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## Appeal Decision

Site visit made on 18 July 2023

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

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

**Decision date: 2<sup>nd</sup> August 2023**

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**Appeal Ref: APP/A2280/D/23/3319785**

**45 Hawthorn Road, Rochester, ME2 2HW**

- 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 Priyanka Bhavsar against the decision of Medway Council.
  - The application Ref MC/22/2747, dated 22 November 2022, was refused by notice dated 17 March 2023.
  - The development proposed is a single storey wrap around extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey wrap around extension at 45 Hawthorn Road, Rochester, ME2 2HW in accordance with the terms of the application, Ref MC/22/2747, dated 22 November 2022, subject to the following 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 approved plans, drawing Nos.PB-301-04 5, Location Plan; PB-301-12 7, Proposed Site Plan; PB-301-12 3 Proposed Floor and Roof Plans; and PB-301-012 4 Proposed Elevations.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those set out on the application form.

### Main Issues

2. The main issues in this case are: i) the effect of the proposed extension on the character and appearance of the existing dwelling and the streetscene; ii) the effect of the extension on the living conditions of the neighbouring occupiers at Nos.43 and 47.

### Reasons

3. Hawthorn Road is within a residential area, lined with terraced and semi-detached 2-storey houses. Number 45, the appeal dwelling, is on the south side of the road, and is an end of terrace, with a relatively narrow side access, approximately 1.9m wide, leading to a garage structure in the rear garden. The appeal property has been extended at the rear by a flat roofed 2-storey

extension, attached to which is a conservatory. The 2-storey extension projects rearwards by 3.78m<sup>1</sup> from the original back wall, is 3.22m wide and is set off the boundary with the attached neighbour to the west, No.47, by 0.62m. The conservatory effectively fills the width of the 2-storey extension, and projects rearwards by a further 2.58m. There remains a substantial amount of rear garden behind the conservatory. The house to the east, No.43, is also an end of terrace, with a wider sideways leading to a garage, the front of which is in line with the rear-most part of the dwelling.

The effect of the proposed extension of the character and appearance of the existing dwelling and the streetscene

4. The proposed single-storey extension would partly be on the footprint of the conservatory, having the same off-set from the boundary with No.47. However, its depth from the rear of the 2-storey extension would be 3.69m, an additional 1.1m. Whereas the conservatory has a pitched roof, this extension would have a flat roof, which would be 3m high to its top surface. The extension would extend right across to the curtilage boundary with No.43, including infilling behind the house in the space to the east of the conservatory and 2-storey extension: it would also wrap around the rear of the dwelling, filling the width of the side access, although its front elevation would be 4.67m back from the front of the house.
5. The principal effect on the character of the house would be from the rear. It can be seen from the dimensions that the proposed wrap around extension would have a substantial floorspace, and that part of it that would replace the conservatory would be visually more solid. No doubt the occupiers of the house would enjoy a larger and convenient internal space, with bi-fold doors opening onto the garden. As I have already noted, there would remain a substantial garden to be enjoyed. From within the garden the view back to the house would be principally the single storey extension across most of the width of the garden, with the 2-storey extension projecting out from the back of the original building. With the bi-fold doors, it is likely that a good deal of the outdoor household activity would be in the area immediately outside the extension, where the 2-storey elements of the house would be little seen. I am satisfied that, from the point of view of the occupiers of the appeal dwelling, and indeed from the public domain, there would be no harmful effect on the character and appearance of the house.
6. As far as the streetscene is concerned, there would be little to see. The main element of the extension, visible from the public domain, would be the 1.91m wide front wall set back 4.67m from the front of the house. This end of the extension would be built with matching brickwork that would be relieved with a simple rectangular window. There would be a degree of closure of the gap between the 2 houses, but because of the setback, the effect would be small. There would also be an oblique view of the side elevation across the frontage and side access of No.43, but I cannot see that this would be so deleterious to the streetscene that it warrants refusal of permission as it would be little different to a garage in size.

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<sup>1</sup> These dimensions are rounded from 3 decimal places.

The effect of the extension on the living conditions of the neighbouring occupiers at Nos.43 and 47

7. My first remarks apply equally to the neighbours on both sides: the rear aspect of these houses faces just to the east of south, and therefore a single storey structure would have little or no effect on the indoor areas of the neighbouring houses nor, I would expect, their gardens for the majority of the year. However, the officer's report states: *"A sun on ground test demonstrated that between the hours of 08:00 – 11:00 the overall development would cast a significant shadow into No. 47 across the usable amenity area of the private garden, in addition to this, the overall development would cast a significant shadow into the neighbouring property at No. 43 between the hours of 14:00 and 16:00. As such, the proposed scheme would introduce additional overshadowing to the adjoining neighbours which would result in harm to their amenity"*. But it is not clear what is meant by 'the overall development', nor is there any indication of times of the year when these results would hold true, nor on which areas of the curtilages. Therefore I do not find this particularly telling.
8. The maximum height of the extension to the top surface of the roof is not dimensioned on the plans, but appears to be some 2.8m from ground level, 0.8m higher than a maximum permitted development fence. Class E of Part 1 of Schedule 2 setting out permitted development rights allows curtilage structures within 2m of the curtilage boundary to be built with a maximum height of 2.5m which, if built on the boundary, would have a not greatly different visual effect. Since such development is deemed acceptable, and bearing in mind that the extension would be a little off-set from the fence line, I cannot see that the effect on the enjoyment of the garden of No.47 could be said to be compromised to a significant degree. Turning to No.43, this dwelling has a large garage alongside the extension which would hide it other than from an oblique view.
9. I also note what is said in the appellant's appeal statement about permitted development rights under Class A for the enlargement, improvement or other alteration of a house, as a 'fall-back position'. To be a fall-back position, the potential development must have a real prospect of being carried out as an alternative. That does not have to be probable or likely, a possibility will suffice. But since there is no indication of how any permitted development scheme would provide similar usable accommodation to that proposed, I consider that a fall-back position has not been shown in this case.

## Conclusions

10. I am satisfied that there would be little effect on the character and appearance of the existing dwelling. From the public domain the effect of the closure of the space between the appeal dwelling and the neighbour at No.43 would be small since the extension at the side would be set well back from the frontage. Thus the proposed extension would have little effect on either the character and appearance of the existing dwelling or the streetscene.
11. In respect of the effect of the extension on the living conditions of the neighbouring occupiers at No.47, the attached neighbour, it has not been shown that there would be a significant effect in terms of sunlight and daylight, whilst the height of the extension across the boundary fence, with a small off-set from the boundary, would not be materially more than could occur from

permitted development of curtilage structures. This appears to me to be acceptable. Regarding the effect on No.43, its large garage on the boundary would hide the extension, other than from an oblique view, and would have no significant effect on the living conditions of its occupiers.

12. For these reasons I will allow the appeal.

**Conditions**

13. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a 2 conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; and condition 3 is to ensure that the appearance of the development permitted integrates with the existing in a visually satisfactory manner.

*Terrence Kemmann-Lane*

INSPECTOR