



Economy, Environment and Communities, Development Management

Planning Committee

Report of Head of Planning and Building Control on 06 October 2022

Plans List Item Number: 5

Reason for bringing to committee

Called in by Councillor Sohal on the grounds that it is 'sensitive planning' although the Councillor has not specified what sensitive grounds there are.

Application Details

Location: 30, LAKE AVENUE, WALSALL, WS5 3PA

Proposal: PROPOSED SINGLE STOREY REAR EXTENSION AND ALTERATIONS TO ROOF OVER FRONT ENTRANCE FOR A NEW PORCH

Application Number: 22/0229

Case Officer: Sean Hewitt

Applicant: Mr Perdeep S. Thiara

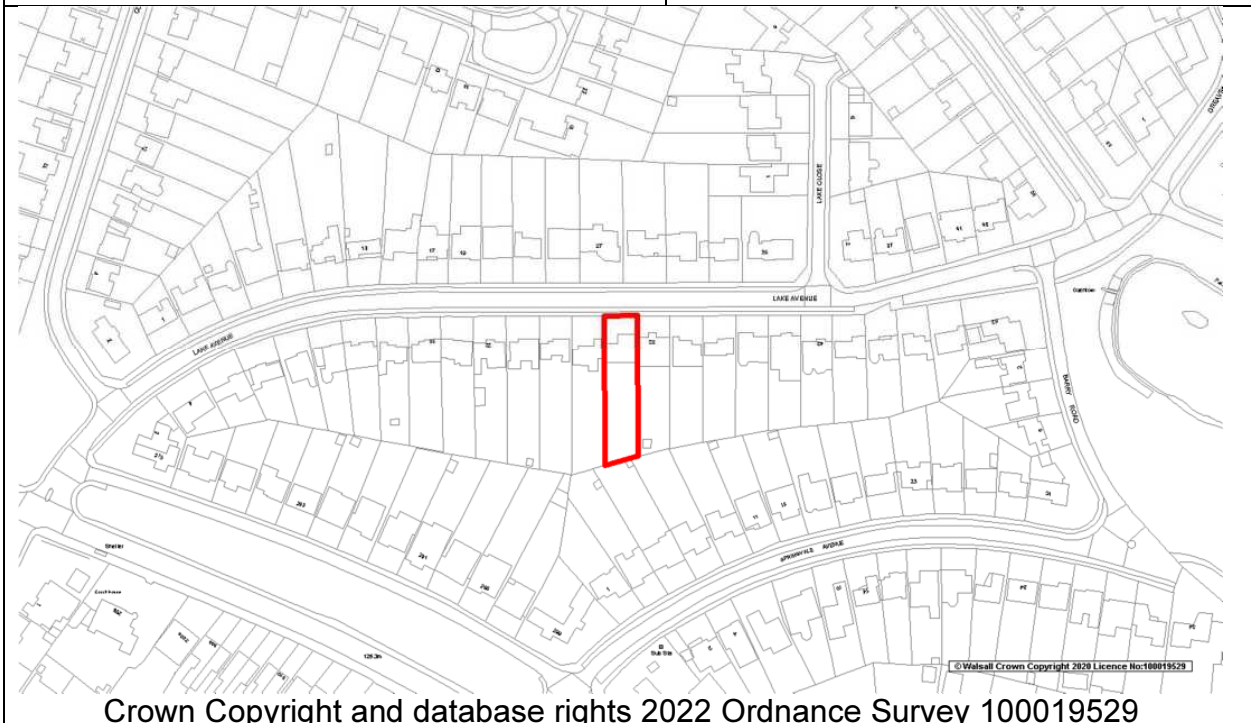
Ward: Paddock

Agent: Z.S. Partnership Ltd.

Expired Date: 06-May-2022

Application Type: Full Application:
Householder

Time Extension Expiry: 30-Jun-2022



Recommendation

Refuse

Proposal

Single storey Porch:

1.5m deep

3.08m wide

2.55m to eaves

3m max height

Skylights on each roof slope

Single storey rear extension:

4m deep

11.94m wide

3.2m high parapets at each side of the 3m high flat roof

3.8m high roof lantern

Bi-fold window and other window facing rear garden

Site and Surroundings

The proposal is for extensions to a large detached dwelling which has been previously extended two storeys at the rear. The existing houses in this section of Lake Avenue are detached with side facing habitable windows a key characteristic of some of the original dwellings in this area. The property is set in a large plot with generous rear garden.

