



Appeal Decision

Site visit made on 9 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/Y0435/D/24/3348634

23 Wallingford, Bradville, Milton Keynes, MK13 7DN

- 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 Hadi Khorami against the decision of Milton Keynes City Council.
 - The application reference is 24/00861/HOU.
 - The development proposed is the erection of a ground floor rear extension and removal of existing conservatory.
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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. The National Planning Policy Framework (the Framework) was revised on 12 December 2024 since both the determination of this proposal and the submission of this appeal; however, the key changes are not considered to impact upon the determination of this appeal in relation to the main issues noted below.

Main Issues

4. The main issues are the impact of the proposal upon i) neighbouring residential amenity with regard to overbearingness, overshadowing and daylight and ii) the level of private amenity space for the host dwelling.

Reasons

Neighbouring residential amenity

5. The appeal site is a two storey, semi-detached, dwelling with a garden area which is able to be accessed to the side of the property. The proposal before me seeks permission to demolish the existing conservatory and erect a single storey rear extension as well as removing the existing garden retaining wall. The proposal shown on the plans before me is to be an L shape based upon a main, rectangular, section to expand kitchen space at a depth of in the region of 2.81 metres from the host dwelling. This part of the extension would be for the full width of the host dwelling with a maximum height in the region of 3.64 metres with a mono pitch roof resulting in the eaves being in the region of 2.62 metres.
6. In addition to the main rectangular section, it is proposed that there would be a further part of an extension which would, from the plans, create a new ground floor WC which would extend in the region of a further 2.5 metres from the main

rectangular section housing the kitchen extension. The overall length of the extension, based upon the above, would be in the region of 5.31 metres from the original wall of the host dwelling running along the boundary with the neighbouring property 21 Wallingford (no. 21).

7. At the time of my site visit I found that the main rectangular section of the proposed extension had already been constructed with the retaining wall having been removed. The Council's delegated report confirms that, in principle, a rear extension at this address is achievable through permitted development subject to the Town and Country Planning (General Permitted Development) (England) order 2015 (the GDPO) as amended Class A (Part 1 of Schedule 2). Such legislation typically permits a single storey enlargement which does not extend beyond the rear wall of the dwelling house by 3 metres in the case of any other dwelling house (i.e. not a detached dwelling house) nor should it exceed 4 metres in height.
8. Cumulatively, the depth of the extension, from the rear wall of the host dwelling, would extend to in the region of 5.3 metres along the shared boundary with no. 21. The proposed extension would be located immediately on the boundary of the attached neighbour but taking into account the site characteristics I do not find that the proposed extension would be overbearing to no. 21 with regard to access to daylight or overshadowing. The height, in the region of 3.64 metres stated by the Council, is the highest point of the extension immediately adjacent to the rear wall of the host dwelling and, taking into account the scope and provisions under the GDPO as acknowledged by the Council I would consider the main rectangular section of the new extension, expanding the kitchen space, to be appropriate with regard to neighbouring residential amenity.
9. Whilst I acknowledge that the further extension, to create the new ground floor WC, would extend a further 2.5 metres from the kitchen extension the proposal has been designed with a sloping roof meaning that the addition as a result of the proposed WC would be the lowest point of the proposed extension. At the time of my site visit I noted that there is an existing timber panelled fence between the appeal site and the adjacent neighbour which, due to the topography of the ground, increased in height away from the dwellings in question. I do not, on this basis, find that the proposal would result in unacceptable residential amenity impacts due to the existing site characteristics and design of the proposal.
10. It is stated, by the appellant, that similar extensions exist at no. 25 and 27, however, no further information or evidence as to this statement has been provided in the context of this appeal. I am, therefore, unable to attribute weight to this in the determination of this appeal and in any case, each case should be considered on its own merits. In relation to residential amenity, with particular regard to overbearing, overshadowing and access to daylight based upon the evidence before me and also taking into account, as acknowledged by the Council, the principle of extensions under the GDPO, I find that the proposal would be consistent with Plan: MK 2016 – 2031 (LP) Policy D5 which requires proposals to ensure the levels of sunlight and daylight within buildings and open spaces, and garden areas in particular, are satisfactory and that new development is not overbearing upon existing buildings and open spaces.
11. The first refusal reason is also noted to acknowledge Stantonbury Neighbourhood Plan 2020 (NP) Policy SNP4, however, having reviewed the relevant policy I do not find that it makes specific reference to the main issues stated within the first refusal

reason which relates to neighbouring residential amenity with specific regard to overbearing, overshadowing and access to daylight. I find NP Policy SNP4 to be of limited relevance to these matters on this basis.

Private amenity space for the host dwelling

12. Based upon the plans before me, and my site visit, I find that the main rectangular section of the new extension (expanding the kitchen) has left sufficient garden space, which with the proposed retaining wall (which will be required as a result of the site levels that I witnessed on site), would allow for an appropriate level of amenity space to be retained for the host property across two, usable, levels. The addition of the longer part of the proposal, intended to provide a new ground floor WC, I find would encroach into the remaining garden area which I find would result in an unacceptable reduction in garden and amenity space which would not be appropriate for the type of dwelling or the character of the surrounding properties. This would be exacerbated by the presence of the outbuilding within the garden.
13. I note that both parties make reference to nearby extensions, however, no examples of extensions have been provided within the appeal submissions and whilst the appellant refers to a comparative analysis in the context of the local area, I have no evidence that the proposed extension is in line with the neighbourhood character and living standards. No comparative analysis has been provided by the appellant as part of this appeal. Based upon the plans before me, my site visit, and the available evidence I find that the proposal would result in unacceptable reduction in the amount of private amenity space available. I do not find that the proposal would result in ample outdoor space for recreational or other uses which is further exacerbated by the requirement for a retaining wall, the amenity space available being on two levels and an existing shed.
14. I do not find that the design, landscaping and layout improvements would result in a more functional and enjoyable space which would compensate for the reduced area compared to the available garden space that would have been present prior to demolition of the conservatory, shown on the submitted plans, nor that which has been retained, albeit unfinished, as a result of the existing construction of the main element of the extension which is before me for the reasons outlined.
15. The proposal would be contrary to LP Policy D5 which seeks to ensure that proposals create and protect a good standard of amenity and that external private garden space, in its extent and design, meets the reasonable needs of its user(s) and NP Policy SNP4 which requires new development to take account of the garden and/or amenity space being commensurate with the size and type of dwelling and in keeping with the character of the surrounding area.

Conclusion

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

Eleni Marshall

INSPECTOR