



---

# Appeal Decision

Site visit made on 13 November 2024

**by Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI**

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

**Decision date: 27 November 2024**

---

**Appeal Ref: APP/F1610/D/24/3351040**

**4 Meadow Sweet Drive, Moreton-in-Marsh, Gloucestershire, GL56 9PX**

- 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 Rakesh Abrol against the decision of Cotswold District Council.
  - The application reference is 24/01100/FUL.
  - The development proposed is erection of a single storey rear extension with first floor balcony and single storey porch.
- 

## 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 Issues

3. The main issues are the impact of the proposal upon i) the character of the locality, ii) the residential amenity of 7 Cornflower Road with regard to overlooking and iii) highway safety.

## Reasons

4. There are several elements to the appeal proposal as outlined within the development description within the header of this decision letter. Of the four elements to the proposal, the refusal reasons appear to be based upon the balcony above the rear extension and the boundary wall. The other elements (the porch and the rear extension) are confirmed as acceptable and I have no evidence to conclude differently on these elements taking into account both the evidence before me and what I saw at the time of my site visit.
5. The Council's delegated report confirms, in relation to the rear extension (that has been constructed), that it would be compliant with the General Permitted Development Order. Whilst it is not within the scope of this appeal to consider whether elements are, or are not, permitted development in this case I have no evidence before me to conclude otherwise.
6. The application is submitted on a part retrospective basis insofar as some elements of the proposal, have been constructed and, whilst this is acknowledged, I have considered the proposals on their own merits against the Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 taking into account all material considerations.

*Character of the locality*

7. The appeal site is a two storey, L shaped, dwelling constructed as part of a larger development on the land to the northeast of Moreton-in-Marsh with the appeal site being a stone and tile dwelling with the front elevation facing Meadow Sweet Drive to the west with the side elevation facing Cornflower Road. The rear of the property faces towards a blank gable end of 7 Cornflower Road with the property adjoining being 3 Meadow Sweet Drive.
8. The first refusal reason is stated to be specific to the proposed balcony by virtue of its design, scale, and form in relation to the character of the locality and its intended design, however, I also note that within the Council's delegated report that concern is raised in relation to the relocated boundary wall with regard to the character of the area and the appellant's supporting documentation specifically responds to this point.
9. The appellant's appeal support document sites a number of "similar aspects" in terms of boundary walls being adjacent to footpaths -one of these is stated to be on Cornflower Drive, however, the image circled red states Todenham Road, and other examples appear of limited relevance looking at their site context. Notwithstanding this I believe, from my site visit, that the wall in question is on Cornflower Road much closer to the junction with Todenham Road and thus the proposal which is the subject of this appeal would not be viewed in the same site context. I find that from my site visit the movement up to the edge of the pavement would be out of character with the surrounding area in comparison to, for example, adjacent rear gardens off Cornflower Drive as well as boundary treatments within the vicinity of the appeal site and the context within which the appeal site would be viewed.
10. There are no balconies on the estate within which the appeal site stands, and, from the time of my site visit, I found that proposed balustrading would be visible within the street scene, however, the Council do not consider that this would cause harm to the character of the area, and I have no reason to conclude differently on this point. As part of the proposals there is a requirement to maintain privacy with 3 Meadow Sweet Drive (no. 3) by way of a 1.8 metre screen wall above the side elevation of the rear extension. I find that this would create a large expanse of wall highly visible in the street scene from Meadow Sweet Drive and Cornflower Road. The privacy screen wall would be detrimental to the character of the estate.
11. I note the appellant's comments regarding alternative materials, or options, to provide screening, however, whilst glass balustrading may be acceptable in principle, I find that this is largely as it does not obscure views of the property, or through the appeal site itself. Frosted glass screens, metal screens or planting designed sufficiently to prevent views into the adjacent property at no. 3 would still, I find, create a large solid expanse visible within the street scene from which would be detrimental to the character of the estate. The visibility of the proposed wall or screening would, overall, be detrimental to the character of the estate introducing a feature alien to the locality.
12. The proposal would be inconsistent with the Cotswold District Local Plan 2018 (LP) Policy EN1 which requires that new development will ensure design standards that complement the character of the area and the sustainable use of the development and LP Policy EN2 which requires that proposals should be of a design quality that respects the character and distinctive appearance of

the locality. The proposal would also be contrary to paragraph 135 of the National Planning Policy Framework 2023 (the Framework) which seeks to ensure that developments function well and add to the overall quality of the area and are sympathetic to the local character.

