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# Appeal Decision

Site visit made on 7 September 2021

**by Helen O'Connor LLB MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 September 2021**

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**Appeal Ref: APP/C3105/D/21/3275930**

**51 Walton Avenue, Twyford, Banbury OX17 3LA**

- 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 and Mrs J Mills against the decision of Cherwell District Council.
  - The application Ref 21/00087/F, dated 12 January 2021, was refused by notice dated 8 March 2021.
  - The development proposed is a first floor side extension with associated internal and external works.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The parties were given the opportunity to comment on the revised Framework as part of the appeal process.

## Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupants of 49 Walton Avenue having particular regard to light and outlook.

## Reasons

4. Amongst other things, saved policy C30(iii) of the Cherwell Local Plan, November 1996 (LP) requires extensions to existing dwellings to provide standards of amenity acceptable to the local planning authority. In addition, policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, July 2015 (LP Part 1) is entitled 'The Character of the Built and Historic Environment' but goes onto list criteria that new development proposals should address. This includes the consideration of the amenity of both existing and future development, including matters of outlook and natural lighting.
5. Neither policy wording specifies an indicative threshold on which to base an assessment of whether an acceptable standard of living conditions would be attained. In the absence of this, paragraph 130f) of the Framework carries significant weight. It stipulates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. Consequently, this is the appropriate prism through which to apply the aforementioned development plan policies in this case.

6. The proposal concerns a side extension at first floor level. This would be above the existing single storey side extension at 51 Walton Avenue, a semi-detached house. The existing sloping roof which leans away from the side boundary would be replaced with a two storey flank wall and gable end roof emulating the existing roof pitch, together with a projecting rear gable component. Therefore, whilst the footprint would remain broadly similar, these elements would introduce considerable additional volume at a greater height to the side of the existing dwelling relatively close to the northern side boundary.
7. As the appellants point out, in many regards the scale, form and position of the proposal represents a conventional way that many semi-detached houses are typically extended. Nevertheless, the acceptability of the proposal on the character and appearance of the area is not in dispute. Rather, the focus of my determination rests on the likely impact on the occupants of the detached bungalow (49 Walton Avenue) to the north of the appeal site. It does not follow that the acceptability of the former amounts to evidence showing an acceptable relationship with the latter. Whilst it can often be the case that residential side extensions maintain a suitable relationship with adjacent dwellings, it does not automatically follow, as it will depend upon the specific configuration of adjacent properties. The appellants acknowledge that the proposal should be measured on its own merits.
8. No.49 has a single storey south facing conservatory located to the side in close proximity to the boundary with the appeal site, which I was able to visit at my site inspection. It comprises a largely glazed structure with the roof panels using a material designed to let light in, and it is reasonable to suppose that the occupants of the adjacent property would seek to spend time in the room. Light levels and outlook from the conservatory would be important contributors to the quality of that experience. The presence of the conservatory in this location differentiates the proposal before me from many other more typical residential layouts. The nature of the conservatory, its closeness to the boundary and alignment with the built form at No.51 would make it particularly sensitive to changes affecting levels of light.
9. In these circumstances, the proposed increase in volume and height in such proximity almost due south of the conservatory would markedly reduce the levels of natural light received and cast a shadow. Moreover, given the translucent nature of its roof, the increase and immediacy of the built form at No.51 would have an obvious presence. This would be likely to make the occupants feel unreasonably confined. Both factors would significantly undermine the enjoyment of the room and therefore, unacceptably compromise their living conditions. For these reasons, based on the evidence before me, it would fall short of the high standard of amenity referred to in the Framework.
10. In reaching my finding, I have had regard to the letter<sup>1</sup> from the present longstanding occupants of No.49 who confirm they have no objections to the proposed extension. I accept that this counts in favour of the proposal. Nevertheless, it is not of itself determinative and does not amount to evidence that a high standard of amenity would be achieved. I am required to exercise my own judgement having regard to the entirety of the evidence before me, including my own observations. Furthermore, I must consider all future users

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<sup>1</sup> Letter dated 9 May 2021

of No.49. On that basis, the letter attracts moderate weight, but would not lead me to find otherwise.

11. Accordingly, I find that the proposal would have an unacceptable impact on the living conditions of the occupants of 49 Walton Avenue having particular regard to light and outlook. Therefore, it would conflict with saved policy C30 of the LP and policy ESD15 of the LP Part 1.

### **Other Matters**

12. The appellants highlight how the proposed design of the extension would appear subservient to the host dwelling. It would use matching materials, respect the existing set back and retain garden space. Moreover, it would provide sufficient parking. However, the absence of harm in relation to the impact on character and appearance and highway safety would not address, nor outweigh the harm I have identified.

### **Conclusion**

13. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan.
14. For the reasons given above I conclude that the appeal should be dismissed.

*Helen O'Connor*

Inspector