
Appeal Decision

Site visit made on 17 January 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 January 2017

Appeal Ref: APP/V4630/D/16/3165026

1 Queens Road, Walsall WS5 3NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Rashid against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 16/0604, dated 18 April 2016, was refused by notice dated 13 October 2016.
 - The development proposed is 2 storey side extension and single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. I am aware that planning permission (14/1753/FL) has been granted for a two storey side and single storey front extension on the site. At the time of my site visit building works had commenced at the property. For the avoidance of doubt I confirm that my determination of the appeal is based on the drawings submitted and not on the works as constructed.

Procedural matter

3. Amongst the policies provided to me, I was mistakenly given extracts of saved policies ENV1- ENV3 from the Walsall Unitary Development Plan adopted 2005 (UDP), instead of policies ENV2 and ENV3 from the Black Country Core Strategy adopted 2011 (CS). However, as the policies were clearly referenced within the decision notice, and the correct policies were copied to the appellant, I consider that no party would have been prejudiced by this error.

Main Issue

4. The Council raise no objection to the proposed side and front extensions. I therefore focus on the proposed rear extension. The main issue is therefore the effect of the proposed extension on the living conditions of the occupants of number 340 Birmingham Road, with particular reference to daylight and outlook.

Reasons

5. As part of my site visit I took the opportunity to view the appeal site from the rear garden of number 340 Birmingham Road. This property is set well back at a 45 degree angle from the corner of Queens Road and Birmingham Road.
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Consequently, whilst it has a relatively large garden at the front, at the rear it sits close to the boundary with the appeal site. At its closest, the small conservatory at the back of the property is around a metre from the existing 1.8 m timber fencing, which runs along the boundary, between the two houses.

6. There is around a half metre difference in height between the two rear gardens. As such, the height of the blank wall to the side of the extension of around 2.5 m, at its closest point to the boundary, would appear to be about 20 cm above the fence. However, as the conservatory is glazed on three sides and has a translucent roof it will benefit from daylight through most of the day. Consequently, due to the configuration of the plot and the position and height of the existing boundary, I conclude that whilst the proposed single storey extension may have some impact on the levels of light enjoyed within the conservatory, it would not be substantially worse than the current situation.
7. I have carefully considered the impact of the proposed development on the outlook from the conservatory. I am aware that the proposed blank wall would not be significantly higher than the existing fence. Nonetheless, in the context of an existing tight, enclosed plot, set at an angle, the outlook of a fence, in front of a ground floor rear extension, only 2 m away from the conservatory, whose roof would rise to its highest point only 4 m from the boundary, would appear overbearing. I am aware that only part of the wall and roof would be visible. Nonetheless, the perception and impact of a solid building would be substantively different from a fence on its own and would significantly impact on the living conditions of those living at no 840 Birmingham Road.
8. In coming to this conclusion I have been aware of the possible fallback position of constructing an outbuilding under permitted development rights. However, I have no substantive evidence to indicate that such an outbuilding would be constructed should this appeal fail. This limits the weight that I can attach to such a possibility. I have also been referred to existing rear extensions. However, I have determined the appeal in the context of the specific circumstances before me.
9. Of the policies which have been brought to my attention I consider Policy ENV3 of the CS, and saved policies GP2 and ENV32 of the UDP to be the most relevant to the determination of the appeal which require all developments to accord with the principles of good design, with reference to scale, massing, height and appearance. Such an approach is consistent with Paragraph 56 of the Framework. This refers to the Government attaching great importance to the design of the built environment, which should contribute positively to making places better for people.
10. This approach is expanded within Appendix D of the Supplementary Planning Document adopted 2012 (SPD), which sets out guidelines, including reference to set distances as to what might be considered acceptable to ensure that occupants have satisfactory living conditions. However, the SPD can only be treated as guidance and should not be slavishly followed, particularly, if in doing so, the specific circumstances of a development are such that the living conditions of neighbouring occupants would be harmed. In this case, due to the configuration of the site, and the proximity of the conservatory to the boundary and to the proposed extension, the guidance that the provision or retention of a boundary wall or fencing at a minimum of 1.8 m high would safeguard the amenity of neighbours, would not be applicable. It would not

justify development which for the reasons set out above would worsen the existing outlook from the conservatory at no 840 Birmingham Road. However, the principle, that there should be a satisfactory distance between a ground floor window and a blank elevation to ensure a satisfactory outlook is relevant. I have taken into account the economic benefit of the proposed development but as there is an extant planning permission for an extension to the property I accord this little weight.

11. Consequently, as a result of the significant adverse impact of the rear elevation on the outlook of the residents of 840 Birmingham Road, the proposed development would not accord with Policies ENV3 of the CS, and saved policies GP2 and ENV32 of the UDP, the SPD and the development plan as a whole, as well as policies of the Framework, which require that poor quality designs should be refused. Therefore, the proposal would not be sustainable development as set out in the Framework.

Conclusion

12. For the reasons above the appeal should be dismissed.

L. Nurser

INSPECTOR