



Walsall Council

Planning and Building Control

Planning Committee 16 January 2025

Report of Head of Planning and Building Control

Plans list item number:

Item number: 3

Current Status

At the Planning Committee meeting of 31/10/2024, the Planning Committee resolved to defer the application to enable further negotiations between the applicant, officers and objectors to overcome the outstanding recommended reasons for refusal and to delegate to the Head of Planning and Building Control to grant permission if satisfactory amendments are made which are considered by officers to fulfil this requirement, subject to consultation with the neighbours.

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

An amended plan was received on 28/10/2024 with changes relating to:

- Decreased width of dormer
- Obscure glazed skylights in the loft

Any Other Updates

1. Following planning committee on 31st October 2024 amended plans were requested by the planning officer to reduce the single-storey rear extension by 0.8 meters in depth to comply with the 45-degree code as set out in Designing Walsall SPD. It was also requested the removal of the balcony, with the potential for replacement with a Juliet balcony, in order to protect neighbouring amenity in relation to loss of privacy due to overlooking. In addition, it was requested to remove or modify the dormer so that the flat roof element would not be visible within the street scene to ensure that it respects the characteristic nature of the locality.
2. Amended floor and elevation plans have been received, addressing the 45-degree code. An amended block plan has not been submitted to support amended floor and elevation plans.
3. Further amendments were requested for a second time, specifically concerning the dormer and balcony. The planning agent confirmed that the applicant was unwilling to make modifications to the dormer and balcony and instead requested that the application is taken back to planning committee.

Neighbour Comments:

Objection(s):

2 comments received objecting to proposed amendments to the scheme, for the following reasons:

- 1) Overlooking.
- 2) Does not adhere to 45-degree code guidance.
- 3) Loss of light.
- 4) Overbearing.
- 5) Shading.
- 6) Loss of privacy – dominant vision point.
- 7) Noise pollution.
- 8) Disproportionate.
- 9) Out of character of the area/ Poor design.
- 10) Loss of trees have affected bat activity.
- 11) Incorrect validation of application.
- 12) Community safety and security.
- 13) Existing condition relating to side windows and doors.
- 14) Excessive and intrusive.
- 15) Prominent roof extension.

There are no new material consideration raised within the objections submitted in relation to the amendments to scheme.

Conclusion

It's not considered that the new proposal has satisfactory overcome the previous reasons for refusal. Whilst the agent has submitted amended floor and elevation plans to address the breach of the 45-degree code, an amended block plan has not been submitted, therefore there are discrepancies within the plans.

In addition, the applicant has failed to demonstrate that the design of the proposed extensions are in keeping with the character of the street scene and would not lead to substantial harm to the amenity of neighbours due to the size and design.

On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report and therefore the refusal reasons as set out in the original report remain unchanged.

Reason for reporting to the planning committee.

Called in by a Councillor – Councillor Gazanfer Ali – Councillor is in support of the proposal.

Application requires delicate judgement.

The application description has been amended to include specific reference to the balcony/ terrace. Residents/ interested parties have been consulted on this change and the consultation period ends on 28th October.

Application details.

Application reference: 24/1093

Site location: 159, THE CRESCENT, WALSALL, WS1 2DD

Application proposal: Full planning application for a proposed two storey side extension with balcony/terrace over the proposed single storey side and rear extension; single storey front extension with new front bay window and canopy; a change of roof design to the rear to accommodate a new side dormer and loft conversion; front, side and rear fenestration.

Application type: Full Application: Householder

Link to application documents: <https://go.walsall.gov.uk/planningapps?id=24/1093>

Applicant: Shahzia Matloob 159, THE CRESCENT, WALSALL, WS1 2DD

Planning agent: Faraaz Arshid, Hayat Architects Hayat Architects, 43 Borneo Street, Walsall, WS4 2HZ

Ward: Paddock

Red line location



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Site and surroundings

The prevailing character of the area is mainly pitched roofed extensions, and gable ends facing within the street scene. It is noted there are one or two properties which have small flat roofed dormers which face into the street scene. The site is directly abutting greenbelt land to the rear. There are no TPOs on or near the site. The site is not within or adjacent to a conservation area. There are no listed buildings or locally listed buildings within the vicinity of the site.

Relevant planning history

BC5917 - 159, THE CRESCENT, WALSALL, WS1 2DD – Extension to dwelling – Grant Subject to Conditions – 12/01/1977

BC17248 - 159, THE CRESCENT, WALSALL, WS1 2DD – Erection of Timber Shed for office storage purposes – Permission Refused – 05/02/1981

Reasons for refusal:

1: Introduce an isolated commercial use within a residential area, detrimental to neighbouring amenity.

2: Parking and deliveries to the site could affect traffic flow.

BC07274P - 159, THE CRESCENT, WALSALL, WS1 2DD – Erection of first floor bedroom and bathroom – Grant Subject to Conditions – 26/07/1983

Condition 2: removed permitted development rights for side facing windows and doors.

Reason: to safeguard the amenity of the occupants of adjoining premises.

Relevant policies

National Planning Policy Framework (NPPF)

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 taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular 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

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 Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

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.

