



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: 27 January 2025

Appeal Ref: APP/V4630/D/24/3347928

140 Wilkes Avenue, WALSALL, WS2 0JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Gurjeet Singh against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 24/0472.
 - The development proposed is a larger home extension for a single storey pitched roofed rear extension, 6.00 metres deep from the original rear elevation, 3.05 metres maximum height measured externally from the natural ground level, 2.85 metres high at the eaves measured externally from the natural ground level.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 24 December 2024.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.1(g) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) grants planning permission for development consisting of an extension that would not exceed 6 metres. That 'permitted development right' is subject to limitations and conditions, including those set out in paragraph A.4 of Class A. Paragraph A.4(2) specifies that the applicant must make an application to the Council and (at 7) that the Council would need to give its prior approval of the development if an adjoining occupier/owner objects to the scheme. I recognise that an objection was submitted to the Council. Prior Approval was deemed to be required and the scheme was refused by the Council within 42 days of the application being made.
3. The main issue is therefore whether the proposed development complies with the limitations imposed under paragraph A.1(g) on development permitted under Class A and, if so, the effect of the proposed extension on the living conditions of 142 Wilkes Avenue (No 142), with respect to the effect on outlook, daylight and sunlight.

Reasons

4. The proposed rear extension would be six metres deep. It would occupy the full width of the rear elevation of the semi-detached dwelling and be on the shared boundary with No 142.
5. My observations on site, including seeing the site from inside the adjoining semi-detached dwelling, demonstrate that the interior space is arranged in a mirror layout of the appeal dwelling. The neighbouring dwelling has two rear windows. The window near to the shared boundary serves a living room, the window further from the shared boundary of the rear elevation, serves a kitchen. I consider both to be habitable rooms for assessment purposes, but acknowledge that the living room has two windows, the second being front facing.
6. Saved policy GP2, Part VI, of the Walsall Unitary Development Plan [2005] (UDP) identifies that the Council will assess the effect of development on daylight and sunlight. Appendix D of the 'Designing Walsall' Guidance states that the Council will not usually approve development that would breach its 45-degree code unless the proposal would be single storey and project a maximum of 3.5 metres. Due to the proximity of the neighbouring windows to the side boundary and the scale of the proposed extension, I find that the proposal would breach this code for both the kitchen and living room windows.
7. The proposal would be to the southeast of No 142, casting a shadow and reducing direct sunlight into the identified habitable rooms for large parts of the day. Also, daylight levels would be eroded for a similar reason. Furthermore, due to the scale of the proposal, and its proximity to neighbouring habitable rooms, the proposal would also harm outlook, albeit to a modest extent. Consequently, despite the living room also having a front-facing window, the proposal would result in a significant loss of sunlight and daylight, and a moderate reduction in the outlook, to the living room and kitchen of No 142.
8. Accordingly, the proposal would result in a harmful effect on the living conditions of occupiers of the neighbouring dwelling in terms of a loss of sunlight, daylight and outlook. As such, the proposal would conflict with policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy [2011], UDP policies GP2 and ENV32, and Appendix D of the 'Designing Walsall' SPD. These seek, among other matters, for development to promote high quality design and take into account effects such as sunlight and daylight experienced by neighbouring properties.
9. The appellant has referred to nearby development that is suggested to be similar to the proposal and has identified that No 142 has vacant land to its side. I do not have the details of the referenced extensions in evidence to identify whether these are sufficiently like the proposal to support the scheme. These also are not within the immediate environs of the appeal site, thereby in any event these would have a limited effect on the site's context. Also, in referring to the vacant land to the side of No 142, it is unclear how this benefits the neighbouring occupiers in a manner that would off-set the harmful effects of the proposal to the identified habitable rooms.

10. For the above reasons, the proposal fails to comply with Schedule 2, Part 1, Class A, paragraph A.1(g) of the GPDO and therefore the appeal is dismissed.

Ben Plenty

INSPECTOR