

Planning Committee

Report of Head of Planning and Building Control on 25 July 2024

Plans List Item Number: 5

Reason for bringing to committee

Head of Service discretion

Application Details

Location: 74, Mellish Road, Walsall, WS4 2EB

Proposal: RETROSPECTIVE: REPLACEMENT 6 BEDROOM DETACHED DWELLING HOUSE

Application Number: 23/0446

Case Officer: Oliver Horne

Applicant: Majid Zeb

Ward: St Matthews

Agent: PAUL CLIFTON ASSOCIATES

Expired Date: 30-May-2023

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

Time Extension Expiry: 31-Jul-2024



Recommendation

1. Refuse

Proposal

Retrospective: Replacement 6 bedroom detached dwelling house to be constructed over 2.5 storeys, forming a lounge, study, cloakroom, store, open plan dining, living and kitchen, with a WC, utility and open rear pergola at ground floor, with 4 bedrooms, bathroom, ensuite and landing area at first floor and 2 further bedrooms and ensuites at the second floor in the extended roof space, which includes a large rear box dormer. The works to the property have also included a second front gable and what was the side extension running the ridge height flush to the main house. Neither of these elements were previously approved and nor was the scale of the rear box dormer. The works include changes to the external materials, both roof and walls, changes to the window proportions facing the street to make them narrower and taller, plus changes to the second floor main front gable window, changes to the porch and the door detailing plus some additional ground floor space increases.

Site and Surroundings

The application site is located in the outskirts of Walsall, approximately 1.8km north east from the railway station on the southern side of Mellish Road. Mellish Road is a suburban residential street characterised predominantly by mid-20th Century,

2-storey detached dwelling houses set back from the road behind generous front gardens and/or driveways.

The site itself comprises a new build 2.5-storey 6-bedroom detached dwelling house, which was recently constructed following the demolition of the existing property under planning approval reference 20/0453. The building and boundary treatments that as erected have not been built in accordance with the approved plans and this retrospective application seeks permission to regularise these unauthorised works.

Relevant Planning History

21/0804 - Re-submission application of 20/0453: Replacement 6-bedroom dwellinghouse. Amendments include increased roof height and alteration to roof design, addition of rear box dormer, re-designed single storey rear extension, removal of side facing windows, additional two storey front extension and change to window design on front elevation. – **Withdrawn 21/11/2022.**

20/0453 - Replacement 6-bedroom house over two and half storeys to include the loft – **GSTC 13/07/2020.**

Relevant Policies

National Planning Policy Framework (NPPF)

[Read more on the 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". The NPPF is a material consideration in the determination of a planning application.

Human rights and reducing inequalities

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been considered in reaching the recommendation contained in this report. The articles/protocols identified below were considered of relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

[Read more on the development plan published on the council website.](#)

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocations Document
- Unitary Development Plan
- Walsall Town Centre Area Action Plan

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultation Replies

Fire Officer – No objection.

Ecology Officer – No objection STC.

Environmental Protection – No objection.

Highway Authority – Concerns re that the frontage boundary wall re providing adequate pedestrian inter-visibility at the access point. Details are required.

Severn Trent Water - No objection STC.

Enforcement Officer – An enforcement notice has been drafted and has been put on hold awaiting the outcome of the current application.

Representations

0 comments received in support of proposal.

1 comment received objecting to proposal support for the following reasons:

Overshadowing
Noise and disturbance
Overlooking
Security
Visual impact
Poor design out of context
Drainage and DPC

Determining Issues

- Principle of development
- Design, layout, and character
- Amenity of neighbours and future occupiers
- Highways
- Ecology and Biodiversity Net Gain

Assessment of the Proposal

Principle of Development

The principle of the redevelopment of this site for a replacement dwelling was approved planning permission under planning applications reference 19/0762 and 20/0453. Since these permissions were approved there have been no material policy changes and the principle of the proposed residential development is supported, providing all other development plan policies are satisfied.

