



Appeal Decision

Site visit made on 29 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th April 2023

Appeal Ref: APP/U3935/D/22/3312755

12, Monmouth Close, Lawn, Swindon, SN3 1HE

- 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 P Perugino against the decision of the Swindon Borough Council.
 - The application Ref S/HOU/22/1323/AMMY dated 31 August 2022, was refused by notice dated 16 November 2022.
 - The development proposed is erection of first floor side, two storey/single storey rear extensions and conversion of garage into habitable space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. There are several elements to the appeal proposal. The Council's refusal reason is specifically related to the proposed first floor side/rear extension's siting and scale. The refusal reason is not based upon any of the other elements of the proposal and based upon my site visit, and the plans before me, I have no reason to conclude differently on these elements. For the avoidance of doubt, this appeal will focus solely upon the first-floor side/rear extension's siting and scale with specific regard to the main issue identified above.

Main Issue

4. The main issue is the impact of the proposal upon the residential amenity of neighbouring occupants at 13 Monmouth Close (no. 13) with regard to enclosure, overbearingness, visual dominance and overshadowing to the property and rear garden.

Reasons

5. The appeal site is a semi-detached, two storey, residential property located on the northern side of Monmouth Close near the corner with Highclere Avenue. The eastern (side) boundary of the appeal site is shared with the rear garden boundary of no. 13 as well as numbers 5 and 7 Highclere Avenue. The extension would be sited around 1 metre from the rear boundary of no. 13 and at the time of my site visit, I noted that no. 13 benefits from a single storey detached outbuilding which is along the shared boundary. Whilst no. 13 does benefit from a corner plot with lawn to the side and front of the property, there

- is a fence which means that the main, and only, small private outdoor amenity area associated with no. 13 is that immediately adjacent to the proposed first floor side/rear extension.
6. The proposal would have an eaves height of approximately 4.9 metres and it would span along the entire rear boundary of no. 13 for around 8.4 metres. It would result in two storey-built form that would be both closer to the eastern boundary as well as wider/deeper¹ along boundary with no. 13 than is currently the case with the single storey-built form to the side of the host dwelling. Overall, the proposal would be between 9 metres and 11 metres from the rear elevation of no. 13.
 7. The Swindon Borough Council Residential Extensions and Alterations Supplementary Planning Document (2011) (SPD), in outlining separation distances, notes that for minimum separation distances (rear to side) two storey development should have a separation distance (minimum) of 12 metres. The proposal falls short of this guidance even at the furthest point away with this guidance intended to maintain residential amenity in accordance with Local Plan Policies.
 8. As a result of these factors, I find that the proposed extension would result in harmful enclosing and overbearing impact, along with overshadowing, for the majority of the rear garden at no. 13. This is exacerbated as no. 13 itself only has a small area of private amenity space. The proposal would be sited to the west of no. 13, so would also likely result in a loss of afternoon and evening sunlight and result in an overshadowing effect to both the rear garden and rear windows. In addition to this the presence of built form at an eave height of nearly 5 metres, along the entire boundary with no. 13 with only a set in of around 1 metre, means I find the proposal would be visually dominant and overbearing when viewed within both the garden of no. 13 and the rear habitable rooms. The proposal would fail to protect the residential amenity of neighbouring occupants.
 9. Whilst I note the appellants comments, that the proposed extension is at an angle to no. 13, the separation distances are still stated to be ranging from 9 to 11 metres. Whilst I acknowledge some angle, it is limited, and the proposal still presents as a side elevation facing a rear elevation. I do not find that the way the two properties stand on their respective plots makes the distance from one another seem less obvious or reduce the impact I have found from the proposal upon the residential amenity of no. 13.
 10. Whilst the appellant states that the proposed extension is of a design and size widely approved by the Council all over the Borough, no examples of proposals have been provided as part of this appeal. I am, therefore, unable to attribute weight to this assertion as it is not supported by any evidence. Notwithstanding this, each case should be considered on its own merits and in this case, I have found the proposal to have unacceptable impact upon the residential amenity of no. 13.
 11. The proposal is noted to have been designed to comply with the SPD with regard to first floor set back and frosted glass windows to the side elevation. Despite this, the setback does not reduce the overall height, scale and general massing along the boundary of no. 13. Had the proposal been acceptable in

¹ Width, if viewed from no. 13 i.e. the side on but depth, from front to rear of the host building

other regards a condition requiring frosted glass to be installed and maintained in the bathroom window could have been applied to any permission granted. The Council's refusal reason did not, however, raise any issue based upon overlooking and a lack of impact on this matter does not outweigh the overall harm found.

12. The proposal would be contrary to Swindon Borough Local Plan 2015 Policy DE1, which requires that proposals be assessed against listed design principles which includes siting, scale and massing as well as amenity in respect of light, privacy, outlook and space. The proposal would also be contrary to the guidance contained within the SPD resulting in impacts that conflict with the overall objectives of that guidance. The proposal would also be contrary to paragraph 130 f) of the National Planning Policy Framework 2021 which seeks to ensure all developments provide a high standard of amenity for existing and future users.

Other Matters

13. There is an objection to the proposal. The drawings are annotated with the 45-degree line in relation to the nearest windows at number 11 Monmouth Close (no. 11), which demonstrates that the proposal is consistent with the requirements of the 45-degree code, which, in turn, seeks to ensure an acceptable impact upon daylight to neighbouring properties.
14. I note, from the relevant planning history, that application reference S/PHU/22/1160 was granted (prior approval not required) for a single storey rear extension which is 6 metres deep. As part of the prior approval notification process, unless objections are received the Council are unable to consider the residential amenity impact of the proposal and, in this case, the Council state that there is no objection on their records for this application. At the point of determination of this appeal, there is a fall-back position which means that the ground floor rear extension element is accepted as in the event this appeal failed this element could be constructed without further planning control in accordance with the details submitted.
15. There is no requirement, albeit it is encouraged, for applicants to communicate with neighbours with the neighbour consultations being sent out by the Council as a statutory requirement. Whilst the objection is, of course, noted based upon the above, I find no reason to refuse the proposal based upon the residential amenity of no. 11, and further note that the Council did not state a refusal reason relating to this property either. I have no evidence before me to conclude differently on this matter.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR