

PLANNING APPLICATION NUMBER:P14/0043

Type of approval sought	Full Planning Permission
Ward	Netherton Woodside and St Andrews
Applicant	Mr Mazhar Hussain
Location:	43, HALESOWEN ROAD, NETHERTON, DUDLEY, DY2 9QD
Proposal	RAISE GROUND LEVELS TO REAR GARDEN WITH RETAINING WALL
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The 859m² application site comprises a 1950s hipped roofed detached house with red facing brick and concrete roof tiles. The rear garden slopes downwards towards the east and some re-grading works have recently been carried out with a retaining wall and steps having been erected towards the end of the garden and partially along the southern boundary. A detached store has also been erected at the end of the garden on the lower ground level. There is parking to the front and side of the property.
2. 45 Halesowen Road is a three storey semi-detached house to the south of the site. This property has outbuildings to the rear which form a significant portion of the common (southern) boundary with the application property. The levels of the rear garden associated with this property also step down significantly and the remainder of the southern boundary comprises a low dwarf wall. A section of retaining wall which has recently been constructed within the rear garden of the application property appears approximately 600mm higher than the dwarf wall.
3. Mircon House (41 Halesowen Road) is a residential care home adjacent the site to the north and there is a relatively dense boundary treatment in place. The rear

amenity space associated with this care home wraps around the northern and eastern boundaries of the site. Netherton Park also borders the site to the east.

4. The property is situated within a mixed residential/commercial area and falls within Netherton Local Centre. The street scene comprises a broad mixed of residential/commercial premises set upon a staggered building line.

PROPOSAL

5. Planning permission is sought to regularise and complete the re-grading works which have been partially carried out within the rear garden and construction of an associated retaining wall and steps. The plans indicate that a south east section of the garden would be built up and level with the recently constructed retaining walls towards the southern boundary. A strip of ground would also be raised by approximately 700mm running along the southern boundary, a new section of retaining wall would then be continued to finish level with the front of the house. The highest part of the retaining wall is approximately 2m in height and a 1m high railing would be added on top. The section of wall to be completed along the southern boundary would be a maximum of 900mm in height. The wall and raising of ground levels constitute an engineering operation for which Planning Permission is required.
6. This application is being considered alongside application P14/0042 which proposes domestic extensions to the dwelling and retention of the detached outbuilding which has been erected without planning consent.

HISTORY

7. None

PUBLIC CONSULTATION

8. Direct notification was carried out to two neighbouring properties and two ward councillors. The final date for receipt of objection letters was 7th February 2014 and

two letters of objection have been received, one of which is from a ward Councillor. The following material issues are raised;

- That the area could be used to park more vehicles on site and that the local road network is unsuitable for this potential increase in traffic. Concerns are raised that the existing drive exit is situated at a dangerous point near to a junction at the brow of a hill.
- Concerns that an increase in the ground level of the garden would result in a loss of privacy and overlooking of the objectors garden. That the proposed fencing would be a temporary structure which could be removed at any time.
- The additional height of the ground coupled with the fencing would reduce the amount of sunlight to the objector's garden and will look unsightly.

OTHER CONSULTATION

- Group Engineer (Highways): No objection received.

RELEVANT PLANNING POLICY

National Planning Policy Framework (NPPF) (2012)

Black Country Core Strategy (2011)

- ENV3 Design Quality

Saved Unitary Development Plan Policies (2005)

- DD1 Urban Design
- DD4 Development in Residential Areas
- HE4 Conservation Areas

Supplementary Planning Documents / Guidance

- PGN 17. House extension design guide

ASSESSMENT

27. Key issues;

- Visual Amenity
- Neighbour Amenity
- Highway Safety

Visual Amenity

28. The majority of the works revolve around the last quarter of the rear garden and are not therefore seen within the context of the street scene. The plot is wide and is open to the side with glimpses of the works visible from the front particularly where the wall is to be extended further along the southern boundary. The retaining walls currently appear untidy with an exposed block work finish. Once the re-grading works are completed the majority of the wall, particularly along the southern boundary, will not be visible. It is, however, considered appropriate to attach a condition requiring the visible parts of all sections of the walls to be rendered and painted within three months of completion of the development. Subject to condition it is considered that the proposal complies with saved UDP Policy DD4 of the Dudley UDP (2005)

Neighbour Amenity

29. The garden area immediately to the rear of the application property is elevated in relation to the neighbouring garden to the south of the site. It is evident from the remaining unaltered levels within the application site and the previous ground levels which are shown on the submitted drawings that a degree of overlooking was already experienced in terms of the end of the neighbouring garden beyond the outbuildings to the rear of this property.

30. The proposed works would raise the south east corner of ground up to the boundary with No. 45, which when completed would be level with the top of the current

boundary treatment. The existing boundary treatment is, however, relatively low and offers little protection in terms of privacy given the level differences. The plans indicate that a 1.8m high fence would be erected at this point and it is considered that this would prevent the occupiers of the application property overlooking this neighbouring garden. There would be no loss of light to this neighbouring garden as a result of the fencing given the orientation and it is considered that the proposals would not appear unduly overbearing. A condition is, however, considered appropriate to ensure that the fencing is erected in this location and maintained for the lifetime of the development.

31. It is also proposed to install 1m high railings on top of the rear length of the retaining wall. Whilst the finished height of this section of the retaining wall and railings would be 3m high the scale of the works would not appear unduly overbearing given its position. The railings would not afford any protection in terms of privacy, however, any degree of overlooking at this point is considered no worse than the previous arrangement.

32. The majority of the re-grading works and walls are concentrated towards the southern boundary and the boundary treatment running along the northern boundary is dense at the point of the proposed works. No loss of light or privacy is therefore envisaged with regards to residents of the adjacent care home.

33. It is considered that there would be no demonstrable harm to the general amenities of neighbouring properties which adjoin the site and the proposal is therefore considered to comply with saved Policy DD4 – Development in Residential Areas of the UDP (2005).

Highway Safety

34. The proposal involves re-grading works within the side/rear garden of a domestic property and there is no indication that the works are for any other purpose. Concerns are expressed that the area may be used for additional parking and this would in turn impact on the local road network and highway safety. Whilst there is

no suggestion that this is the intention, there is already ample space within the curtilage of the dwelling to park several vehicles associated with the domestic use of the property. Class F of the General Permitted Development Order allows the provision of a hard surface within rear gardens for any purpose incidental to the enjoyment of the dwellinghouse with no restrictions on the extent of the hard-surface. No alterations are proposed to the existing entrance/exit driveway and refusal of permission on highway safety grounds is not considered sustainable.

CONCLUSION

35. It is considered that completion of the works would cause no demonstrable harm to visual or neighbouring amenity subject to appropriate conditions. Refusal of permission on the grounds of highway safety is not considered sustainable. The proposal is therefore considered compliant with saved Policy DD1 and DD4 (Development in Residential Areas) of the Dudley UDP (2005).

RECOMMENDATION

36. It is recommended that the application is APPROVED subject to the following conditions;

APPROVAL STATEMENT INFORMATIVE

In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

NOTE TO APPLICANT

The granting of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

Conditions and/or reasons:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: The unreferenced layout plan entitled 43 HALESOWEN RD NETHERTON SCALE 1:100 1:200
2. All visible parts of the retaining walls hereby approved shall be rendered and painted within three months of the date of this decision unless otherwise agreed in writing by the Local Planning Authority.
3. Within three months of the date of this decision the 1.8m high fencing to be erected on top of the wall adjacent to the southern boundary shall be implemented in accordance with the approved plan and maintained as such for the lifetime of the development.

