
Appeal Decision

Site visit made on 10 January 2017

by John L Gray DipArch MSc Registered Architect

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

Decision date: 27 January 2017

Appeal Ref. APP/K0235/D/16/3162681

1 Shaftesbury Avenue, Bedford, MK40 3SA

- 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 Mrs Emma MacKenzie against the decision of Bedford Borough Council.
 - The application, ref. 16/01306/FUL, dated 5 May 2016, was refused by notice dated 15 September 2016.
 - The development proposed is the demolition of the existing garage the rebuilding of a new garage with a pitched roof to accommodate an *en suite* bathroom.
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Decision: the appeal is dismissed.

Application for costs

1. An application for costs was made by the appellant against the Borough Council. This application is the subject of a separate decision.

Main Issues

2. There are two main issues in the appeal, flowing from the reasons for refusal. The first is whether the proposed extension would be appropriately designed in the context of the Shaftesbury Avenue street scene and the character and appearance of the Bedford Conservation Area. The second is whether the massing of the extension and its proximity to the boundary with 39 The Embankment would result in an unduly overbearing effect or loss of daylight for the occupiers of that property.

Reasons

Design

3. The southern part of Shaftesbury Avenue has Russell Park on its west side and a series of semi-detached houses on its east side, probably all Edwardian, of slightly different designs but all attractive pieces of architecture. The existing garage at no. 1 is a small lean-to of no architectural or historic merit. It would be replaced by single-storey pitched-roof garage with dormer windows in the roof to light an *en-suite* bathroom and dressing room serving the main bedroom in the house itself. Visually, the design of the proposed extension would fit comfortably with the architectural style of the house and would not be at all prominent in the street scene. Seen in pure elevation from Russell Park, it would disrupt the symmetry of the semi-detached pair; however, being set back from the main façade, nicely designed and clearly ancillary to the original house, its existence would not unduly harm the architectural composition and would preserve the character and appearance of the Conservation Area.
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4. Accordingly, the proposal would not be inappropriate in its Conservation Area context and would not conflict with Policies BE9 and BE11 saved from the Bedford Borough Local Plan 2002 or Policies CP21 and CP23 saved from the 2008 Core Strategy.

Amenity

5. This would not be a particularly large extension in terms of floor area and height but it would stand on the boundary with 39 The Embankment. The dispute about land ownership at that boundary that is a civil matter between the two property owners; it does not impinge upon planning legislation. The issue is about the impact of the proposed extension in its proposed location.
6. Neighbours' privacy would not be affected; there are no windows in the extension which could overlook neighbouring property to an unacceptable degree. (Because it serves a bathroom, the rear-facing dormer could, if necessary, be obscure-glazed.)
7. There are, though, a number of windows in no. 1 which would have the flank wall of the proposed extension very close to them. The officer report points to a kitchen and bathroom window on the ground floor (Flat 39A) and a kitchen window on the first floor (Flat 39B); it considers these to be "secondary in nature and not serving primary accommodation". That may be technically correct. However, many residents spend a considerable amount of time in their kitchens and due consideration should be given to the proximity of any proposed development. As things stand, the light able to enter these kitchen windows would already be limited even if they were clear-glazed – and it would be considerably reduced by having the flank wall of the proposed extension no more than about 1.32m away. To have a wall that close would not only limit daylight in both kitchens; it would also be overbearing for those in either room. The appeal should fail for these reasons.
8. The situation in relation to Flat 39C became apparent at my site visit. This flat has a north-facing dining room window about 2.54m from the boundary. The proposed extension would be a little to its left (as one looks out) and, given the mass of the existing building at no. 1, would not reduce daylight into the room to any noticeable degree. It would prevent sunlight reaching the room for the very brief period in the afternoon when, at present, the sun would be visible between no. 39 and no. 1; but the flat has south-facing rooms which must receive ample sunlight and the very small loss to the dining room should thus not be considered unacceptable. The window looks out on the flat's only private outdoor amenity space, an area about 7.5m wide and varying between about 2.54m and 3.27m wide. Although the proposed extension would not directly abut this area, it would nevertheless have a somewhat overbearing presence at angle to its left. That is not enough in itself to prompt dismissal of the appeal but weighs in the scales alongside the impact on Flats 39A and 39B.
9. On balance, therefore, the proposed extension should be considered as running contrary to Design Codes E6 (daylight) and E7 (overbearing) in the adopted supplementary guidance on Residential Extensions, New Dwellings and Small Infill Developments and its parent Policy, BE29, saved from the 2002 Local Plan. Although perhaps tenuous, it would also conflict with criterion ix) of saved Policy BE30 – if "disturbance" equates with any harmful effect on the level of amenity neighbours can reasonably expect to enjoy.

Conclusion

10. Notwithstanding that the design of what is proposed would be appropriate in relation to nos. 1/2 Shaftesbury Avenue and the Bedford Conservation Area, its overbearing impact and the loss of light it would cause for the occupiers of the flats in 39 The Embankment mean that the appeal must be dismissed.

John L Gray

Inspector