



Appeal Decision

Site visit made on 18 February 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2020

Appeal Ref: APP/Y0435/D/19/3240293

8 Rutherford Gate, Shenley Lodge, Milton Keynes MK5 7DQ

- 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 & Mrs Bharambe against the decision of Milton Keynes Council.
 - The application Ref 19/01266/FUL, dated 13 May 2019, was refused by notice dated 27 September 2019.
 - The development proposed is two storey rear and first floor side extensions and internal alterations.
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Decision

1. The appeal is allowed and planning permission is granted for two storey rear and first floor side extensions and internal alterations at 8 Rutherford Gate, Shenley Lodge, Milton Keynes MK5 7DQ in accordance with the terms of the application, Ref 19/01266/FUL, dated 13 May 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Bharambe against Milton Keynes Council. This application is the subject of a separate Decision.

Main Issue

3. The main issues are the effect of the development on the living conditions of 2 Rutherford Gate, with particular regard to privacy.

Reasons

4. The appeal site comprises a detached dwelling with linked double garage, located at the end of a shared driveway. The dwelling is part of 51 dwellings that formed part of the Energy World Site that was exhibited in 1986 and the Energy World Homes are non-designated heritage assets.
5. Policy D5 of Milton Keynes Council Plan:MK 2016 states that all proposals will be required to create and protect a good standard of amenity for buildings and surrounding areas. In particular they should ensure that good standards of privacy are maintained.
6. The proposed first floor extension on the front of the dwelling will introduce 4 additional windows facing towards No 2 Rutherford Gate. The existing dwelling has three windows facing No 2, serving the main bedroom. From these windows it is possible to see the glazed roof of No 2, although the site is largely screened by the landscaping strip which exists between the two properties. The

neighbouring property of 6 Rutherford Gate also faces No 2 and has windows within the first floor which provide similar views of the glazed roof. The roof of No 2 is polycarbonate boards which conceal views out towards No 8. From within the habitable rooms of No 2 only part of the roof and rooflights are visible.

7. The separation distance between the properties is approximately 22m and the proposed extension would not extend beyond the existing front elevation. Therefore, whilst additional windows would face towards the roof of No 2 these would not offer significantly different views to those already afforded from the existing bedroom windows. Therefore I consider that the development would maintain the same degree of privacy currently afforded to No 2.
8. I note that No 2 have indicated that they intend to replace the polycarbonate sheeting with glazing and this would lead to a greater potential for overlooking and disturbance from lights shining into the house at night. I have also had regard to the points made in relation to the ability to use blinds or curtains. Whilst I accept that glazing may have been the architects original vision, I have to consider the appeal on the basis of the current circumstances and the existing opaque sheeting currently affords a level of privacy. In addition, having assessed the views currently afforded from the appeal site, these are limited to the roof of No 2 and do not include views of the swimming pool or garden area. I consider that this would also be the case with the windows proposed within the proposed extension.
9. I do not consider the proposed development would lead to an increase in disturbance from lighting as the rooms facing No 2 are bedrooms. Therefore it would be reasonable to expect curtains or blinds to be closed in the evening when lights may be switched on.
10. In conclusion, having regard to the existing relationship between No 6 & 8 Rutherford Gate and No 2, with existing views afforded of the glazed roof, the degree of separation and the limited outlook afforded from the polycarbonate boards I consider that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 2 Rutherford Gate, with regard to privacy. The development accords with policy D5 of the LP in that it ensures a good standard of privacy is maintained.

Other Matters

Non-designated Heritage Assets

11. Opposite the site is 2 Rutherford Gate, known as the Round House. The dwelling is located on a prominent plot within Energy World and is one of the most distinctive buildings forming this development. The significance of No 2 is derived from its architecture and appearance and in particular its unique design features. It is considered that No 8 lies within the setting of No 2, however there is limited physical inter-relationship between the buildings and there is nothing to suggest that the design of No 8 responded to or took account of the nature of No 2 and it is likely that they were originally designed in isolation of one another.
12. I do not consider that the extension to No 8 affects the significance of No 2, in part due to the lack of physical and visual inter-relationship. There will be no effect on the architectural distinctiveness of No 2 as a result of the

development. Therefore I find no harm in this respect and I note the Council also considered the proposal would not result in harm to No 2.

13. No 6 and No 8 Rutherford Gate are also non-designated heritage assets, however their significance is derived from the internal energy saving features which were included at the time of their construction and these are not evident from the buildings external form or appearance. Therefore, the proposed extension to No 8 would result in no harm to the significance of the assets and this accords with the Council's findings.
14. Therefore I am satisfied that the proposed development would not result in any harm to the contribution that the assets described above make to Energy World as a whole.

Impact on No 6

15. The proposed two storey rear extensions are considered acceptable and would not adversely affect the privacy afforded to No 6 Rutherford Gate. There are currently windows within the side and rear elevation of the host dwelling, serving the existing third bedroom and these windows already afford views over the rear garden of No 6.
16. Although the proposed extension would place development closer to the boundary with No 6, the removal of the side window would afford greater privacy than that which currently exists. The side windows proposed within the first floor extension over the garage are to serve en-suite bathrooms and are indicated to be obscure glazed and therefore will not afford views over the side boundary of No 6.
17. I note the concerns that have been raised with regard to the loss of light to the front window serving a lounge. However, outlook from this window is already partially restricted by the position of the garage. The proposed development will not bring the development closer to this window, with only the height of the building being increased. I am satisfied that having regard to the existing relationship with No 8 that the proposed first floor extension would not cause unacceptable harm to the living conditions of the occupiers of 6 Rutherford Gate.

Character and appearance

18. The development includes the replacement of the existing window frames with dark grey aluminium and it has been suggested that this would not be appropriate. However, I noted a range of window styles and patterns within this part of Rutherford Gate and therefore I consider the introduction of dark grey aluminium would further compliment the differences within the design and appearance of the dwellings within the World Energy site.
19. The proposed extension would be located to the side and rear of the dwelling. The first floor side extension would be in line with the front wall of the host dwelling, and the central element would maintain a lower ridge line. The rear extension would be located below the ridge of the existing dwelling. In these ways the proposal would be subservient to the host property.
20. Furthermore, the proposed roof form and use of matching materials, which could be secured by condition, would be in keeping with the host dwelling. Overall, I find that the development would be a sympathetic and proportionate

addition that would not detract from the overall character and appearance of the host dwelling and would not represent an overdevelopment.

Conditions

21. The Council has suggested 6 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord and a condition in respect of materials to safeguard the character and appearance of the area.
22. I consider that a condition to agree a scheme of landscaping, including details of any biodiversity enhancement measures and to ensure that existing trees on the site are retained and protected during construction, would also be necessary in this case given the lack of detail on the submitted plans.
23. I have not imposed a condition removing permitted development rights as the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider it is reasonable or necessary in this instance as the effect would be to remove permitted development rights from the whole property.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

G. Pannell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 6937-01 (Site Location, Existing Elevations and Floor Plans); 6937-02 (Proposed Block Plan, Proposed Elevations and Floor Plans); 6937-03 (Block Plan – vision splays and separation)
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) The extension hereby permitted shall not be occupied until the first floor windows in the east and west elevations serving the bathrooms have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

- 5) No development shall commence above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The landscaping scheme shall include details of biodiversity enhancements.
- 6) All planting, seeding or turfing and biodiversity enhancements comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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