Design, Layout and Character

Paragraph 135 of the NPPF emphasises that policies should seek new development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. The advice also requires development to be sympathetic to local character and history including the surrounding built environment and landscape setting'. Para 139 states 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

Saved Policy GP2 of the UDP requires development to make a positive contribution to the quality of the environment, including the visual appearance. Policy ENV32 asserts that proposals which fail to properly take account of the context or surroundings will not be permitted. When assessing the quality of the design of any development proposal the Policy will use some, or all, of a number of specified criteria including, inter alia; the appearance, height, proportion, scale, mass, materials of the proposal,

and the visual relationship of the proposed development with the character of the surrounding area and neighbourhood. Policy ENV33 advises that good landscape design is an integral part of urban design. The Designing Walsall SPD offers more detailed design principles that should be used as guidance for development proposals.

Since the most recent approval of planning permission for the replacement dwelling reference 20/0453 development on the site commenced and it was brought to the attention to the Council that the dwelling did not accord with the approved plans. Planning enforcement undertook investigations and the current revised proposal was submitted to seek approval for the amended development as built. The enforcement action has been put on hold whilst this application is under consideration.

This current application seeks the following amendments to be made to the approved drawings under planning permission reference 20/0453:

- 1) Introduction of narrow vertical fenestration to the front elevation in place of the approved more traditional window design and revised rooflights.
- 2) Increase in height of western wing roof to integrate with the roof of the remainder of the dwelling
- 3) Erection of 2-storey front gable addition to eastern wing
- 4) New large box dormer with roof lantern to rear roof slope in place of the approved three dormer windows
- 5) Revised fenestration to rear first floor level
- 6) Revised rear single-storey addition incorporating a flat roof design with roof lanterns, in place of approved pitched roof addition and amended footprint.
- 7) New obscured glazed first floor window to eastern flank elevation and removal of ground floor windows
- 8) Removal of ground floor windows to eastern flank elevation.

It is recognised that several of the properties within the street have been extended or rebuilt since their original conception thereby offering a varied mixture of architectural designs within the street. The approved replacement dwelling on the application site pushed the boundaries in terms of its contemporary design approach and its design and detailing were considered by the determining planning officer to '*positively contribute to updating the character of the area*'. Unfortunately, however, the building as constructed and proposed within this current application has deviated significantly from this approved design.

To the front of the property, the window fenestration design with its curious vertical and narrow window openings is at odds with the character of the area, which universally comprises more conventional casement window openings.

The approved dwelling design had previously incorporated a western wing which was deliberately set back from the front building line of the dwelling with a reduced ridge height to ensure that it appeared subordinate and broke up and disguise the overall bulk of the property. The current as built proposal, however, with its unified ridge

height and additional 2-storey front gable, notably increases the perceived bulk of the property and upsets its aesthetic balance. These changes away from the approved scheme are further exacerbated by the unwelcome choice of bright facing brickwork and grey roof tiles used in both the construction of the property itself and the new front boundary treatments. These materials conflict with the more traditional restrained palate of materials used in the construction of development elsewhere in the street. As a consequence of the above, when viewed from the front the proposed dwelling as built has a detrimental impact on the street scene and has an unacceptable adverse impact on the character of the area impacting on the amenity of neighbouring occupiers and users of this part of the street.

To the rear, the proposed dwelling as constructed includes a large box dormer addition with a raised roof lantern and full height central window, in place of the more traditional triple dormer window design of the approved scheme. No other properties within the vicinity have erected a large box dormer extension and this represents an unsightly roof addition that fails to take account of its context and surroundings, as well as providing increased opportunity for overlooking and impacts on privacy of neighbouring gardens from its elevated position. The other proposed external alterations that deviate from the approved plans, including the rear and side fenestration detailing and the single-storey rear addition, are considered to be on balance acceptable by virtue of their siting away from the public domain.

Overall, for the reasoning given above, the proposed development is considered to be detrimental to the character of the area and street scene being detrimental to the amenity of neighbouring occupiers and users of the street scene whilst conflicting with Saved Policies GP2, ENV32 and ENV33 of the UDP, the Designing Walsall SPD and the NPPF.

Amenity of Neighbours and Amenity of Future Occupiers

Under the provisions of Policy GP2 of the Walsall UDP the Council expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact. The Designing Walsall SPD sets out the recommended separation gaps between residential dwellings to ensure the amenity of existing and future occupiers is not unduly impacted.

