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# Appeal Decision

Site visit made on 15 November 2022

**by Helen Smith BSc (Hons) MSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 February 2023**

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**Appeal Ref: APP/V4630/W/22/3300392**

**21-25 Park Street, Walsall WS1 1LY**

- 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 Henry Joseph against the decision of Walsall Council.
  - The application Ref 21/0276, dated 15 February 2021, was refused by notice dated 23 March 2022.
  - The development proposed is described as "addition of extra storey to no 21-23. Conversion of upper storeys to create 7no self-contained flats. Associated external alterations."
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of proposed flats changed from 7 to 6 flats. The above description therefore differs from that on the decision notice which is "the conversion of the upper storeys to provide 6 self-contained residential units with additional storey to rear, a rear communal roof top amenity space, two new entrances, new windows on side elevations and bin storage area to rear." My decision is based on this description from the decision notice, since it more accurately described the proposal. It is also shown on the appeal form, so the appellant would not be prejudiced by my use of it.
3. The appellant has confirmed that the following revised plans were submitted during application stage and superseded the previous drawings:
  - Existing Plans, U-2123PS-EP001, dated: 29.11.2021
  - Existing Elevations, U-2123PS-EP001, dated: 29.11.2021
  - Proposed Plans, U-2123PS-PP001, dated 29.11.2021
  - Proposed Plans, U-2123PS-PP002, dated 29.11.2021
  - Proposed Elevations, U-2123PS-PE001, dated 24.02.2022
4. The revised plans removed the proposed third floor to the building and show only one entrance to the proposed flats off Park Street. As these revised plans were submitted during the application stage, my acceptance of them would not prejudice the interested parties. I also note in the Officer's Report that the Council determined their decision based on these revised plans.
5. Furthermore, as the revised plans show there is no additional third floor and only one new entrance, this means that the description of the proposed development is incorrect. I have therefore determined the appeal on that basis.

## **Main Issues**

6. The main issues are the effects of the proposal on:

- the living conditions of the future occupiers, having particular regard to loss of privacy;
- the character and appearance of the surrounding area, having particular regard to the effect upon the significance of a non-designated heritage asset and a Grade II Listed Building;
- the safety and security of future occupiers; and
- air quality.

## **Reasons**

7. The appeal site is located within the pedestrianised shopping area of Walsall town centre with retail properties adjacent to and near the site. Park Street is a well-established retail area.

### *Living Conditions*

8. The proposal would include bedroom windows for flats 2 and 3 that would face out towards the rooftop amenity space and a rear external staircase. As the rooftop amenity space and external staircase would be an outdoor space shared with the other occupants of 21-25 Park Street (No 21-25), this would result in insufficient levels of privacy to the occupants of flats 2 and 3. This is because the other occupants would be able to look directly into the bedrooms when using the amenity space and external staircase, as the bedrooms would be on the same floor level.
9. Whilst conditions could be used to secure obscure glazing to the bedroom windows and/or provide low fence screening, this would result in an uninviting and unacceptable outlook. Such screening could also reduce natural daylight into the bedrooms.
10. The proposal would provide internal floorspace that would meet the minimum requirements set out in the National Space Standards (NSS). Therefore, the proposal would exceed the minimum internal floor space as set out in the NSS. However, for the reasons given above, the proposal would not provide adequate living conditions for the future occupants of the proposal, having regard to privacy.
11. Furthermore, given the sites location within the town centre, there is no evidence before me to determine whether acoustic mitigation measures would be required to ensure the proposal would not be harmful to the future occupants in relation to adverse noise impacts from the surrounding commercial premises.
12. Consequently, the proposal would fail to accord with Saved Policy GP2 of the Walsall Unitary Development Plan (2005) (UDP), and Policy HOU2 of the Black Country Core Strategy (2011) (Core Strategy). Amongst other things, these policies seek to ensure adequate privacy for occupiers and high quality design. In addition, the proposal would fail to accord with the National Planning Policy Framework (Framework) design objectives, in particular paragraph 130, where

it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

13. In reaching this conclusion I have had regard to the guidance contained within the Council's Designing Walsall Supplementary Planning Document for Urban Design (2013) (SPD), which sets out the design guidelines for the borough of Walsall.
14. The decision notice refers to saved policy ENV32 of the UDP, and Policies ENV2 and ENV3 of the Core Strategy. However, these policies do not specifically relate to living conditions of occupants. Thus, I did not find them to be relevant to this main issue.