13. I note the appellant's supporting submission, to their Statement of Case, which states that there is a precedent in Moreton for the approval of balconies on residential properties. The Council's delegated report confirms that whilst there are no balconies on the estate, and the balustrade proposed would be visible from the street scene, this by itself is not considered to harm the character of the area. I do not find that the Council's refusal reason is based upon the principle of a balcony but rather the specific impact of the proposed balcony in relation to the site characteristics of the site in question.
14. As discussed, within the second main issue below, removal of the proposed screening would mean the proposal would be unacceptable with regard to no. 3's amenity due to views available into the adjacent garden. This would contribute to a loss of privacy and overlooking which, even of the basis of perceived impact, would result in an unacceptable impact to residential amenity of no. 3. Provision of the privacy screen prevents this impact to residential amenity, however, it in turn introduces a more solid feature that I find would be out of character with the locality and of a poor design.

#### *Residential amenity of 7 Cornflower Road*

15. The second refusal reason is specific in its assertion that the proposed balcony would cause unacceptable overlooking of the private garden of 7 Cornflower Road (no. 7) resulting in the detrimental loss of privacy. I have considered the proposal as it is submitted before me, however, as outlined in relation to the first main issue, had the proposal not been accompanied by an intention to construct a 1.8-metre-high screen wall then I find that the proposal would also cause unacceptable overlooking of the private garden of no. 3 as well. This reaffirms that, in relation to no. 3 that a screen wall would be required.
16. In addition, the addition of a 1.8 metre screen wall would also appear overbearing when viewed from the adjacent property, no. 3, and whilst the screen wall would be immediately adjacent to the neighbouring parking area, this would still result in overbearing impact which I find generally unacceptable. I note that the wall would be along the gable end of the main dwelling, and this is noted to consist of no windows or doors resulting in a Cotswold stone side gable. The appellant has cited examples of other balconies via Google imagery within their supporting documentation, however, from the limited information available (Google imagery) I do not consider that the site characteristics and relationship between the balconies in question and the neighbouring properties could be said to be comparable to the appeal site that is before me.
17. Notwithstanding this, the Council's refusal reason is specific to no. 7. The appellant's Statement of Case, page 6, does not appear to provide a response from the agent in relation to the Council's contention that the proposed balcony would be detrimental to the residential amenity of no. 7. The appellant's support document does, however, provide imagery and plans in relation to views and assessment from the existing windows of the host property. I note, from the plans which have been labelled in relation to the windows, that the property to the southeast of the appeal site is labelled on the plans as being no. 5, however, at the time of my site visit I checked this and the signage for

the property in question clearly denotes this as no. 7 – the property referred to within the Council’s refusal reason.

18. Based upon the extensive imagery, provided by the appellant, I do not find the views from the existing first floor windows to be comparable to those which would be available from the proposed balcony. The proposed views, for example, shown on page 5 from the southernmost window appear to be taken leaning out of the window and are not what I would associate with natural use of the window in question. Notwithstanding this, I find that views from the proposed balcony, towards the private garden of no. 7, would not result in unacceptable overlooking of the private garden or detrimental loss of privacy.
19. I note the photographs provided by no. 7, taken from what is referred to as a garden family room, but I do not find that views from the balcony would be any closer or more extensive than the existing window within the appeal site gable projection. Views, from the private balcony, would be to the side of the property and whilst there would be views of the garden family room window as a result of the single storey projection to the rear, I am satisfied that this would not be detrimental in terms of loss of privacy due to the separation distances involved. Any views, into the private amenity area of the property itself, I find would be largely obscured by the garage block which I understand to be shared between both the appeal site and no. 7.
20. The proposal would be consistent with LP Policy EN2 (appendix D) which seeks to ensure adequate privacy and appropriate separation distances between facing windows in relation to the residential amenity of no. 7.