No 28 Lake Avenue has a side facing habitable room window in the original gable wall that faces the boundary fence and gable wall of no 30 at a distance of approximately 3.6m

Relevant Planning History

21/0703 – Prior Approval for a larger home extension 8m deep, 4m max height and 2.7m to eaves – Refused 23/06/21:

'2. The proposed 4.0m high extension would detrimentally harm the outlook of No.28's Lake Avenue's side facing window and would reduce the light availability of this room throughout the morning. This is considered to result in an unacceptable harm to their visual amenities. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall's Unitary Development Plan and the National Planning Policy Framework.'

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 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.

Local Policy

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 and Conserving Walsall’s Natural Environment SPD’s are consistent with the NPPF.

Consultation Replies

none

Representations

Planning officer comments are shown in italics.

1 objection from no.28 Lake Avenue:

- The application is similar to that which was previously refused. Concerns to loss of outlook and light to the side facing habitable window. (*Loss of outlook is not a material planning consideration*)
- Loss of light and views from utility and cloakroom (*Loss of view and loss of light from a non-habitable room are not material planning consideration in the determination of the planning application*)
- Concerns to possible damage to fence (*This is not a material planning consideration as it is a private matter between the land owners*)
- The rear extension is out of proportion to the original footprint which reduces the open aspect of the neighbourhood

Determining Issues

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

Assessment of the Proposal

Design, layout and character

The proposed single storey porch extension is considered to reflect the character of the original dwelling, with the proposed facing materials consistent with those used for the existing building. Due to its limited size and as it is set back from the highway, the porch it is considered to have a negligible impact on the evolving character of the area.

A neighbour's concern is that the proposed rear extension is out of proportion to the original footprint of the dwelling and will reduce the open aspect of the neighbourhood. As the proposed single storey rear extension is not visible from public vantage points, it is considered to limit any impact on the character of the original dwelling, likewise it will not be out of proportion with the footprint of the house or affect the open aspect of the neighbourhood.

Overall, the proposal would not cause significant harm to the character of the application dwelling or the locality in accordance with the requirements of BCCS

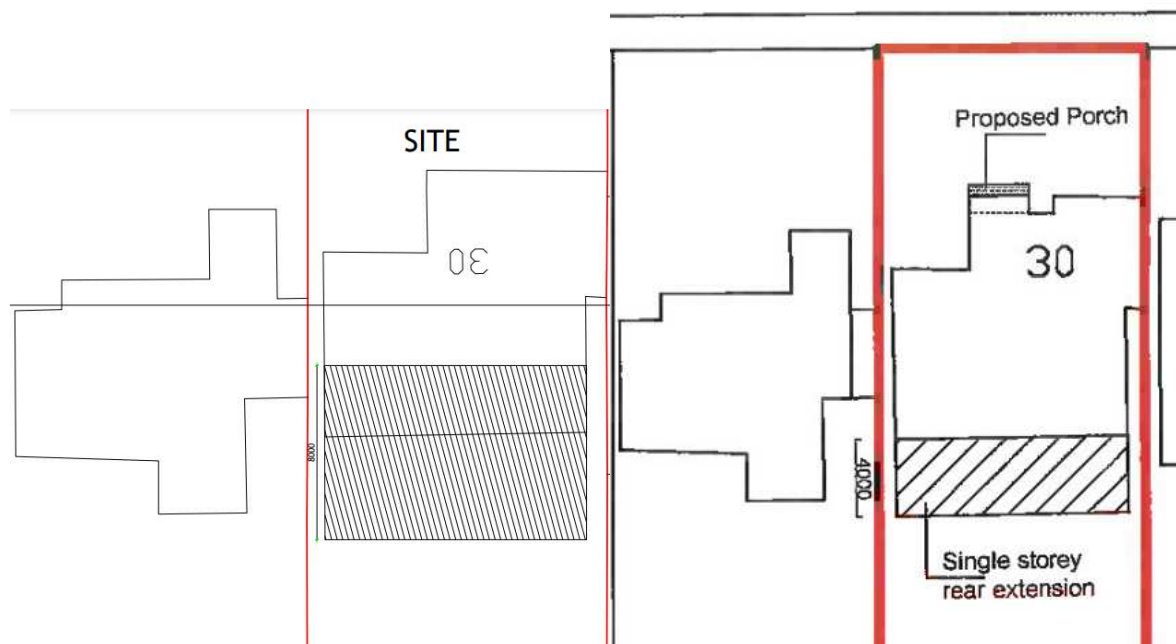
policies CSP4 and ENV2, saved UDP policies GP2 and ENV32 and the SPD Designing Walsall policy DW3 and Appendix D.

