



Appeal Decision

Site Visit made on 9 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/V4630/W/21/3277037

15D Emery Street, Walsall WS1 3AJ

- 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 Tahir Mahmoud against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 19/0209, dated 12 February 2019, was refused by notice dated 16 December 2020.
 - The development proposed is a first-floor rear extension to flat for use as lounge/kitchen area
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the development upon the living conditions of the occupiers of 17 Emery Street, with particular regards to light and outlook.

Reasons

3. The appeal site is located in a residential area containing a variety of differently designed buildings. The appellant's building currently contains a single-storey extension to its rear. No. 17 is located to the side of the appeal site. The neighbouring dwelling also features a window that faces the appeal site.
4. The proposed extension would have a depth and width commensurate with the existing ground-floor extension. This, when combined with the proposed extension's height, would result in building works taking place in proximity to the existing window at the neighbouring property.
5. By reason of this arrangement, the proposed development would result in a significant enclosing effect upon the existing window. In result, this would reduce the level of outlook experienced by the occupiers of the room served by the existing window.
6. In addition, by reason of the orientation and size of the proposed extension, the development would also result in a reduction in the levels of light that would be experienced by the occupiers of the room served by the existing window. These factors would therefore lead to an erosion of the living conditions of the occupiers of No. 17.
7. The side window of No. 17 currently has a screen in front of it. I have not been provided with the planning circumstances of this and therefore I cannot be

certain that this is a permanent and lawful addition to the building. In result, I must consider that there is a likelihood that it may be removed at some point in the future. In consequence, this means that the proposed development would have a demonstrable adverse effect.

8. This is particularly concerning given that the evidence before me indicates that the window serves a room that is routinely used. In consequence, the adverse effects arising from the erosion of light and outlook levels would be particularly significant.
9. I acknowledge concerns raised regarding the planning circumstances of the existing window. However, the submissions made by the Council indicate that the window was installed a significant period of time ago and is therefore now a lawful installation. In consequence, I am required to consider the effects of the proposed development upon this window, irrespective of how it came to be installed.
10. Although the window might not be required to meet building regulations, it is in situ and therefore I am compelled to consider the effects of the proposed development upon it.
11. The appellant has suggested that 'light-tubes' could be installed in the neighbouring property. Whilst this might result in a satisfactory level of light being provided, it would not address the matter of outlook as previously identified.
12. Furthermore, such 'light-tubes' would need to be installed outside of the appeal site and therefore, the control of the appellant. In result, it would not be possible to impose a planning condition requiring such works for it would fail the test of reasonableness. In addition, I do not have a legal agreement before me that could be used to secure such a provision. I therefore do not find that this suggestion overcomes my previous concerns.
13. I note that the proposed development would provide improved living conditions for the occupiers of the flat. Whilst this would be of some benefit, it does not outweigh the previously identified adverse effects.
14. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of No. 17. The development, in this regard, would conflict with Policies CSP4 and ENV3 of the Black Country Core Strategy (2011); Policies ENV32 and GP2 of the Walsall Unitary Development Plan (2005); and the Designing Walsall Supplementary Planning Document (2013). Amongst other matters, these seek to ensure that developments have a high-quality design; consider the effects on light and the visual relationship of the proposed development with adjacent areas.

Other Matters

15. The appeal site is in the Highgate Conservation Area (the CA). The evidence before me indicates that the development would not have an adverse effect upon the character and appearance of the CA. I have no reason to disagree.
16. I note concerns raised by the appellant regarding the manner in which the application was determined by the Council. However, in assessing this appeal, I have limited my considerations to the planning matters before me.

Conclusion

17. The proposed development would have an adverse effect upon the living conditions of the occupiers of No. 17. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR