
Appeal Decision

Site visit made on 23 November 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/Y0435/D/22/3305877

6 Fortescue Drive, Shenley Church End, Milton Keynes MK5 6BJ

- 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 Tassos against the decision of Milton Keynes Council.
 - The application Ref 22/01473/HOU, dated 7 June 2022, was refused by notice dated 2 August 2022.
 - The development proposed is the erection of a front and side extension.
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Application for Costs

1. An application for costs was made by Mr Tassos against Milton Keynes Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Procedural Matter

3. The name of the appellant has been taken from the appeal form.

Main Issue

4. It is considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of 8 Fortescue Drive.

Reasons

5. The appeal property is a detached dwelling situated within a predominantly residential area. The layout of the property, and the neighbouring properties, includes a garage within the front garden sited closer to the road than the dwelling. The appeal scheme proposes a single storey extension to link the appeal property with the garage. The design of the proposed extension seeks to address a previously refused application for a similar form of development (Ref 21/02642/FUL) but, in the absence of the full details of the previous proposal, this appeal scheme has been assessed on its own planning circumstances.
6. The appeal scheme would be sited close to the shared boundary with 8 Fortescue Drive than the host property. The closest ground floor window to the shared boundary within the front elevation of No.8 serves a habitable room. Amongst other matters, Policy D5 of Plan:MK requires proposals to create and protect a good standard of amenity for buildings, in particular by reasons of daylight, sunlight and not being an overbearing form of development.

7. The outlook from the habitable room window of No. 8 is already affected by the siting of the garages within the front gardens of Nos. 8 and 10. By reason of its siting and height, the proposed extension would be an overbearing form of development that would adversely affect the outlook from the window. The overbearing nature of the appeal scheme for the occupiers of this neighbouring property would be accentuated by the sense of enclosure associated with the combination of the garage within the front garden of No. 8 and the proposed extension.
8. An assessment of the effect of the proposed development on the levels of daylight using the 25 and 45-degree assessment approaches identified in the BRE Report: *Site layout planning for daylight and sunlight: a guide to good practice*. However, the 25-degree assessment usually applies in situations where a window faces the development but this is not the relationship between No. 8 and the appeal scheme. A vertical assessment has been undertaken by the appellant which indicates that the proposed extension would not encroach into a 45-degree line drawn from the window.
9. From what was observed during the site visit and the submitted drawings, because of its siting close to the shared boundary the proposed development would encroach into a 45-degree line drawn horizontally from the centre of the habitable room window of No. 8. No assessment has been undertaken about whether or not the siting, height and scale of the appeal scheme would have an adverse effect on levels of daylight reaching the window. By reason of No. 8 being to the north of the appeal scheme, it is likely that there would be some overshadowing caused by the siting, height and scale of the proposed extension. However, this matter alone would not cause this appeal to fail but adds to the unacceptable harm which has been identified.
10. As identified by the appellant, and observed during the site visit, a single storey extension projecting from the front elevation of No. 10 has been erected which visually, rather than physically, links this dwelling with its garage. However, the full planning circumstances of this scheme have not been provided. Further, there is a different relationship between the addition at No. 10 and its neighbouring property (No. 12) when compared to the proposed extension and No. 8, including because it is sited further away from the boundary. For these reasons, limited weight is given to this other scheme in the determination of this appeal.
11. Accordingly, it is concluded that this appeal should be dismissed because the proposed development would cause unacceptable harm to the living conditions of the occupiers of 8 Fortescue Drive and, as such, it would conflict with Policy D5 of MK:Plan.

D J Barnes

INSPECTOR