjoining house number 6.

The extension would therefore appear cramped and incongruous, would look disproportionately wide in relation to both the host dwelling and to the other similarly designed detached houses and would therefore be out of keeping with the design of the existing house and the character of the street in this location. As such the proposal would therefore be contrary to the National Planning Policy Framework, Black Country Core Strategy policies CSP4, ENV2 and ENV3 and Walsall's Unitary Development Plan, in particular saved policies GP2, ENV32 and Appendix D of Designing Walsall SPD.

Notes for Applicant

None

END OF OFFICERS REPORT