Amenity of neighbours and amenity of future occupiers

Taking note of the planning history, this current application must overcome any of the previous reasons for refusal which would be relevant in the consideration of this householder application. The second reason for refusal of 21/0703 which addresses neighbouring amenity is therefore a material consideration which must be fully overcome before any support can be given to the application. The reason for refusal states:

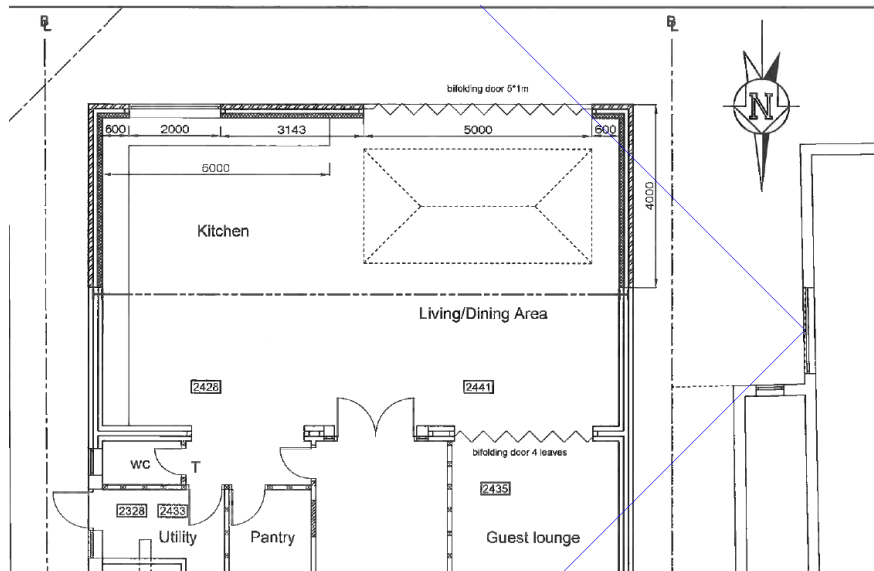
'The proposed 4.0m high extension would detrimentally harm the outlook of No.28's Lake Avenue's side facing window and would reduce the light availability of this room throughout the morning. This is considered to result in an unacceptable harm to their visual amenities. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall's Unitary Development Plan and the National Planning Policy Framework.'

Side facing habitable room windows are a feature of parts of the wider park hall estate and this road. Whilst the applicant has made some minor reductions in the depth of the extension, it is insufficient to address the reasons for refusal. The LPA seeks a 6 metre separation gap from the neighbour's side facing habitable room window to the proposed rear extension, as has been achieved with similar extensions along this road. This would overcome the previous reason for refusal.

