



Appeal Decision

Site visit made on 20 December 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Appeal Ref: APP/V4630/D/24/3349503

110 Thornhill Park, Streetly B74 2LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chek Wai Gerry UNG against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 24/0338.
 - The development proposed is a single storey rear extension, front extensions to the garage and front porch.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal dwelling is subject to extensions that have been recently completed. These include a new roof and other alterations to an attached garage, a single storey rear extension and alterations to a porch. Nonetheless, the 'as-built' additions do not reflect that which has been proposed by the application the subject of this appeal.
3. The appellant has requested that I consider the merits of the 'as-built' version, but the appeal process should not be regarded as an opportunity to evolve a scheme. To consider an amended scheme, it is first required to determine whether this would include substantive changes that would result in the creation of a different application. It is then necessary to consider whether the changes would cause procedural unfairness to anyone involved in the appeal process. Whilst the appellant has requested that the 'as-built' version be the subject of the appeal, the evidence does not include revised plans that would enable such an assessment of both substance and procedure to be made.
4. The Council has stated that it is unable to make a full assessment of the scheme based on the absence of amended plans. However, it has then resolved to refuse the scheme based on the harm to the character and appearance of the area it has found through the construction of the 'as-built' version.
5. Nonetheless, without the submission of amended plans, my consideration of the appeal shall consider the version of the scheme proposed and refused by the Council.

Main Issue

6. The main issue is the effect of the proposed extensions on the character and appearance of the area, with particular regard to protected trees.

Reasons

7. The appeal dwelling is a large, detached property within a spacious and mature suburban residential estate. The housing in the area includes wide landscaped front gardens that collectively contribute to the local verdant and open character. The appeal site complies with these characteristics making a positive contribution to the character and appearance of the area.
8. The proposed rear extension is behind the appeal dwelling and this house includes relatively narrow gaps to each side boundary. Due to landscape planting and the proximity of neighbouring development, the proposed rear extension does not make a contribution to the streetscene. The plans indicate that the proposed bricks would match the existing dwelling. Although the bricks used, in the 'as-built' version are dissimilar to the main house and do not match, this issue is not determinative as the extension does not affect the character or appearance of the area due to its size and position.
9. The proposed roof and other alterations to the garage are proposed to match the main dwelling in both pitch and material type. The Council has not raised an objection to the design of the proposed version of the roof. Such a roof design, with matching form, would complement the main dwelling and ensure that the house continues to make a positive contribution to the appearance of the street. Equally, the roof design for the proposed porch would integrate well with the dwelling. These elements would therefore accord with the Council's design related policies, including policy ENV3 of the Black Country Core Strategy (CS) and 'Designing Walsall' SPD policies DW1, DW2 and DW3.
10. The site, and its environs, is subject to a Tree Preservation Order (TPO) No43. The TPO identifies that two protected trees, that are within and adjacent to the front garden of the site, may be affected by the proposal. This includes a Cherry tree (T7) in the middle of the frontage and a Robinia tree (T4) on the side boundary of the site. Whilst the Council has raised some concerns as to the proximity of the Cherry tree to construction work, this would be limited, and the tree would therefore be unaffected by the proposal. During my visit I found the Robinia to be a tree of wide and balanced spread. It appears to be of good quality with no obvious signs of decline and, whilst of mature age, still appeared vigorous in health. This tree, being along the side boundary of the plot, could be materially affected by the proximity of the proposed driveway and by the compaction of its roots through vehicular use of the driveway.
11. The submitted plans show that the proposal would place the driveway up to the side boundary, without a landscaped buffer. This was also observed on site as the driveway had been completed by the time of my visit. The appellant indicates that the driveway consists of permeable paving, but no specification has been provided. Furthermore, the evidence is absent the submission of BS5837:2012 which relates to 'Trees in relation to design, demolition and construction' and would provide an assessment of the tree and any design methods required to protect it. Consequently, the evidence does not demonstrate how the design of the proposed driveway, which is immediately

adjacent to the tree, would ensure its protection and prevent compaction of its root protection area.

12. Without such details I cannot be satisfied that the tree would not be harmed by the scheme. As such, the proposal would potentially harm the longevity of the tree, subject to a TPO, and where its loss would erode the verdant character and appearance of the area.
13. As a result, the proposed development would not complement the character or appearance of the area. Accordingly, the proposal would conflict with saved policies GP2, ENV18 and ENV32 of the Walsall Unitary Development Plan, CS policies CSP4 and ENV2, and policies NE7 and NE8 of 'Conserving Walsall's Natural Environment' SPD. These seek, among other matters, for development to demonstrate a clear understanding of the historic character and local distinctiveness of an area and to refuse development that would damage or destroy trees protected by a TPO.
14. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR