



Appeal Decision

Site visit made on 25 April 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2023

Appeal Ref: APP/V4630/D/22/3312709

30 Lake Avenue, Walsall WS5 3PA

- 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 Perdeep S Thiara against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 22/0229, dated 15 February 2022, was refused by notice dated 13 October 2022.
 - The development proposed is the erection of a single-storey rear extension and alteration to roof over front entrance.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue relevant to this appeal is the effect of the development upon the living conditions of the occupiers of 28 Lake Avenue, with particular regards to light and outlook.

Reasons

3. The appeal site consists of a detached dwelling, located in a predominantly residential area. Although detached, the appellant's dwelling is located close to the neighbouring dwelling, with wooden fences of relatively limited heights as side boundary treatments. The appellant's dwelling is next to 28 Lake Avenue. A notable feature of the neighbouring dwelling is that it features a window that faces the appeal site. This is located at ground floor level.
4. The proposed extension, although of single-storey in height, would encompass the entire width of the existing dwelling. This means that the proposed extension would be relatively close to the neighbouring dwelling of No. 28. This would be exacerbated by reason of the proposed extension featuring a parapet on the side elevation. This poses a concern as, owing to the nature of the boundary treatment at the site, the proposed development would be clearly visible from the neighbouring dwelling.
5. Therefore, from the existing window that faces the appeal site, the proposed development would have a significant enclosing effect upon the window. This would be exacerbated by the height and mass of the proposed extension, which would have a notable enclosing effect upon the window. Therefore, the users of the room served by this window would experience a diminished level of outlook.

6. Owing to the fact that this window is the only one that serves the effected room, the overall change to the level of outlook would be particularly significant, which would give rise to the notable adverse effect arising from the proposed development.
7. In addition, by reason of the orientation of the appeal site and the relative positioning of the extension and the positioning of the neighbouring dwelling, the proposed development would result in a loss of sunlight to the users of the neighbouring dwelling's ground floor room. In reaching this view, I have had regard to the fact that the existing dwelling already projects further forwards of the existing window.
8. Part of the view from the neighbouring dwelling's window is towards the existing house. However, the scale and siting of the proposed extension is such, that the proposal would result in a significant reduction in the level of light and outlook available for the occupiers of No. 28.
9. Therefore, the scale and form of the proposed development is such that there would be a notable enclosing effect that would result in a loss of light and outlook for the occupiers of the neighbouring dwelling.
10. In considering this appeal, my attention has been drawn to a '45-degree code', which would be breached by the proposed development. The appellant has suggested that this is not relevant as the cited guidance includes a diagram with the 45-degree line being drawn from a rear window.
11. However, the guidance to which I have been referred does not contain any text that suggests that this code does not apply to side facing windows. Therefore, the fact that the proposed development would breach this code and would have an enclosing effect upon the neighbouring dwelling's window. This means that the proposal would result in an erosion of the living conditions of the neighbouring property.
12. However, even if I were to agree with the appellant, I have been directed towards adopted development plan policies that seek to maintain the living conditions of the occupiers of neighbouring properties. Therefore, for the preceding reasons, these policies have been breached.
13. I acknowledge that the proposed porch alterations are unlikely to lead to an adverse effect upon the character and appearance of the surrounding area, or the living conditions of the occupiers of neighbouring properties. Whilst these are matters of note, they do not overcome my previous findings.
14. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of No. 28. The development, in this regard, would conflict with the requirements of Policy GP2 of the Walsall Unitary Development Plan (2005). Amongst other matters, this seeks to ensure that developments take into account the effect on daylight and sunlight.

Other Matters

15. The proposed development is likely to result in improved living conditions for the appellant and their family. Whilst this is a matter of note, I am mindful that, in general, planning decisions need to be made in the public interest. Therefore, as a result of the significant harm to the living conditions of the

neighbouring property, I am not persuaded that the personal circumstances of the appellant outweigh this harm.

Conclusion

16. The proposed development would have an adverse effect upon living conditions of the neighbouring property. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which 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