



Appeal Decision

Site visit made on 18 July 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2023

Appeal Ref: APP/V4630/D/23/3320964

154 Lord Street, Walsall WS1 4DT

- 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 Ms S Zaki against the decision of Walsall Metropolitan Borough Council.
- The application Ref 23/0109, dated 30 January 2023, was refused by notice dated 31 March 2023.
- The development proposed is Single storey and first floor rear extensions to address as built details relating to eaves and ridge heights being higher than approved by 600mm.

Decision

1. The appeal is allowed, and planning permission is granted for single storey and first floor rear extensions to address details relating to eaves and ridge heights being higher than approved by 600mm in accordance with the terms of the application Ref 23/0109, dated 1 January 2023, subject to the following condition.
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans drawing nos. 2323-02-02 and 2023-02-03.

Preliminary Matters

2. The description of development above is taken from the application form, but I have removed the reference to resubmission of a previous application as it is not a definition of development.
3. The Council and a third party have drawn my attention to a number of discrepancies between the submitted plans intended to show what has been built, and what has actually been built on site. Between them these include the eaves of the first-floor extension being even taller than shown; the first and ground floor extensions being built closer to, and possibly on, the boundary with No.152, and the guttering for the extensions overhanging the neighbour's property – the plans show the guttering within the boundary line drawn down from the chimney.
4. These differences are not before me as part of this appeal, as I am required to consider and determine the appeal development based on the submitted plans which were before the Council when it made its decision, and which are the subject of this appeal. The Council can choose to avail upon its enforcement powers if development has taken place beyond the scope of this permission should it deem it expedient to do so. Determining the position of the boundary is a civil matter between the parties.

Background and Main Issues

5. The Council granted planning permission¹ for single storey and first floor rear extensions (the 'approved scheme'). However, the rear single storey extension, with its dual pitched roof and small section of flat roof, has not been built in accordance with the plans and the extension has been built taller. A new application, the subject of this appeal, was submitted to address the retrospective development.
6. The Council's concerns lie with the single storey rear extension and therefore I too have confined my assessment to the single-storey rear extension.
7. The main issues in this appeal are:
 - The effect of the single storey extension on the living conditions of occupiers of 152 Lord Street (No.152) with regards to light and outlook, and
 - The effect of the single storey extension on the character and appearance of the area.

Reasons

Living conditions

8. The appeal site comprises the middle property of a terrace of three dwellings in a predominantly residential area. The adjoining properties, Nos.152 and 156, each have their own single storey rear extensions. The single storey rear extension at the appeal property would extend beyond the end of these existing rear extensions by about 3.7 metres, as annotated on the approved plans.
9. However, the extension at the appeal property is now taller. I am advised that the height to eaves level and ridge level of the pitched roof part of the extension has been increased by about 600mm, and the height of the flat roof extension has increased by about 400mm. As a result, the amount of development along the shared boundary with the neighbouring property has increased and I need to determine whether, as a result, there would be an unacceptable loss of light or outlook.
10. The '45-degree code' is a guideline commonly used by Councils to help ensure that extensions do not have a detrimental impact on neighbouring properties with regard to daylight and sunlight by avoiding unacceptable levels of overshadowing.
11. The Council confirms that under the 'approved scheme' the single storey extension would breach the 45-degree code by approximately 1 brick's depth, but this was not considered to have a significant effect due to the then proposed height of the extension. The Council calculated that the extension, or indeed any extension, would affect full access to natural sunlight and create some degree of overshadowing for occupiers of No.152.
12. The Council's sunlight re-assessment for the taller extension lists the lengths of shadows at different times of the year and day. At its worst the shadows would be about 2.4 metres longer when the sun is at its highest position directly

¹ Local Planning Authority ref: 20/1517 granted 16 November 2021

south in the sky on 21 December². Hence there would be a greater overshadowing as a result of the taller extension.

13. I saw that No.152 has a small window in its rear extension closest to the appellant's extension. This looked to serve a toilet or utility room and not a habitable room, hence the effect on light to such rooms is deemed negligible. There was a larger window and half-glazed back door about mid-way along the neighbour's extension that did appear to serve a habitable room so there would likely be some further loss of light and overshadowing to this room. However, considering the amount of height increase any reduction in light levels would not be significant.
14. The extension would be about 600 mm taller to eaves level, but the roof slopes away from the neighbour's boundary and the extension is not shown longer than the approved scheme. As a result, the outlook for occupiers of No.152 from this rear room would not be significantly different compared to the situation that was allowed in the approved scheme. I also saw that No.152 is not significantly enclosed and has a good-sized garden with an open aspect such that uninterrupted views over their own garden would remain, maintaining adequate outlook and light.
15. Taking these factors into consideration, I am satisfied that any further loss of light resulting from the taller single storey extension would not be significant. Furthermore, the extension would not be unduly overbearing, oppressive or enclosing. Therefore, the single storey extension would not harm the living conditions of the occupiers No.152 with regards to light and outlook.
16. Accordingly, it would not be contrary to 'saved' Policies GP2 of the Unitary Development Plan (the UDP) that seeks to ensure, amongst other things, that new development takes account of the effect on light received by neighbouring properties. There would be no conflict with Appendix D of the Council's Designing Walsall Supplementary Planning Documents (the Design SPD) relating to the 45-degree code and effect on amenity.

Character and appearance

17. The Council has already approved the size of the footprint of the extension and allowed a wide dual-pitched roof across the width of the property. The approved scheme had a shallower roof, with the apex of the roof set some distance below the first-floor window cills. As a result of raising the height of the roof, the apex of the roof is now a small distance above the first-floor window cills.
18. I saw that there were a variety of extensions at the rear of some nearby properties, including conservatories and first floor extensions. The properties either side of the appeal property in the terrace each has a different design of single storey extension - No.152 has a mono-pitched roof extension that extends up to just below the first-floor window cills and No.156 has a flat roof rear extension which is lower. I also saw a wrap-around extension at a property next door-but-one where the roof of the extension extended to a similar height as the appeal development, but the roof had been cut away so as not to obscure the rear elevation windows. As it rounded the corner of the

² December 21 is the day with the fewest hours of daylight in the year in the northern hemisphere, often referred to as the shortest day.

property the height of the extension increased. Therefore, there is no prevailing design or style of extension or relationship with the host properties.

19. Furthermore, the extension and roof form are not an uncommon design for residential properties. The increase in height does not significantly alter the form of the roof of the extension, as it remains dual-pitched albeit a little steeper and taller. With the variety of extensions and roofs on the terrace within which the appeal property sits and in the immediate vicinity, the extension would not create a form of development that is unduly out of scale or character with the area, or with what has already been approved.
20. Accordingly, the appeal development would not conflict with 'saved' UDP Policies GP2 and ENV32 that seek to ensure, amongst other things, that development takes account of its surroundings and its visual relationship with the street and character of the surrounding area. It would not conflict with Policy DW3 of the Design SPD that expects new development to be informed by the surrounding character.

Conditions

21. As there appear to be differences between what has been applied for and what has been built, and I am only considering the development shown on the submitted plans, it is necessary for me to impose a condition to require the development is completed in accordance with the submitted plans.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

K Stephens
INSPECTOR