#### *Highway safety*

21. The third refusal reason, which is before me, is based upon height and location, of the wall adjacent to the highway, providing insufficient visibility splays to provide a safe and secure access which is stated to cause an obstruction to the view of persons using the highway including pedestrians. The boundary wall has been moved, from its original position, by in the region of 1 metre southwards so that it stands at the back edge of the pavement. The appellant has included, within their statement, visibility splays for both existing and proposed boundary walls.
22. The plans are noted to show a setback of 2.4 metres from the highway which may be appropriate in terms of The Manual for Gloucester Streets (July 2020) insofar as they provide appropriate visibility for vehicles, however, the removal of the addition metre as a result of relocation of the boundary wall I find could create conflict between pedestrians. I note the appellant’s contention that the existing wall would not have complied with the required splays, however, I find this to be of limited weight based upon the existing visibility splay drawings. Based upon the plans before me I find that, regardless of whether the previous location of the wall was able to provide the necessary splays, there would have been a greater splay and level of available visibility as a result of the set back of the wall itself and whilst I acknowledge that there may have been vegetation/shrubs along the boundary this does not alter my findings.
23. From the “before” imagery the shrubs in question were lower which, (although obscured by a Portaloo within the provided imagery) would have allowed some views over the shrubs in question at the access point for pedestrians to have greater visibility of vehicles emerging from the appeal site’s parking area. The

removal of shrubs, stated to enable light through windows previously obscured, does not, in this case, warrant or justify movement of the entire wall to the edge of the pavement within the proposal before me.

24. Whilst I note that visibility splays were not requested, or submitted, along with the original application, even if I had agreed that the movement of the wall was appropriate in terms of highway safety, the appeal would still have failed due to my findings in relation to the other main issues outlined above. In this case, however, whilst the vehicular splays may be appropriate, I have concern as to reduced visibility for pedestrians on the pavement as a result of the boundary wall. In this case I find that the impact on highway safety, in terms of the potential for vehicular to pedestrian conflict, is unacceptable based upon the evidence before me.
25. The proposal would be contrary to LP Policy INF4 which requires that development minimises conflict between traffic and cyclists or pedestrians and paragraph 115 of the Framework which outlines that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. .

### **Other Matters**

26. I note a number of objections to the proposal as well as a letter of support during the consultation period for this application. Violation of restrictive covenants is a private matter which does not fall within the scope of this appeal.
27. I note that objections have also been received that the impact of the development could result in the roads not being formally adopted. This is noted but, as the Council have outlined, this is not a relevant planning consideration as this would be a legal matter between the appellant and the management company with the adoption of roads being undertaken through separate legislation to that of the planning system.
28. As outlined, earlier within this decision letter, it is acknowledged that development has started prior to planning permission being granted as set out within the development description. The council have, however, confirmed that the single storey extension, loft conversion and associated roof lights are permitted development. An objection, from no. 3, is noted in relation to the block plan and the appellant's lack of ownership of the garage, which is acknowledged, however, the red line boundary does not appear to imply ownership of the adjacent garage as stated and the Council have not raised concern in relation to this point.
29. Concern has been raised by Cotswolds Gate (Moreton) Management Company with regard to proceeding without planning permission or building regulation approval, however, building regulations are separate to planning permission and are not a material consideration within the determination of this appeal.
30. Some comments are noted to have stated within their comment reasons light and noise; however, this does not appear to have been specifically raised within the physically written comments. Notwithstanding this the Council do not raise any issues with regard to light and noise as a result of the proposals and I have no reason to conclude differently.

## **Conclusion**

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

*Eleni Marshall*

INSPECTOR