



Appeal Decision

Site visit made on 4 February 2020 by G Sibley MPLAN MRTPI

Decision by Kenneth Stone BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2020

Appeal Ref: APP/Y0435/D/19/3239825

57 Pinewood Drive, Bletchley MK2 2HT

- 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 Richard Bacon against the decision of Milton Keynes Council.
 - The application Ref: 19/01519/FUL, dated 8 June 2019, was refused by notice dated 22 August 2019.
 - The development proposed is described on the decision notice as the erection of a single storey rear extension.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The extension has been partially constructed and permission was sought retrospectively. Whilst the extension has been partially constructed, much of the extension has yet to be completed. As such I shall consider the proposal based on the submitted plans.
4. The Council has referred to policies D1 and D3 of the Plan:MK 2016 – 2031 (2019) in the Decision Notice. These policies relate to the design of new development and are not specifically related to living condition matters. The Council has not identified why the proposal would be contrary to these policies within the officer's report and concluded that the proposal would be compliant with these two policies. Therefore, I have not referred to those two policies.
5. The description of development in the original application form is a descriptive explanation of the position rather than an identification of the operational development. In the interest of clarity, I have considered the proposals on the basis of the description of development taken from the Decision Notice and which the appellant has used in the appeal form.

Main Issues

6. The impact of the proposed development on the living conditions of the occupiers of no.59 Pinewood Drive with particular reference to outlook and light.

Reasons for the Recommendation

7. The extension would be located to the rear of No.57 on the boundary with No.59 and would be approximately 5 metres(m) deep, 3m tall and 3m wide. At my site visit there was a brick wall that was around 5m deep and 3m tall that had been constructed on the boundary between No.57 and No.59. What has been built has been built from concrete blocks and red brick and currently has three walls but no roof.
8. The boundary between the two gardens is not perfectly straight and the extension is only built up against the boundary for a couple of metres and is not parallel with No.59's garden and there would be an increasing space as the distance from the rear wall increased. The gardens for both properties are quite long, albeit relatively narrow and the dwellings to the rear are located a considerable distance away. Because of this, these gardens are not particularly overlooked and feel relatively open. The low boundary fencing that continues beyond the rear wall of the half-built extension also contributes to the open appearance of the garden.
9. The window that would be most affected by the proposed development would be the patio doors that lead into a dining/sitting room which is separate from the kitchen. The window serves a habitable room where neighbouring residents are likely to spend a reasonable proportion of their time.
10. Prior to the extension being built the outlook would have been of fencing as well as the open neighbouring gardens. Even if the fencing that was removed had been 2.4m tall, the fencing would still have been shorter than the proposed extension.
11. The combined height and depth of the extension would appear overbearing and would create a significant sense of enclosure when viewed from within the room through the rear patio doors of the neighbouring property. The outlook for the occupiers would be negatively affected and this impact would be heightened due to the fact that the window serves one of the main habitable rooms within the property.
12. The extension, as built, dominates the outlook from the dining/sitting room and because the extension is approximately positioned to the south of No.59 and given the height and depth of it, it causes a loss of sunlight and causes overshadowing of the dining/sitting room. This would be further exacerbated if the extension were to be built in accordance with the submitted plans.
13. With regard to the fencing which is proposed between the neighbouring garden and the extension, this would be shorter than the proposed extension and would have a softer appearance than the brick wall of the extension. Nevertheless, because the fencing would be located up against the extension, the extension would still be visible above it and the proposed fencing would not negate the overbearing impact and overshadowing that the proposal would create.
14. Notwithstanding the above, given the depth and open character of the garden, the garden retains its open character and the extension does not appear overbearing to the occupiers whilst using the garden. Nevertheless, within the immediate environs of the patio doors and adjacent to the extension, the extension would appear as an excessively obtrusive and dominant feature.

15. Therefore, whilst the proposed extension would not appear overbearing for the occupiers of the neighbouring dwelling when using most of the garden, it would appear overbearing and result in overshadowing to those using the dining/sitting room and patio. Consequently, the proposal would be contrary to policy D5 of the Plan:MK in so far as it seeks to ensure development does not harm the living conditions of neighbouring occupiers with specific regard to outlook, loss of sunlight and daylight and ensuring development does not appear overbearing.

Other Matters

16. There appears to have been discussions between the occupiers of the neighbouring dwelling and the appellants with regard to whether a party wall notice was agreed, and the work undertaken to date. This is a legal matter and land ownership, or party wall issues are not relevant matters in the determination of planning applications or appeals.
17. The appellant notes that the fencing that has been removed to allow for the construction of the extension was around 2.4m tall with trellis on top of it. This fencing has now been removed. It may be possible to apply for planning permission for a fence that is 2.4m tall but because the trellis would be part of the fence, the tallest any new fence can be is 2m when using the dwellings PD rights.
18. It is understood that the dwelling retains its permitted development rights and an extension could be constructed that would be PD compliant. Nevertheless, the appellant has not provided me with alternative plans that would be PD compliant, therefore there is no alternative fall back plan before me to consider.

Conclusion and Recommendation

19. The combined height and depth of the proposed extension would appear overbearing and cause overshadowing to the occupiers of the neighbouring dwelling which would harm their living conditions. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed/dismissed.

Kenneth Stone

INSPECTOR