



Appeal Decision

Site visit made on 25 June 2025 by M Jones

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/V4630/D/24/3358270

44 Broadway West, Walsall, WS1 4DZ

- 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 Belal Ahmed against the decision of Walsall Council.
 - The application Ref is 24/1451.
 - The development proposed is a larger home extension for a single storey rear extension enlargement with flat roof. Measuring 3.15 metres long, 2.8 metres total height and 2.6 metres high at the eaves and attached to an existing extension. Total enlargement (new extension added to the existing extension) 5.96 metres long, maximum height 2.8 metres and 2.6 metres to the eaves.
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Decision

1. The appeal is allowed and prior approval is required and granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a larger home extension for a single storey rear extension enlargement with flat roof. Measuring 3.15 metres long, 2.8 metres total height and 2.6 metres high at the eaves and attached to an existing extension. Total enlargement (new extension added to the existing extension) 5.96 metres long, maximum height 2.8 metres and 2.6 metres to the eaves at 44 Broadway West, Walsall, WS1 4DZ in accordance with the terms of the application, Ref 24/1451, and the details and plans submitted with it including the plan named Location Plan and Block, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A. 4(2).

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of development included in the banner heading and Decision is taken from the Council's decision notice, as it more accurately and concisely reflects the appeal proposal than the description on the application form.
4. 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 GPDO), planning permission is granted for the enlargement of a dwellinghouse, subject to limitations, conditions and restrictions.
5. Where an application is made for prior approval for development, paragraph A.4(3) of Schedule 2, Part 1, Class A of the GPDO provides that the local planning

authority may refuse the application where it considers that the proposed development does not comply (or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies) with the conditions, limitations or restrictions that are applicable to such permitted development.

6. There is no dispute between the parties that the proposal would comply with the limitations in paragraphs A.1 and A.2 and the conditions in paragraph A.3 of Schedule 2, Part 1, Class A of the GPDO. From the evidence before me, I see no reason to disagree.
7. The provisions of the GPDO under Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 (7) require the local planning authority to assess the effect of the proposed development on the amenity of any adjoining premises, where any owner or occupier of any adjoining premises objects to the proposed development. In this case, there has been an objection to the proposed development from a neighbour, therefore prior approval is required.
8. The Council has assessed the proposed development with reference to local development plan policies and associated guidance documents, including the Designing Walsall Supplementary Planning Document (2008) (SPD). However, prior approval is a different procedure to a planning application, and the GPDO does not require decision-makers to have regard to, or make decisions in accordance with, the development plan. The development plan policies and SPD are therefore relevant material considerations insofar as they seek to protect amenity but are not determinative.

Main Issue

9. The effect of the proposed development on the amenity of the occupiers of 42 and 46 Broadway West with particular regard to light and outlook.

Reasons for the Recommendation

10. The proposed development would be added to the existing single storey rear extension and would have the same width, and would be of a similar height to the eaves of the existing extension. It would not be closer to the boundary fences of either adjoining neighbour than the existing rear extension. The proposed development would also involve the removal of the outbuilding on the boundary with No 42.
11. The appeal property and the neighbours Nos 42 and 46 all benefit from a relatively open outlook onto large north facing gardens. The ground floor rear habitable room of No 46 is on the near side of the shared boundary fence. The outlook from this room has already been restricted by the existing rear extension on the appeal site. The proposal would increase the depth of wall along the boundary, which would reduce the outlook from the nearest habitable room window further. However, the flat roof would limit the height of the proposed extension such that only a small proportion would be visible above the fence. The current open outlook across the rear garden would also remain. Therefore, the effect of the proposal on the outlook from the rear of No 46 would be limited, and it would not have a harmful impact on the amenity of the occupiers in this respect.

12. There is a gap between Nos 42 and 44, and No 42 is on higher ground and set further forward than the appeal property. The nearest ground floor habitable room of No 42 is also on the far side of the rear elevation, away from the shared boundary. The outlook from the rear of No 42 is currently restricted by the existing extension on the appeal site and the existing outbuilding. The proposal would increase the depth of wall visible from No 42 but this would be offset by the removal of the outbuilding. Taking these factors together, the effect of the proposal on the outlook from No 42 would be limited, and it would not harm the amenity of the occupiers in this respect.
13. The rear elevations of the properties are north facing and so sunlight to the rear habitable rooms is limited. The existing rear extension shades parts of the gardens of No 46 in the morning and No 42 in the evening. The proposal would increase overshadowing of the gardens of both neighbours but only for a short time in the morning and evening respectively, and only a small section of each garden would be affected due to the low height of the proposed extension. Consequently, the effect on light to Nos 42 and 46 would be limited and would not be sufficient to harm the amenity of the occupiers.
14. Given the above, the development would therefore accord with the provisions of Schedule 2, Part 1, Class A and would not harm the amenity of the occupiers of Nos 42 and 46 with regard to light or outlook. I have taken into account Policies GP2 and ENV32 of the Walsall Unitary Development Plan (2005) insofar as they seek to protect amenity. Given I have concluded that the proposal would not harm amenity, it does not conflict with these policies.
15. The SPD sets out a '45 Degree Code' which seeks to safeguard the amenity of occupiers of neighbouring dwellings. While the Council considers that the proposal would breach a 45 degree line drawn from the relevant part of the windows of the neighbours, for the reasons above, the proposal would not harm the amenity of the occupiers. Therefore, it would not conflict with the aims of the SPD in this regard.

Other Matter

16. Concerns have been raised regarding the current living situation of the owner of the appeal dwelling. However, this is not a matter that I can consider within the limited remit of this prior approval appeal.

Conditions

17. The GPDO grants planning permission subject to several conditions including a condition relating to the materials to be used and a condition requiring that the development be carried out in accordance with the approved details. The GPDO also allows for prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval. In this case there are no additional conditions necessary in relation to neighbour amenity.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

M Jones

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

L McKay

INSPECTOR