
Appeal Decision

Site visit made on 12 September 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th September 2016

Appeal Ref: APP/Y0435/D/16/3156423

35 Latimer, Stony Stratford, Milton Keynes, Buckinghamshire MK11 1HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Allcock against the decision of Milton Keynes Council.
 - The application Ref 16/00644/FUL, dated 21 February 2016, was refused by notice dated 4 May 2016.
 - The development proposed is retrospective planning permission for children's tree house, class E outbuilding in back garden.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of the occupiers of 33 and 37 Latimer with particular regard to privacy.

Reasons

Character and appearance

3. The tree house has been constructed at the bottom of the rear garden of 35 Latimer and consists of a mono-pitch structure sitting on nine tree trunks which appear to have been positioned and set into the ground to support the structure. The tree house floor is approximately 2 metres above the ground level and consists of a covered area with a veranda to the front and side to No 37. It has a mono-pitch roof and metal railings around the veranda. The materials used in the construction include a variety of differing timbers, plastic based side panels facing No 33, together with a clear plastic roof. The exterior also has some roof felting and camouflage netting.
 4. The structure is not visible from the front of the property or from public vantage points on Latimer. The existing landscaping to the rear, fronting Queen Eleanor Street, provides a degree of screening and from my site visit there were only glimpses of the structure from that direction. However, the majority of the screening is not of an evergreen variety and as such the prominence of the structure would be increased during the winter months. Whilst the materials used in the construction could not be considered to be of a high quality appearance, the overall shape, form and appearance of the tree house is not objectionable, being a garden structure located to the rear of the property.
-

5. However, I consider that the elevated nature of the structure would not relate well to other development in the area. In particular, it would appear as an overly prominent structure from neighbouring properties and to a lesser extent, given the landscape screening, from Queen Eleanor Street.
6. For the above reasons, I consider that the treehouse would harm the character and appearance of the area as a result of the extent of its elevated position. Therefore the development would conflict with Policy D2(i) and (ii) of the Milton Keynes Local Plan 2001-2011 (LP) which amongst other things seek to ensure that new development protects the character and appearance of the area. It would also conflict with the design principles of the National Planning Policy Framework (the Framework).

Living conditions

7. From my site visit I saw that the elevated nature of the structure allowed for direct views into the rear garden and habitable rooms of No 33, and to a lesser extent No 37 given the distance to the boundary of that property. These views are possible from both within the treehouse and from the veranda. The distance to the habitable rooms of No 33 is approximately 13 metres.
8. The structure is unlikely to be used all year round, and given the lack of lighting, only during daylight hours. Therefore its use is likely to be limited. Whilst the restricted level of use goes some way to mitigate the overlooking potential, to my mind, this does not outweigh the clear privacy issues I saw.
9. I also noted that there is a bush close to the tree house which was being allowed to grow. At the time of my site visit this had the effect of screening some of the overlooking potential from the veranda when at a low level. However, I do not consider that this would provide an adequate level of screening even if it was allowed to grow to a much greater height.
10. Turning to the effect on No 37, I consider that the overlooking potential to the garden area is not significantly greater than that already available from the main dwelling. Whilst there are views into the habitable rooms, given the distance and angle of view I consider that there would not be a significant loss of privacy to the occupants of No 37.
11. For the above reasons, I consider that the treehouse would give rise to a significant loss of privacy to the occupants of 33 Latimer as a result of its elevated position in proximity to the boundary. Consequently, the development would be contrary to the Framework and Policy D1 (iii) of the LP which amongst other things seek to protect the amenity of occupiers of surrounding properties.

Other matters

12. I am aware that the appellant is dissatisfied with the Council's approach to dealing with the application, including whether the officer dealing with it was impartial. However, these are matters away from the planning merits of the case and I therefore afford them very little weight.
13. The appellant has also made several suggestions on how the loss of privacy could be reduced. However, whilst full details of these have not been provided to me, I am not convinced that these measures would overcome the harm I have identified, principally as a result of the elevated nature of the treehouse.

14. In respect of the permission that has been granted for a similar construction at 10 Runnymede (14/02122/FUL) I have only been provided with limited details. Given that this development would appear to overlook a highway rather than a direct neighbour, on the face of it, there appears to be significant differences between the two developments. Moreover, each development must be determined on their individual merits.

Conclusion

15. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR