

**4/00210/16/FHA - RETENTION OF PATIO.
36 MISWELL LANE, TRING, HP23 4DD.
APPLICANT: MR & MRS C MURPHY.**

[Case Officer - Intan Keen]

Summary

The application is recommended for approval.

The proposed patio would not compromise the appearance of the original building or the street scene. Negative impacts on neighbouring properties can be mitigated through appropriate screening and landscaping. The proposal would not have any parking implications.

The development would accord with the objectives of Policy CS12 of the Core Strategy.

Site Description

The application site is currently occupied by a two-storey semi-detached dwelling located on the eastern side of Miswell Lane. Levels fall in a southerly direction such that the neighbour at No. 34 is located on lower ground.

Proposal

Planning permission is sought for a rear patio extending a maximum of 4.3m from the rear of the dwelling and 3.2m to the side, wrapping around the dwelling's south-eastern corner. The patio would be no higher than 1.2m from ground level.

The patio has been substantially constructed, and if planning permission is granted the existing level of the patio would need to be lowered in accordance with the approved plans.

The southern side boundary would have a 1.8m high timber fence with 0.6m planting above.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Tring Town Council.

Planning History

None on site.

The adjacent property at No. 34 Miswell Lane has recently constructed an extension to their rear conservatory, for which no planning records are available.

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS4 - The Towns and Large Villages
CS12 - Quality of Site Design
CS29 - Sustainable Design and Construction
CS35 - Infrastructure and Developer Contributions

Saved Policies of the Dacorum Borough Local Plan

Policy 58
Appendices 5 and 7

Supplementary Planning Guidance / Documents

Area Based Policies (May 2004) - Residential Character Area TCA2 - Miswell Lane

Summary of Representations

34 Miswell Lane

I am writing to register my objection to the planning application (4/00210/16/FHA) for the retention of the unauthorised raised patio at 36 Miswell Lane, Tring.

The platform's raised elevation gives it views into my garden and other gardens, invading the normal privacy of gardens on Miswell Lane. It has the effect of circumventing restrictions that were placed on the current construction of an extension to 36 Miswell Lane, the first plans for which had also proposed second floor windows with views into my garden and other gardens on Miswell Lane. The loss of privacy detracts from the enjoyment of my property and from its value.

34 Miswell Lane - amended plans

As owner of the immediately adjacent property, 34 Miswell Lane, I have examined the amended application for the proposed retention of the patio built without planning permission by the owners of 36 Miswell Lane, Tring, Herts HP23 4 DD.

I object strongly to the amended proposed retention of the unauthorised patio as the proposed reduction of 190 mm (7.5 inches) in the level of the raised patio on the side nearest the boundary with my property at 34 Miswell Lane is so inadequate that it can only be described as merely a token amendment. It fails completely to address the privacy intrusions of the raised patio that I identified in my objection to this unauthorised construction.

The platform's raised elevation gives it views into my garden, invading the normal privacy of my garden. It has the effect of circumventing restrictions that were placed on the previous construction of an extension to 36 Miswell Lane, the first plans for which had proposed second floor windows with views into my garden and other

gardens on Miswell Lane. The loss of privacy detracts significantly from the enjoyment of my property and from its value.

The level of the patio should be reduced to bring it much closer to ground level. Specifically, the level of the existing unauthorised patio floor on the side nearest the boundary with my property should be reduced by at least 800mm (31.5 inches) and the wall surrounding the patio should be reduced by a similar amount.

Tring Town Council

The Council recommend refusal of this application because of overlooking/loss of privacy. On level ground the siting of the patio would not be a problem with the fencing, but the ground slopes away towards the neighbouring property, giving an unrestricted view across its garden.

Tring Town Council - amended plans

The Council recommended refusal of this application because the lowering of the patio did not mitigate the overlooking of the neighbouring property (that arose because of the relative levels of the properties)

Considerations

Impact on appearance of building and street scene

The proposed patio sited to the rear of the dwelling would appear as a subservient feature. External brickwork surrounding the patio would complement the existing building. It would be substantially concealed from the principal street frontage to Miswell Lane and would not have any adverse impacts in terms of appearance.

The proposal is satisfactory under Policy CS12 of the Core Strategy.

Impact on neighbouring properties

The application site has two directly adjoining properties at Nos. 34 and 38 Miswell Lane. However, due to the siting and shape of the proposed patio, it is nearest to the neighbour at No. 34 Miswell Lane. This neighbouring property is located on lower ground a drop of approximately 0.5m between the rear garden levels of the application site and No. 34. The proposed patio would be set in approximately 1.3m from the shared side boundary, which would have a 1.8m high close board timber fence with 0.6m high planting above.

It is acknowledged that the application site is on higher ground relative to No. 34 and the patio is further elevated (stepping down 0.19m from levels of the host dwelling). The existing fence and hedge on the shared boundary provides sufficient screening so that views of No. 34 Miswell Lane from the closest part of the patio are restricted to the upper floor of the dwelling and the roof of the neighbour's conservatory.

There is a limited area at the south-eastern corner of the patio where through a gap in the boundary hedge allows angled views of the rear elevation of the extended conservatory (at a minimum distance of 8m). The orientation of the conservatory is such that direct views into the dwelling cannot be readily obtained. The siting of No. 34

on lower ground ensures that any views towards the neighbour would be over the rear conservatory and rear garden. The main outlook of the patio would be towards the rear garden of the application site. Based on these factors, the proposal is not considered to result in an adverse level of overlooking to No. 34.

It would be essential that boundary treatment is maintained and that the hedge shall be retained by condition to ensure the privacy of the neighbour.

It follows the proposal is in accordance with Policy CS12 of the Core Strategy.

Impact on car parking

The development would not create demand for additional parking spaces or alter existing parking arrangements. The proposal is therefore in accordance with Policy CS12 of the Core Strategy and saved Policy 58 of the Local Plan.

RECOMMENDATION – That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

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

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of five (5) years from the date of the occupation of the building for its permitted use.**

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 1989 Recommendations for Tree Work.

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the

written consent of the local planning authority.

Reason: To ensure a satisfactory appearance to the development and to safeguard the residential amenity of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 3 **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

4658 / P Revision A (proposed block plan and elevation).

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive discussion with the applicant which led to improvements to the scheme. The Council has therefore acted in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.