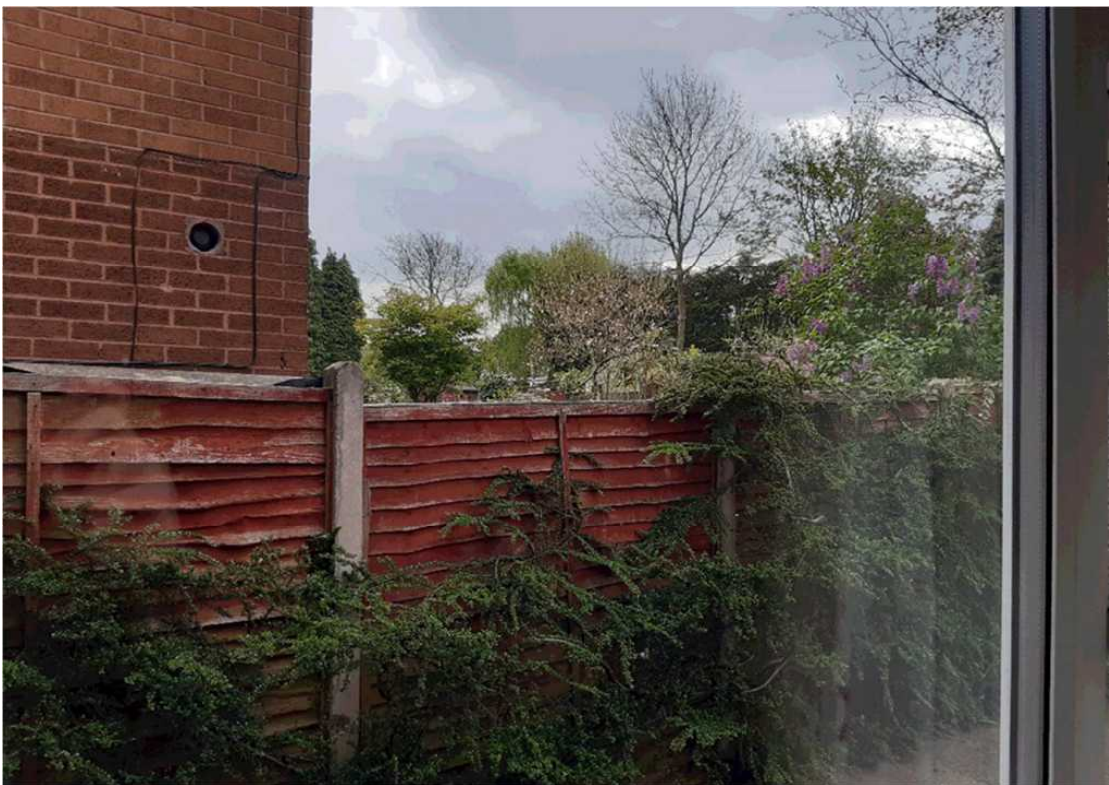


Whilst the LPA has previously accepted the two-storey addition to be built in front of this window, this was before the latest planning policies and guidance which includes separation distances from windows to blank walls. Any current planning decision must be with the current planning policies and guidance rather than what has gone before. Should the current application be approved it would exacerbate the existing level of harm to no.28 detrimentally. Shown below is the 45-degree code taken from number

28's habitable room window which with the additional 4m depth of the extension and further height of the parapet wall design of the extension, detrimentally impacts on the outlook of the side facing window. Taking into account the south facing orientation of the gardens, this proposed creates additional shading and will reduce natural light to this primary habitable room window during the day by way of the extensions depth and height.



A site visit was undertaken to the neighbour's property to assess the possible impact the extension would have on the habitable room window. The photograph illustrates this window serves a dining room and is the primary and only natural light source and outlook for this habitable room. It is considered, the reduced outlook and light during the day, should the extension be approved, would be significantly detrimental to the neighbours amenity above and beyond the existing situation that currently exists with the current proposal failing to address the previous reasons for refusal. In addition, the personal benefit the applicant may gain from the approval of the rear extension is not a reason to outweigh the significant level of harm the neighbour would suffer as a result.



Conclusions and Reasons for Decision

Overall, the proposal has failed to address the previous reasons for refusal as outlined under 21/0703. The proposal, by way of its additional depth and height, is considered to have a detrimental impact on the outlook and light availability during the day to no.28's habitable side facing window. The personal benefit the applicant may gain from the approval of the rear extension is not a reason to outweigh the significant

level of harm the neighbour would suffer as a result. The proposal is therefore contrary to saved UDP policy GP2 (Environmental Protection).

Given there are no material planning considerations in support of the proposals, no material planning considerations that could justify setting aside the significant harm to the neighbours amenity either, it is concluded, this application should be recommended for refusal.

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal with no amendments forthcoming.

Recommendation

Refuse Planning Permission

Reasons for Refusal

1. The proposed single storey rear extension would fail to overcome the previous reason for refusal under 21/0703 and is considered to be detrimental, over and above the existing situation, to the outlook of no.28's primary and habitable side facing window and would reduce the light availability of this room throughout the day. Therefore, the proposal is considered contrary to saved policy GP2 of Walsall's Unitary Development Plan and the National Planning Policy Framework.

END OF OFFICERS REPORT