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# Appeal Decision

Site visit made on 1 November 2017

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

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

**Decision date: 09 November 2017**

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**Appeal Ref: APP/C3105/D/17/3180657**  
**8 Otmoor View, Merton OX25 2NL**

- 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 Katie Simmons against the decision of Cherwell District Council.
  - The application Ref 17/00626/F, dated 16 March 2017, was refused by notice dated 25 May 2017.
  - The development proposed is demolition of existing conservatory and erection of proposed single storey rear extension.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The Council, in its decision notice, refers to its Home Extensions and Alterations Design Guide (the Design Guide). I have afforded that document some weight due to its role in supporting the relevant development plan policies.

## Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the neighbouring residents with regard to outlook, sunlight and daylight.

## Reasons

4. The proposed extension would project from the rear of the house by a little over 5 metres. The walls would be chamfered on the corner nearest to No 8a but the roof would not be altered accordingly, with the eaves continuing at right angles to the main house.
5. In respect of the relationship with No 7, similarly to the existing conservatory, the side wall of the proposal would be set off the boundary by a small amount, with the eaves projecting closer. The side wall elevation would be slightly higher than that of the existing conservatory and noticeably higher than the boundary fence. It would also extend from the main rear elevation of the house beyond the 4 metres set out in the Design Guide as being normally acceptable for extensions on a common boundary, albeit that it would be set slightly off it. Furthermore, it would break a line angled horizontally at 45 degrees from the mid-point of the nearest rear facing habitable room window on the ground floor of No 7.

6. As such, the proposal, in extending significantly further alongside that boundary than the existing conservatory, combined with its height above the boundary fencing, would cause it to have an unacceptably enclosing and overbearing effect when seen from both that nearest room of No 7 and the private garden area nearest to it.
7. In relation to No 8a, there is currently no dividing boundary treatment. The side of the proposal would project closer to that neighbouring property than the existing conservatory and again its side elevation nearest to No 8a would be slightly higher than that of the existing extension. There would be the same degree of projection beyond the rear of No 8a as for No 7, particularly relating to the side eaves given the chamfered wall at the corner, and it would again break the 45 degree line from the mid-point of the rear ground floor habitable room window of No 8a. These factors would again combine to cause the proposal to have an unacceptably enclosing and overbearing effect when seen from both that nearest room of No 8a and the private garden area nearest to it.
8. I acknowledge that No 8a is currently owned by the appellant and that her parents are living there who have no objections to the proposal. However, I have determined this appeal on its merits, based on all of the evidence before me and in terms of its effect on neighbouring residents in perpetuity.
9. In terms of light to the neighbouring properties, in respect of No 7, due to the rear aspect, the proposal would not cut out sunlight. It would be likely to cut out some later afternoon sunlight to the rear ground floor room of No 8a. However, it is unlikely that this would be so much more than is currently the case with the existing conservatory as to cause material additional harm. Furthermore, it is likely that the single storey height of the proposal would prevent a material loss of natural daylight to both neighbouring properties.
10. My attention has been drawn to a Certificate of Lawfulness of Proposed Development (CLPD) that the appellant has obtained for a 3 metre deep single storey rear extension and outbuilding, neither of which have been built. Whilst the extension element would also not comply with the 45 degree rule set out in the Design Guide, the outlook effect would be less than that of the proposal due to the significantly reduced depth.
11. In terms of the effect of the combined CLPD extension and outbuilding shown by the appellant in the submissions, I have not received full details of the design to enable proper comparison. In any case, the gap between the two buildings would ensure that there would not be the same continuous depth of extension from the rear of the main house as the appeal proposal. The circumstances are therefore different and would not necessarily cause the same degree of harm to outlook as would be the case with the appeal proposal. I have therefore afforded little weight to these factors relating to the CLPD as a fall-back position.
12. I have found that the proposal would not cause an unacceptable loss of sunlight or daylight to the neighbouring properties. However, this does not deflect from my finding that, for the above reasons, the proposed development would cause unacceptable harm to the living conditions of the neighbouring residents with regard to outlook. As such, it would be contrary to saved policy C30 of the Cherwell Local Plan 1996, policy ESD15 of the Cherwell Local Plan 2011-2031 and the Design Guide which together, in respect of this issue,

require new extensions to provide acceptable standards of amenity, including the matter of outlook.

13. The Council, in its reason for refusal, also refers to saved policy C28 of the Cherwell Local Plan 1996. However, that policy relates to the character and appearance of new development rather than the living conditions of neighbouring occupiers and so is not relevant to this issue.
14. I understand and have carefully considered the main reason behind the appellant's need for the proposed extension which would be to provide a ground floor bedroom and WC for her son who has complex learning difficulties and some mobility problems. Whilst it would improve the living conditions of the appellant and her son this benefit does not outweigh the harm that I have found would be caused to the living conditions of the neighbouring residents in respect of outlook.

### **Conclusion**

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR