



Appeal Decision

Site visit made on 21 June 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2024

Appeal Ref: APP/Y0435/D/24/3341679

80 Century Avenue, Oldbrook, Milton Keynes, MK6 2UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Abdul Mohamed Riyes against Milton Keynes City Council.
 - The application Ref is 24/00142/HOU.
 - The development proposed is erection of two storey side and rear extension, conversion of garage, single storey front, rear and side extension with extension of dropped kerb.
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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.

Main Issue

3. The main issue is the impact of the proposal upon i) the residential amenity of occupiers of the appeal site with regard to remaining garden space and ii) neighbouring residential amenity with regard to overlooking.

Reasons

Amenity of occupiers of the appeal site

4. The appeal site is a two storey, end terraced, dwelling located within a residential area. The existing garden, to the rear of the property, is triangular in shape providing in the region of 65 square metres of private amenity/garden space. The proposal before me seeks permission for the erection of a two-storey side and rear extension, conversion of the garages as well as a single storey front, rear and side extension (and extension of a dropped kerb). Whilst I appreciate that the proposal is for a house extension, and not a new residential dwelling, I am conscious of the guidance set out within the Council's New Residential Design Guide 2012 with regard to garden/amenity space.
5. The guidance outlines that family housing should be provided with provision for private gardens, with gardens being a minimum of 10 metres in depth, or 7/8 metres for wide frontage units. There are no specific space requirements, however, it is clear that the overarching objective of the guidance is to secure garden space which is functional for day-to-day activities and meets the reasonable needs of its end users. The proposal would result in a rear garden/amenity area, remaining, in the region of 36 square metres, the area available would also be triangular and awkward in shape.

6. Whilst I note the labelling, on the proposed block plan, relating to a statement that more than 50% of the original garden would remain, I do not find that the garden which would be left could be said to be at a level which would be consistent with a suitable standard of amenity for the current and future occupiers of the appeal site. The overall size, and shape, would not result in a truly usable space for a 3-bedroom family home and the proposal would result in a detrimental impact on the residential amenity of current and future occupiers. Even if I had found the remaining garden to be of a suitable size which would not result in detrimental impact the appeal would, on this occasion, still have failed due to the issues relating to neighbouring amenity outlined within the second main issue to this decision letter.
7. I note, within the appellant's statement, that reference is made to an application, approved in May 2021, under application reference 21/00878/FUL which is stated to be identical to the appeal site with the proposal and remaining garden size being the same. Whilst each case should be considered on its own merits the approval in question, stated to be at 18 Rhodes Place, has not been supported with the submission of further information (such as, for example, the approved plans, Council's report and decision notice) to allow me to take this into account and understand the reasoning behind the decision that is stated to have been made in that case. I have considered the proposal that is before me on its own merits against the relevant Local Plan and find that the proposal would result in sub-standard remaining garden space which would be detrimental to residential amenity.
8. The proposal would be contrary to PLAN:MK 2019 (LP) Policy D3 which seeks to ensure the proposed scale and design of extensions to existing buildings relate well to the existing building and plot and LP Policy D5 which seeks to ensure that external private garden space in its extent and design, meets the reasonable needs of its user(s). The proposal would also be contrary to the New Residential Development Design Guide 2012 which requires that rear gardens should have useable space with some privacy and therefore should not be awkwardly shaped or very narrow.

Neighbouring Residential Amenity

9. The first-floor window, to the rear elevation, would overlook the rear garden of neighbouring property 78 Century Avenue with a back to flank distance in the region of 3 to 7 metres. The location of the window, and orientation of the proposals compared to the neighbouring property, means that I find that there would be clear and natural views in close proximity to the boundary meaning that the proposal would severely overlook the private amenity space of the neighbouring dwelling. The proposal would, therefore, have a detrimental impact to neighbouring privacy which I find is sufficient to warrant refusal.
10. I note that the proposed bedroom, which would be extended as a result of the proposals, would benefit from two windows and, as a secondary window, I have considered the appellants suggestion as to obscure glazing of the rear window via condition. I can see that the Council have also considered the imposition of such a condition with their statement of case.
11. Despite this, due to the depth of the extension and the fact that the window would be serving a bedroom I find that the proposal, with obscure glazing to the rear bedroom window, would likely result in an adverse reduction in light and outlook from that bedroom which would ultimately then have a detrimental

impact to the level of amenity available for current and future occupiers of the bedroom in question at the appeal site itself.

12. Even if I had found that application of a condition, to obscurely glaze the bedroom window in question to the rear, would make the proposal acceptable in relation to overlooking and loss of privacy, the appeal would still, in this case, fail due to the issues which I have found in relation to the first main issue due to the garden space that would be left as a result of the proposals that are before me. The proposal would be contrary to LP Policy D5 which requires all proposals to ensure a reasonable degree of privacy to new and existing private living space in the main private area, with overlooking limited to an acceptable degree. The proposal would also be contrary to paragraph 135(f) of the National Planning Policy Framework 2023 which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Conclusion

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

Eleni Randle

INSPECTOR