### *Character and Appearance*

15. No 21-25 is locally listed as a non-designated heritage asset. Its significance relates, in part to its architectural detail and its established building proportions, which makes a positive contribution to the character and appearance of the surrounding area. The appeal property is also located within the Bridge Street Conservation Area.
16. The Framework states that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and that new development should make a positive contribution to local character and distinctiveness. In terms of non-designated heritage assets, the Framework at paragraph 203 requires that a balanced judgement is made when assessing the application, having regard to the scale of any harm or loss and the significance of the heritage asset.
17. Near to the site is Lloyds Bank; this building is designated as a Grade II Listed Building. The significance and special interest of the building is derived, in part, from its age, its historic building fabric and its attractive aesthetic appearance. The significance and special interest are further underpinned by the period buildings within its setting, which is contributed to in no small part by the appeal building.
18. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
19. The proposal would include an alteration to the appeal building's front elevation by the addition of a new doorway opening in the shop frontage at ground floor level. Based on my observations and the evidence before me, I have no reason to consider that the existing shop frontage has any historical significance. Therefore, the effect of the proposed change to the shop frontage to include a new doorway opening would be neutral and would not be harmful to the significance of the non-designated heritage asset. Furthermore, it would not harm the significance of the Conservation Area or the setting of the Grade II Listed Building.
20. Overall, the proposal would maintain the external appearance of the building's front elevation and would not increase the building's height. As such, its scale and massing would not be increased. Whilst the proposal would add some new windows to the building, these would be positioned on the side and rear

elevations and would not be visible from Park Street. The effect of the proposal would therefore be neutral and would not be harmful to the character and appearance of the area or the significance of the non-designated heritage asset.

21. The decision notice refers to a third floor. However, the appellant has confirmed that the revised plans submitted during application stage removed the additional proposed third floor that was shown on the original plans. Therefore, there would be no increase to the height of the building from the proposed development.
22. For the reasons given above, the proposal would not be harmful to the character and appearance of the area or the setting or significance of the Conservation Area. In addition, it would not cause harm to the significance of the appeal building as a non-designated heritage asset, or harm to the significance and special interest of the Grade II Listed Building by virtue of the proposal's visible influence within its setting.
23. As such, the proposal would therefore accord with Policies ENV2 and ENV3 of the Core Strategy, and Saved Policy GP2 of the UDP. Collectively, these policies, amongst other things, seek to ensure new development achieves high quality design that protects local character and conserves and enhances the significance of heritage assets, including their settings. In addition, the proposal would accord with the policies of the Framework (Section 16) which seek to conserve and enhance the historic environment.
24. In reaching this conclusion I have had regard to the guidance contained within the Council's Designing Walsall SPD, which sets out the design guidelines for the borough of Walsall.

#### *Safety and Security*

25. The Council has raised concern that the proposed access to the building from Park Street and the proposed access to the rear external staircase to the flats would leave future occupiers vulnerable to crime. In recognition of these difficulties, the appellant has suggested a gate could be installed at the rear of the building towards the bottom of the external staircase, to ensure access only for residents. The appellant considers that the relevant details could be secured by condition and, in the absence of persuasive evidence to the contrary, I concur with this.
26. Whilst the Fire Service has indicated that reasonable provision needs to be made to enable fire appliances to gain access to the building, this could be considered and resolved through the building regulations process.
27. Furthermore, the proposed access from Park Street would benefit from natural surveillance from the windows at the front of the building and from passers-by, given its location within a town centre environment.
28. Consequently, I conclude that the proposed access points would be adequate in terms of safety and security. Therefore, for this main issue, I find no conflict with the Framework or Policy GP2 of the UDP or ENV3 of the Core Strategy, which aim to ensure that access to the proposed development is adequate.

29. In reaching this conclusion I have had regard to the guidance contained within the Council's Designing Walsall SPD, which sets out the design guidelines for the borough of Walsall.

#### *Air Quality*

30. I acknowledge that the Framework requires the promotion of good air quality. However, the proposal would be located within a pedestrianised area and is within walking distance of a wide range of services and facilities with good access to St Pauls bus station, Walsall train station, and the proposed metro route. Furthermore, the proposal does not make provision for any vehicular parking spaces on site as it is within reasonable access of public transport facilities.
31. Paragraph 105 states that 'development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.'
32. Thus, the proposal's location would provide a genuine choice of sustainable transport modes for future occupants. Furthermore, there is no substantive evidence before me to indicate that the proposal is within an air quality designated area.
33. Consequently, I find the proposal would not have a significant adverse impact on air quality in the local area. As such, the proposal would accord with Policy ENV8 of the Core Strategy, which requires an air quality assessment where significant air quality impacts are likely to be generated by the development. In reaching this conclusion I have had regard to the guidance contained within the Council's Black Country Air Quality Supplementary Planning Document (2016), which seeks to minimise unacceptable air quality impacts.

#### **Other Matters**

34. The proposal would contribute to the local housing supply. I have borne this in mind; however, it does not outweigh the harm I have identified.
35. The proposal would convert the underused redundant upper floors of the building to residential use. It would have good access to local services and facilities, it would also create more footfall and thus contribute to the economic vibrancy of the town centre. However, these modest benefits would not outweigh the harm identified to the living conditions of future occupants.

#### **Planning Balance and Conclusion**

36. The proposal would provide six dwellings with access to local services and facilities and would utilise redundant space. However, given the small scale of the proposal, the provision of these additional dwellings would not outweigh the harm identified.
37. The lack of harm I have found in regard to safety and security, air quality, and the character and appearance of the area, including heritage assets, would be neutral in the balance. Thus overall, the modest benefits are insufficient to outweigh the harm I have found in regard to the living conditions of future occupants. There are no material considerations worthy of sufficient weight

that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

*Helen Smith*

INSPECTOR