



Appeal Decision

Site visit made on 15 April 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/V4630/D/25/3359194

123 Sutton Road, Walsall WS5 3AG

- 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 Imran Khan against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 24/0810.
 - The development proposed is construction of first floor side extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Drawing no SG-02 was originally submitted with the application and based on the information before me the appellant submitted revised drawings (drawing no SG-02 Rev A) during the determination of the application. The drawings revised the scheme to include the first floor of the extension set back from the neighbouring dwelling and set in from the front elevation and included a hip to gable extension. The appellant states that these drawings were just for information, but the Council has provided correspondence where it stated that it would treat the revised drawings as a formal submission and determined the application on the basis of the revised drawings.
3. The appellant has said that they wish for the appeal to be determined based upon the originally submitted drawings. The Council state that they did not consult on the revised drawings with interested parties as, per its Customer Charter, the revised drawings did not materially alter the proposal. Given that the revised drawings did not materially alter the proposal and because interested parties were consulted on the originally submitted drawings during the determination of the application, I am satisfied that interested parties and the Council would not be prejudiced by my determining the appeal based upon the originally submitted drawings.

Main Issues

4. The main issues relevant to this appeal are the effect of the proposal on the biodiversity of the site and its surroundings, including protected species; and the effect of the proposal upon the character and appearance of the area.

Reasons

Biodiversity

5. The Council has identified that the appeal dwelling lies within 50 metres(m) of woodland and mature trees in and around Walsall Arboretum and a golf course and there are known bat records nearby. The Council's Conserving Walsall's Natural Environment Supplementary Planning Document states that a detailed bat survey is required for applications submitted in such circumstances dependent on what is applied for. The Council state that given that the proposal includes the partial demolition or modification of a building, particularly the roof, that the proposal could have an adverse impact on bats. While the appellant notes that significant alteration would not take place to the roof structure, the proposed two storey side extension still involves considerable works to the building, including partial demolition and modification.
6. No bat survey has been submitted, although the appellant has shown a willingness to undertake such a survey. The Office of the Deputy Prime Minister Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent they may be affected by a proposal, is established before planning permission is granted.
7. The appellant states that Walsall Arboretum is used as a park rather than an arboretum, however the Council has identified that there are records of bats nearby and thus there is a reasonable likelihood that they are present near to the appeal building. Therefore, in light of the strict protection afforded to bats and because no survey information has been submitted, I am not satisfied that sufficient information has been provided to enable me to determine that there would not be a harmful effect on the ecology and biodiversity of the site and its surroundings, including protected species. Taking a precautionary approach and in light of Circular 06/2005 I am not satisfied that this matter could be suitably addressed via a condition.
8. The appellant states that bat surveys were not submitted for applications near to the site, although limited information concerning these applications has been submitted with this appeal. While extensions can be undertaken using the dwellings permitted development rights, there is evidence that bats are present in the area. Even if bat surveys were not submitted for the other applications nearby, each case must be determined on its own merits. As the competent authority in this instance, for the reasons given above, there is insufficient information before me to determine that this scheme would not be harmful to a protected species.
9. While the provision of bat boxes may provide mitigation, without substantive evidence otherwise I cannot determine that if there was significant harm to a protected species that it could be avoided or that the proposed mitigation measures would adequately mitigate this harm or, as a last resort, compensate for it. In this instance, paragraph 193 of the National Planning Policy Framework indicates that planning permission should be refused.
10. For the reasons given above I am not satisfied that sufficient information has been provided to enable me to determine that there would not be a harmful effect on the ecology and biodiversity of the site and its surroundings, including protected species. Therefore, the proposed development would not accord with Policy ENV1 of the Black Country Core Strategy (CS) insofar as it states that development

should ensure that species which are legally protected will not be harmed by development.

Character and Appearance

11. The appeal property is a two-storey semi-detached dwelling with a hipped roof. It has a two-storey bay window and single storey porch extending out from the front elevation which connects to the single storey garage located between 123 Sutton Road (no 123) and the unattached neighbouring dwelling. Along Sutton Road most of the dwellings in the area are two-storey semi-detached houses with hipped roofs similarly designed to the appeal dwelling, although there is some variation in the detailed design and the materials used. The consistent appearance and form of these dwellings is a notable feature of the area. The houses are generally set back behind gardens and driveways as well as grass verges with trees. Many of the properties have not been extended and generally have single storey garages between the pairs of semi-detached houses and this layout alongside the set back from the road contributes towards the openness of the areas character.
12. The proposed development as shown on drawing no SG-02 would be a two-storey side extension with a hipped roof. The extension would be built in line with the front elevation of the house and would extend most of the full width of the appeal site. Appendix D: Numerical Guidelines for Residential Development of Designing Walsall Supplementary Planning Document (SPD) sets out factors that should be taken into consideration to avoid creation of terracing to existing developments as a result of side extensions which would generally involve retaining a minimum 0.9 metre(m) gap to the boundary and to set back first floor extensions by a minimum of 1m and the use of hipped roofs. While the development would have a hipped roof, it would not accord with the other recommendations in Appendix D of the SPD.
13. The purpose of this part of the SPD is to avoid a terracing effect within the street scene. The existing dwelling has a single storey garage to the side of the house and the proposed extension would be similar in width. The first-floor addition would be built in line with this which would reduce the gap at the first-floor level between the unattached dwellings, however by having a hipped roof, a gap at roof level would be retained between the houses, and this would ensure the two dwellings would not appear as terraced properties. While the first floor would not be set back from the front elevation, even with the single storey addition with the mono-pitched roof to the front of the house, the proposal would respect the building line for the development in the area. Overall, the form of the extended dwelling would retain the open character of development in the area. Consequently, the proposal would not cause a terracing effect and thus the development would generally accord with this aspect of Appendix D of the SPD.
14. The attached dwelling has been extended and once extended no 123 would be similar in scale and appearance as the attached house. As a result, the form of the two dwellings would appear balanced. Given the similarities in the design of the proposal with the attached dwelling, the extension would create a symmetrical development which would complement the appearance of both houses. Additionally, the symmetrical appearance of the two dwellings would respect the consistent appearance of the properties in the wider area.

15. Therefore, for the reasons given above, the proposal would not harm the character or appearance of the area. Consequently, the proposal would comply with Policies CSP4 and ENV3 of the CS and Policies GP2 and ENV32 of the Unitary Development Plan. These policies, amongst other matters, expect development to demonstrate a clear understanding of local distinctiveness of the area and show how proposals make a positive contribution to place-making.

Other Matter

16. I acknowledge the appellant's comments and concerns with the Council's handling of the planning application. However, in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

17. Whilst the development would not harm the character and appearance of the area, there is insufficient information that it would not harm the ecology and biodiversity of the site and its surroundings, including protected species and this would lead to a conflict with relevant development plan policies. Consequently, the proposed development would conflict with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR