



Appeal Decision

Site visit made on 22 February 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16TH March 2022.

Appeal Ref: APP/V4630/D/21/3279699

62 Wellington Place, WILLENHALL WV13 3AB

- 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 Mrs Jagiro Kaur against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/1146, dated 17 September 2020, was refused by notice dated 28 June 2021.
 - The development proposed is described as 'erection of single storey rear extension.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of the development is taken from the application form. However, on the decision notice the Council refers to an enclosed porch and to extensions in the plural, which are shown on the submitted plans. The appellant has also used the Council's description on the appeal form. The Council determined the proposal on that basis and so shall I.
3. However, the reasons for refusal do not refer to the enclosed porch as the Council finds it acceptable. Having regard to the evidence before me I see no reason to disagree. I have therefore confined my assessment to the 2 rear extensions.
4. The Council has advised that Policy H10 of the Walsall's Unitarity Development Plan (the 'UDP'), which is cited in the reasons for refusal, is not a saved policy and was used in error. I have had no regard to it in my deliberations.

Main Issues

5. The main issues are:-
 - The effect of the proposed rear extensions on the living conditions of existing occupiers of 63 Wellington Road (No.63) with regard to outlook and light, and
 - The effect of the proposed rear extensions on the living conditions of existing occupiers of 61 Wellington Road (No.61) with regard to outlook, light and overshadowing.

Reasons

6. The appeal site comprises a detached dwelling in a predominantly residential area. The property has been extended in the past with a rear single storey mono-pitched kitchen extension and a conservatory leading off it.
7. The proposal would involve demolishing the centrally located conservatory and erecting two single storey extensions that would join onto the existing kitchen. One extension would extend the rear of the existing kitchen to create a new kitchen (the 'new kitchen extension') and the other would extend the existing family room (the 'family-room extension').

Effect on existing occupiers of No.63

8. The existing kitchen extension is set in from the side of the property and shared boundary fence with No.63, and currently projects out about 3.3 metres from the rear of the property. The proposed new kitchen extension would be joined onto the existing kitchen and would extend out another 3.93 metres, resulting in a rear extension with an overall length of over 7 metres.
9. No.63 is a bungalow whose rear elevation is set back from that of the appeal property. There is no dispute between the parties that the proposed new kitchen extension would breach the imaginary 45-degree line from the nearest habitable room at No.63.
10. However, the new kitchen extension would be single storey with a predominantly flat roof, apart from a central raised roof light, and would be set-in from the shared boundary the same distance as the existing kitchen extension. In addition, No.63 itself is set away from the shared boundary and I saw it had a timber pergola and planting alongside part of the shared boundary. Taking these factors into account, I am satisfied that the proposed new kitchen extension would not have an unduly unneighbourly or overbearing effect on the outlook of occupiers of No.63.
11. It is likely that there would be some reduction in light to the nearest habitable room of No.63. However, due to the intervening separation distance and that the extension would be single storey and flat roofed, the extension would not have a significantly harmful effect on light levels.
12. To conclude on this main issue, despite some breach of the 45-degree code, the new kitchen extension would not have a harmful effect on the living conditions of the occupiers of No.63 with regard to outlook or light. Accordingly, it would not conflict with saved Policies GP2 and ENV32 of Walsall's UDP, which collectively seek to ensure new development takes account of its context and surroundings and considers the effects on neighbouring properties with regard to light. It would also not be contrary to the general guidance in the Council's Supplementary Planning Document "Designing Walsall" (the 'Design SPD').

Effect on existing occupiers of No.61

13. No.61 is a semi-detached dwelling with a long, single storey outrigger which has a small low lean-to extension on the end. This creates a narrow yard for No.61 before opening into a larger garden beyond the outrigger. The appeal property is set back from the front of No.61 and as a result the side of the appeal property runs the length of the yard of No.61 to approximately as far as

the end of the single storey outrigger. There is a shared boundary fence and a pedestrian-width path runs alongside the appeal property. Therefore, the outlook from windows in the outrigger and rear of the property is already compromised to some degree and a tunnelling effect already exists.

14. The proposed family-room extension would subsume the existing rear bay window and extend the rear elevation out by some 3.36 metres, flush with the existing side of the property. Furthermore, the extension would have a mono-pitched roof and extend up to the cills of the first floor windows. This elongation of the property and increase in height in close proximity to the shared boundary would exacerbate the tunnelling effect and create an unneighbourly outlook for its occupiers. Due to the orientation of the properties there would also likely be overshadowing and loss of light beyond what is currently experienced.
15. For the reasons above, I conclude that the family-room extension would have a harmful effect on the living conditions for existing occupants of No.61 with regard to outlook, light and overshadowing. Accordingly, it would be contrary to saved UDP Policies GP2 and ENV32 and Design SPD, whose aims are described above.

Other Matters

16. There has been some relaxation in what can be built without recourse to express planning permission under permitted development¹ or through the Prior Approval process. Schemes could be a variety of sizes and designs within the limitations of each process, but I have not been provided with any plans showing what the appellant would construct under these other processes that would allow any meaningful comparisons with the appeal proposal before me. In any event, I must determine the planning appeal before me and consider it on its own planning merits. It is open to the appellant to pursue these other measures separately if she wishes.
17. The lack of representations from neighbouring residents does not mean there is no unacceptable harm.

Conclusion

18. Whilst I find no harm to the living conditions of occupiers of No.63, this is a neutral factor and does not diminish the unacceptable harm to the living conditions of occupiers of No.61. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. The appeal is therefore dismissed.

K. Stephens
INSPECTOR

¹ Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)