Consultee comments (planning officer's summary)

Ecology Officer

No objection subject to conditions being added in relation to bats and nesting birds.

Recommended conditions:

1: evidence of bat or bat found during operations.

2: Lighting.

3: expiration of current bat survey.

4: installation of bat box and bird box in extension.

Local Highways Authority

Support subject to conditions being added in relation to the parking area.

Recommended conditions:

1: Parking area being fully consolidated and drained.

2: Visibility splay being incorporated and maintained at site.

Tree Preservation Officer

No objection to the proposal and no recommendations.

Neighbour and interested parties’ comments (planning officer’s summary)

Support

One comment received in support of proposal for the following reason(s):

Councillor Gaz Ali called the application into planning committee on support for the application, for the following reasons:

This application needs delicate judgement. (Officer Comments in Italics)

Objection(s)

Two comments received objecting to proposal support for the following reasons:

1. Overlooking
2. Does not adhere to 45-degree code guidance
3. Loss of light
4. Overbearing
5. Shading
6. Loss of privacy

7. Noise pollution
8. Disproportionate
9. Out of character of the area/ Poor design
10. Loss of trees have affected bat activity
11. Incorrect validation of application
12. Community safety and security
13. Existing condition relating to side windows and doors.

Determining issues

1. Green belt assessment
2. Design, layout, and character
3. Amenity of neighbours and future occupiers
4. Highways
5. Ecology
6. Trees / Protected trees

Assessment of the proposal

Green belt assessment

The rear of the site is within greenbelt, however, none of the application site falls within greenbelt. The extensions would be viewed against the backdrop of the existing house and is considered to not be harmful to the character and openness of the greenbelt in accordance with Walsall's Site Allocation Document Policy GB1: Green Belt Boundary and Control of Development in the Green Belt, and National Planning Policy Framework Paragraph 152 - 156.

Design, layout, and character

Balcony:

The property currently has French doors within the existing first floor rear elevation, above the ground floor flat roof, however there is no balustrade around the ground floor to create a formal balcony. The proposal would utilise the existing rear elevation to create a balcony/terrace over the proposed ground floor extension with a screen and railings. The design of the balcony over the proposed single storey rear extension is seen as out of character within the locality as there are no other properties in the row of houses with balconies or of that design. No. 161 The Crescent has 2 balconies; however, they are Juliet balconies which does not allow for occupants to stand beyond the windows. It is considered the balcony is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Single storey rear extension:

The design of the single storey rear extension is considered acceptable. This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Front extension:

The design of the porch/canopy is similar to the existing porch and will not have a detrimental impact blend in with the character of the street scene. This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Rear gable end:

The glazing in the proposed rear gable is not typical of the surrounding character, however, as this is at the rear of the property it will have limited impact upon the character of the street scene. . This conforms to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Loft conversion and roof dormer extension:

The proposed dormer would sit on top of the existing historic flat roof extension. The design of the roof dormer extension is large, overbearing and out of character within the street scene and wider area. The design is out of character and incongruous and will be clearly visible within the street scene particularly 'The Crescent' and from greenbelt land to the rear of the Arboretum. The dormer will have a detrimental impact on the character and homogeneity of existing development in the street scene. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f)

Amenity of neighbours and amenity of future occupiers

Dormer:

It is acknowledged that the presence of dormer with windows to the front and rear elevation could lead to perceived overlooking when compared to the existing situation,

however it is considered the proposed windows would not result in undue additional loss of privacy to local residents than any first floor front and rear windows. It is considered on balance; the dormer does not warrant refusal due to loss of privacy and overlooking. On balance it is considered, the dormer would meet the amenity requirements of Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary GP2: Environmental Protection, Planning Document (SPD) Designing Walsall, Appendix D and the NPPF paragraph 135 (a-f) of NPPF 2023.

The rooflights are proposed in the roof slope which faces 161 The Crescent, the opportunity for overlooking any habitable room windows is limited as there are none within the side elevation of no. 161 The Crescent, thus it is considered these rooflights would not result in the loss of privacy In accordance with Saved Unitary Development Plan, ENV32: Design and Development Proposals, GP2: Environmental Protection, and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

Balcony:

The proposed balcony will have a detrimental impact to the neighbouring amenity, the measures being taken to stop overlooking and loss of privacy are not being sufficient to safeguard the amenity of the neighbours within the vicinity as the railings still allow users of the terrace to overlook habitable rooms and private amenity spaces thus causing overlooking and loss of privacy for the surrounding neighbours. It is considered, the balcony will be contrary to local planning policies Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary GP2: Environmental Protection, paragraph 135 (f) of the National Planning Policy Framework 2023 which requires development to have a high standard of amenity for existing and future users.

Single storey rear extension:

The proposed single storey rear extension breaches the 45-degree code guidance from the rear ground floor habitable room of no. 157 The Crescent. The breach of the 45-degree guidance from the nearest habitable room window of 157 is 0.8 metres, this means the proposed rear extension, due to the orientation would cause shading to 157.

In addition, the extension would extend beyond the rear elevation of 157 by 6.5 metres which is considered would lead to a loss of outlook from the nearest habitable room window with this property.

On balance, it is considered the proposed single storey rear extension reduces the quality of the living conditions of the occupiers of No 157 The Crescent in respect of outlook and light. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

There are side facing windows in 161 The Crescent, however, the potential for overlooking from the proposed side facing windows is limited due to these windows being obscurely glazed and there is a boundary treatment between the two properties. Thus, in accordance with Saved Unitary Development Plan, ENV32: Design and Development Proposals, GP2: Environmental Protection, and the Supplementary Planning Document (SPD) Designing Walsall, Appendix D and the NPPF 2023 paragraph 135 (a-f).

A local resident has submitted objections which include concerns the proposed ground floor extension is on the boundary between the two properties. The applicant has submitted certificate A with the application; therefore, the Local Planning Authority consider all development will be within the curtilage of the application site. Nevertheless, should the extensions abut the boundary, the applicant would need to engage with a party wall surveyor, which is a civil matter between the two parties and does not preclude the determination of a planning application.

Comments have been received by an interested party on behalf of a local resident, relating to the validity of the application. The Local Planning Authority noted that the description of development did not include the balcony/ terrace specifically therefore for clarity on the proposal, the description has been amended and a 14 day re consultation period is currently underway until 28th October.

Highways

Parking area:

The proposal includes a change in the parking at site, the site currently has a small driveway and lawn. The proposed development requires 3 car parking spaces to accord with Walsall's Unitary Development Plan Policies T13: Parking Provision for Cars, Cycles and Taxis. In order to achieve this, the proposed driveway needs to be extended which can be secured by a condition to ensure this is constructed prior to occupation of the development.

A condition is also recommended for the maintenance of a visibility splay in respect of the potential for the developers to potentially include a new wall at the front of the property in the future constructed under permitted development.

On balance, the proposal accords with to; Walsall's Unitary Development Plan Policies T13: Parking Provision for Cars, Cycles and Taxis and T7: Car Parking, and the National Planning Policy Framework Paragraph 115.

Ecology

The proposal is exempt from mandatory biodiversity net gain as the development relates to extensions to a property, under a householder application.

A bat survey has been provided by the applicant, which was conducted by Dr. Stefan Bodnar dated 24th August 2024 which states the building is conclusively not being used as a bat roosting site. The Ecology officer concluded the risk to any protected

species on site is minimal and therefore conditions are recommended to ensure that if bats are found on site, works should cease until the appropriate measures as set out are implemented.

To add, a condition is recommended to minimise lighting on site in accordance with the guidance available within Guidance Note 08/18 Bats and artificial lighting in the UK, bats and the Built Environment series, BCT, 2018.

Should the application gain approval, a condition is recommended that should the development not have commenced by August 2026 a new Bat survey shall be undertaken and submitted to the Local Planning Authority in line with the expiry of the current survey.

On balance, it is considered the proposal; meets the requirements of Unitary Development Plan ENV23: Nature Conservation and New Development, and Black Country Core Strategy ENV1 Nature Conversation, and Walsall's Natural Environment SPG policies NE1(a) and NE4.

Trees / Protected trees

The majority of the trees at site appear to have been removed with the exception of one established ash tree. Whilst this might have resulted in a loss of habitat on site the trees are not protected by a TPO and the site is not within a conservation area., therefore consent to remove any trees is not required Thus, on balance, the proposal complies with , Walsall's Unitary Development Plan ENV18: Trees and Woodlands, and SPD Conserving Walsall's Natural Environment, and Black Country Core Strategy Policies ENV1: Nature Conversation, ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality.

Conclusion and reasons for decision

1. This application has failed to demonstrate that the design of the proposed extensions are in keeping with the character of the street scene and would not lead to substantial harm to the amenity of neighbours due to the size and design of the rear extensions.

2. On balance, this application is considered does not accord with local and national planning policies and guidance as set out in this report. Had the application not been called into planning committee the recommendation would have been to refuse under delegated powers due to the harm caused to the character of the area and immediate neighbours by the single storey rear extension, balcony and dormer. The material planning considerations weigh against the proposal such that it is recommended for refusal.

Recommendation

Refuse

Reasons for refusal

1: The design of the dormer extension is large and overbearing and out of character within the area, particularly from The Crescent. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f).

2: The proposed single storey rear extension breaches the 45-degree code with the neighbours at no. 157 The Crescent nearest ground floor habitable room windows, resulting in shading to this property throughout the day which would have an unacceptable impact upon their amenity. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f)

3: The design of the balcony/terrace extension is overbearing and out of character within the area. Moreover, the proposal would result in loss of privacy to no. 161 and 157 The Crescent due to overlooking, thus having an unacceptable impact on the amenity of 157 and 161 The Crescent. This is contrary to planning policy; Black Country Core Strategy ENV2: Historic Character and Local Distinctiveness and ENV3: Design Quality, Saved Unitary Development Plan, ENV32: Design and Development Proposals and the Supplementary Planning Document (SPD) Designing Walsall, DW3 Character and Appendix D and the NPPF paragraph 135 (a-f).

Case specific notes for applicant

N/A

End of report

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