



Committee and Date
North Planning Committee
26 August 2014

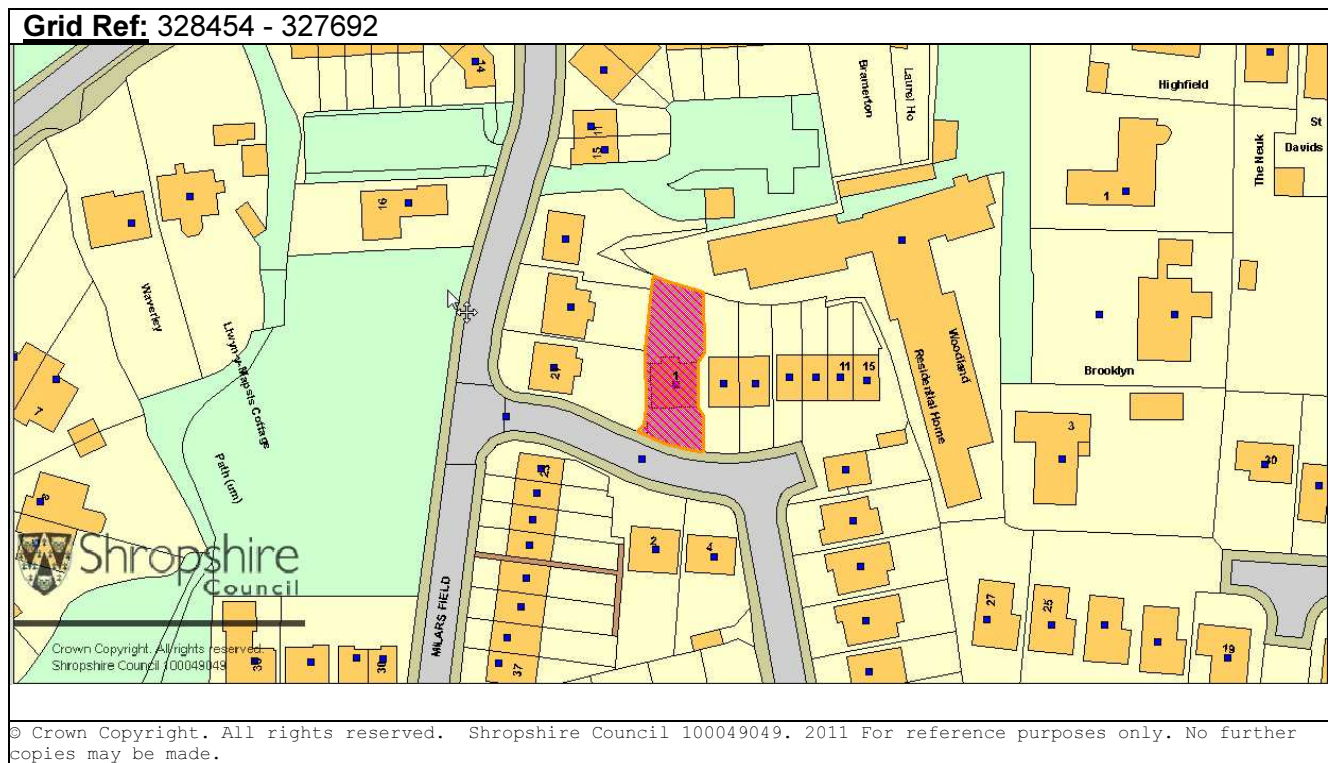
Item
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Public

Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 14/02507/FUL	Parish: Oswestry Rural
Proposal: Erection of single storey rear extension	
Site Address: 1 Cae Onan Morda Oswestry SY10 9PX	
Applicant: Mr M Phelan	
Case Officer: Melanie Durant	email: planningdmnw@shropshire.gov.uk



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The proposal is for the erection of a single storey rear extension.

2.0 SITE LOCATION/DESCRIPTION

2.1 The property is a 5 bedroomed detached house on a new estate in Morda. The property is constructed using red brick and tile.

2.2 There are neighbours on either side of the property, the immediate neighbour no 3 is set at a lower level to this property resulting in the first floor of the neighbouring property being level with the ground floor to the applicants' property. The neighbours to the west are situated at right angles to the development site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member.

4.0 Community Representations

- Consultee Comments

None received

- Public Comments

Oswestry Rural Parish Council objects to the application due to the loss of amenity and privacy by the neighbouring property.

A neighbouring property has objected due to loss of privacy when considering the difference in levels between properties in this location

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Impact on neighbouring amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The proposed scheme is judged in the light of saved Policy H 23 (Extensions to dwellings) of the Oswestry Borough Local Plan and Policy CS6 (Sustainable Design and Development) of the adopted Shropshire Core Strategy.

6.1.2 Policy H 23 generally permits new extensions provided there is no significant impact to an existing dwelling or its neighbouring properties, and the development respects the scale, design and materials of the existing dwelling and its surroundings.

6.1.3 Policy CS6 of the Core Strategy seeks to ensure that new development is appropriate in scale, density, pattern and design taking into account the local context and character.

6.2 Siting, scale and design of structure

6.2.1 The proposal is for a single storey rear extension measuring approx. 4 m outwards from the rear of the property with a width which almost equals the original dwelling. The proposal will provide a new larger kitchen area and dining room it will also include a new family room with patio doors leading to decking at the rear.

6.2.2 The materials proposed for the new development are facing brick and render to match the existing dwelling with matching roof tiles.

6.3 Impact on neighbouring amenity

6.3.1 There is a considerable height difference between properties in this location resulting in the first floor level of the adjacent property being at the same level as the ground floor of the applicants' property. This has resulted in an objection being received from a neighbouring residents and the local Parish Council regarding loss of amenity and loss of light.

6.3.2 The impact of the development has been assessed regarding the neighbouring property. Although the development will be at a higher level than the neighbouring property it is felt that this does not warrant a reason for refusal of this application. Firstly the extension is very near being considered permitted development except for the addition of a decking area to the rear.

6.3.3 The objectors also felt that the development would cause a loss of light for the neighbouring property. Therefore the path of sunlight throughout the day was assessed. The rear gardens of the properties face a northerly direction therefore would receive the sunlight in the hours of the morning. In the afternoon and evening the sunlight would fall from a westerly direction and any shadowing of both gardens would occur due to the position of the dwellings and only partially from the proposed development. It is therefore felt that any loss of light would be minimal due to the position of the dwelling itself.

6.3.4 Lastly the issue of loss of privacy was considered. The single storey extension has a single letterbox style window on the western elevation which would face the neighbouring property. On this elevation the only window facing the applicants' property is a first floor landing window, this is not considered a habitable room and therefore there would be no impact from the development on this window. The rear patio opening would provide views including the neighbouring rear garden. However the property itself is a 3 storey dwelling with numerous openings facing

this direction which would already overlook the rear gardens of neighbouring properties. Again officers consider that these objections would not constitute a reason to refuse this application.

7.0 CONCLUSION

The proposal is acceptable in terms of its siting, scale, design and materials and would not result in any significant loss of residential amenity. Therefore the application is considered to accord with the relevant local plan policy set out by Policy CS6 of the adopted Core Strategy and saved Policy H 23 of the Oswestry Borough Local Plan and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

H23 - Extensions to Dwellings

RELEVANT PLANNING HISTORY:

14/02507/FUL Erection of single storey rear extension PDE

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items

containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Joyce Barrow

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The external materials shall match those of the existing building and there shall be no variation without the prior consent in writing of the Local Planning Authority.

Reason: To ensure that the works harmonise with the existing development.