The raised ridge height, front gable and box dormer additions will have had limited impact in terms of the effect upon neighbouring amenity by way of daylight, sunlight, or sense of enclosure. Notwithstanding this, the new box dormer extends further rearwards from the roof slope than the individual approved dormer windows, and it includes a full height central glazing panel with windows either side serving new ensuite bathrooms. These windows, specifically the large central glazing panel, would provide increased opportunities for elevated direct overlooking of neighbours. This issue, however, could be addressed by way of a condition requiring that these upper floor windows be fixed shut and obscure glazed below 1.7m above internal floor

levels. However, as the application is being refused on other grounds, this potential for increased overlooking is included as a reason for refusal in conflict with Saved Policy GP2 of the UDP.

Highways

Policy TRAN2 of the Core Strategy requires developments to manage transport impacts. Policy GP2 of the UDP requires development to be accessible by a choice of means of transport and to provide adequate parking provision. Policy T7 requires an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified within Policy T13, which requires provision of 2 spaces per bedroom dwelling and 3 spaces per dwelling with 4-bedrooms or above. Policy T8 requires (inter alia) developments and transport projects to address the needs of pedestrians.

Sufficient off-street parking can be provided within the generous front driveway, however, the new front boundary walls that have been erected did not form part of the approved drawings, or indeed this current submission. The Highway authority raised concerns that the walls as built may not provide adequate pedestrian inter-visibility at the access point. On the basis that insufficient information has been provided to enable appropriate assessment, the proposal has failed to demonstrate that the development will not be detrimental to road safety and the development is in conflict with Saved Policies T7, T8 and T13 of the UDP.

Ecology and Biodiversity Net Gain

Paragraphs 174 and 180 of the National Planning Policy Framework supports development that achieves a net gain in biodiversity. Unitary Development Plan policy ENV23 requires that the layout of new development takes full account of existing features of value for wildlife and to include mitigating measures where loss is unavoidable. The Policy also requires developments take account of the potential for enhancement of the natural environment through habitat creation. Black Country Core Strategy Policy ENV1 sets out the spatial objectives with regard to safeguarding nature conservation.

As the planning application has been undertaken retrospectively with the works already complete, no further ecological impacts are anticipated from the planning application. A bat survey would have been required to support the application to ensure no adverse impacts to bats.

The Councils Ecology Officer recommended securing the addition of two bat boxes by way of condition to mitigate for any potential adverse impact to bats, which could have resulted from the works. However, as the application is being recommended for refusal on other grounds the imposition of a condition would not be possible in this instance.

Conclusions and Reasons for Decision

This application has failed to provide sufficient information regarding access and front boundary treatments, results in adverse impacts upon the amenities of neighbours in terms of loss of privacy and causes significant harm to the character and appearance of the area.

The material planning considerations weigh against the proposal such that it is recommended for refusal.

Officers have corresponded with the applicant's agent.

Positive and Proactive Working with the Applicant

Given this is a repeat of an earlier withdrawn application and in order to make the application acceptable in planning terms to take account of harms to both neighbours and the street scene, the applicant would need to make changes to what has been built, which they are aware of, no further negotiations have taken place. In this instance are unable to support the proposal.

Recommendation

Refuse.

Reasons for Refusal:

1. The proposed design including the fenestration to the front elevation, raised ridge height of the western wing with new front gable projection and inappropriately coloured roofing and facing brick materials would fail to properly take account of the context or surroundings and the proposal has an unacceptable adverse impact on the character of the area detrimental to the amenity of neighbouring occupiers and the users of the immediate street scene in conflict with Saved Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals) of the UDP The Designing Walsall SPD, and the NPPF.
2. The applicant has failed to provide sufficient evidence to detail the proposed vehicle access arrangement and front boundary treatment would not impact on pedestrian and highway safety and the proposal fails to satisfy Saved Policies T7 (Car Parking), T8 (Walking) and T13 (Parking Provision for Cars, Cycles and Taxis) of the UDP and the NPPF.

3. The proposal includes second floor windows which would introduce a direct form of overlooking into the properties of 25, 27 and 29 Chapel Street and their rear gardens giving rise to an unacceptable adverse impact on their private amenity contrary to Saved UDP Policy GP2 (Environmental Protection) and the NPPF.

END OF OFFICERS REPORT