43 HALESOWEN RD
NETHERTON

13 JAN 2014



1:500

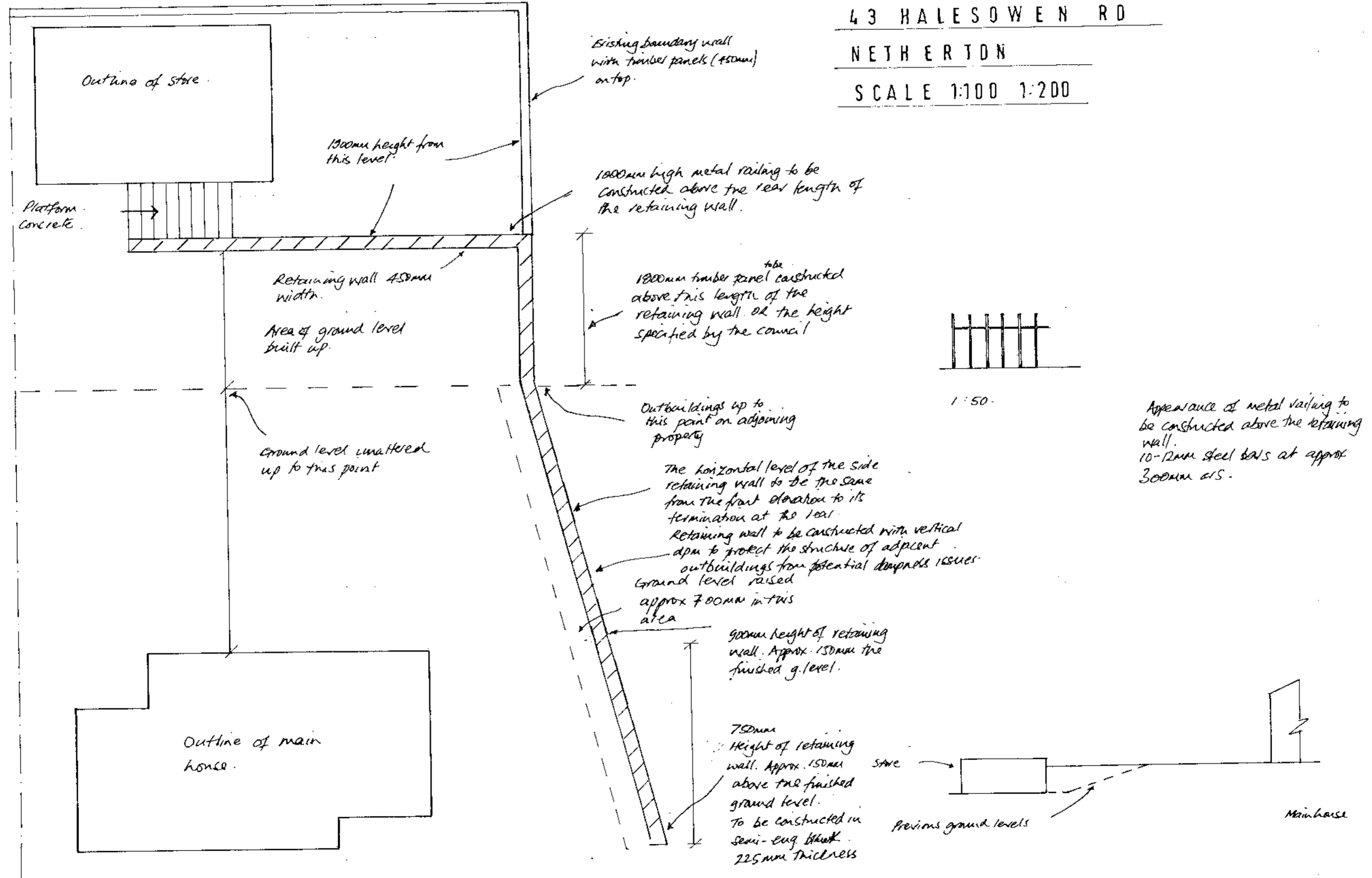


1:1250

43 HALESOWEN RD

NETHERTON

SCALE 1:100 1:200



Outline of store

Platform concrete

1300mm height from this level

Existing boundary wall with timber panels (450mm) on top

1000mm high metal railing to be constructed above the rear length of the retaining wall

Retaining wall 450mm width

Area of ground level built up

1800mm timber panel to be constructed above this length of the retaining wall of the height specified by the council



1:50

Appearance of metal railing to be constructed above the retaining wall. 10-12mm steel bars at approx 300mm c/s.

Ground level unaltered up to this point

Outbuildings up to this point on adjoining property

The horizontal level of the side retaining wall to be the same from the front elevation to its termination at the rear

Retaining wall to be constructed with vertical dpm to protect the structure of adjacent outbuildings from potential dampness issues

Ground level raised approx 700mm in this area

900mm height of retaining wall. Approx. 150mm above the finished g. level.

Outline of main house

750mm Height of retaining wall. Approx. 150mm above the finished ground level. To be constructed in semi-eng. brick. 225mm thickness

same

Previous ground levels

Main house

1:200

