

Appeal Decision

Site visit made on 18 April 2017

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 May 2017

Appeal Ref: APP/T0355/D/17/3168766
22 Ray Lea Close, Maidenhead, SL6 8QW.

- 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 Nassar Ali against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/03431 dated 21 October 2016, was refused by notice dated 12 January 2017.
 - The development proposed is for a detached outbuilding.
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Preliminary matters

1. There are a number of discrepancies between the submitted drawing and the existing structure located in the position of the proposed outbuilding. In particular, the existing structure is physically attached to the host dwelling via a timber link extension. As such it is no longer a detached outbuilding, but forms part of the host dwelling. In addition, the structure located in the position of the proposed outbuilding comprises two rooms. One is laid out for a gym and an office and the other room is used for a W.C and a computer server area.
2. For the avoidance of any doubt I confirm that this decision relates solely to the proposed outbuilding shown on the submitted drawing and not to the existing development on the Appeal site.
3. Whilst not material to my consideration of the Appeal proposal it is also noted that the layout and use of the existing single storey rear extension also differs from that shown on the submitted drawing. Currently this extension is separated into two rooms, one of which is used for an office.

Decision

4. The appeal is dismissed.

Main Issues

5. The first main issue is the effect of the scheme on the character and appearance of the area. The second main issue is whether the resultant property would provide satisfactory living conditions for its occupiers, with particular regard to the quality of its private garden area. The third main issue is the effect of the proposal on the living conditions of the occupiers of 23 Ray
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Lea Close (No.23), with regard to visual impact. The fourth main issue is whether the proposal would be likely to increase the risk of flooding in the area.

Reasons

Character and appearance

6. Ray Lea Close is characterised by uniformly designed semi-detached two storey family houses with predominantly consistently sized front and rear gardens. The space created by these gardens, together with the trees and other soft planting within them, make a significant contribution to the spacious and verdant character and appearance of the estate.
7. Together the National Planning Policy Framework (NPPF) and policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan (Local Plan), seek to ensure that new development does not harm the character of the surrounding area through development which is cramped. Development should reflect the identity of local surroundings and be visually attractive as a result of good architecture and appropriate landscaping.
8. The proposed outbuilding would result in an almost continuous line of development for the full depth and almost half the width of the rear garden. The proposed outbuilding would be sited very close to and would be consistent with the utilitarian design and appearance of the existing single storey rear "playroom" extension. The "playroom" extension is itself attached to and forms an integral part of a full width flat roofed single storey extension. Together these extensions and the proposed outbuilding would be more than 21 metres in depth, including the small gap between the existing extensions and the proposed outbuilding. Together they would totally dominate the rear garden of the host dwelling, which would be visually and functionally cramped.
9. Whilst the existing extensions and the proposed outbuilding have flat roofs, they are all materially higher than the boundary fences of the adjacent dwellings. Together they would appear unduly bulky and dominate the immediate rear garden environment. At the same time, from the upper floor rear windows of the adjacent and nearby dwellings, the existing extensions and the proposed extension would be seen as a large and uncharacteristic expanse of stark flat roof. The depth of the existing and proposed additions would be emphasised by the fact that the rear building line of the original dwelling is set back further into the plot than the adjacent dwelling at No.23.
10. For these reasons the proposed outbuilding, combined with the existing rear extensions would fail to respect and would materially detract from the spacious and verdant character and appearance of the back garden environment and the estate as a whole. This harm would outweigh the benefits for the Appellant and his family that would result from the provision of the proposed gym.
11. I conclude on the first main issue that the proposed outbuilding would undermine and have a materially harmful impact on the character and appearance of the area. It would therefore conflict with policy DG1 of the Local Plan and the NPPF.

Proposed living conditions

12. The proposed outbuilding, together with the existing rear extensions, would cover well in excess of 50% of the original rear garden. The narrow width of the resultant rear garden would be exacerbated by the sense of enclosure resulting from the existing extensions and proposed outbuilding, which would all be materially higher than the surrounding boundary fences. The usable private rear garden area would be small, enclosed and cramped. It would provide a poor standard of private garden area for the occupiers of this extended family dwelling.
13. I conclude on the second main issue that the proposed resultant private garden area would be unacceptably poor in relation to quantity and usability and would result in an unsatisfactory living environment for the occupiers of the host property. Accordingly, the scheme would conflict with the NPPF which, amongst other things, seeks to ensure that new development is of a high quality design and that a good standard of amenity is provided for all existing and future occupants of land and buildings.

Living condition of neighbours

14. The rear walls of the existing extensions and the proposed outbuilding would run along almost the entire length of the southern boundary of the rear garden at No.23. Due to the heights of the extensions and proposed outbuilding they would protrude above the existing boundary fence, where they would have an enclosing impact on the rear garden at No.23. Together, the upper walls of the existing extensions and proposed outbuilding would be visually overbearing when viewed from the rear garden and conservatory at No.23. The existing outbuilding to the rear of 23 would do little to reduce their prominence and oppressive appearance.
15. In the outlook from the first floor rear bedroom window at No.23 the combined roofs of the existing extensions and the proposed outbuilding would similarly be visually stark and overbearing.
16. For these reasons I conclude on the third main issue that the proposed outbuilding, together with the existing rear extensions, would unacceptably harm the living conditions of the occupiers of No.23 due to their overbearing visual impact, contrary to the NPPF.

Flood risk

17. The Appeal site is located in an area that is categorised as being within Flood Zone 3 and so is in an area that is liable to flood. The NPPF states that within such areas inappropriate development should be avoided and advocates the use of sequential and where necessary exception tests. Where a development is necessary, it should be made safe, without increasing the risk of flooding elsewhere.
18. Consistent with this, policy F1 of the Local Plan states that within areas liable or subject to flooding extensions of more than 30m² will not be allowed unless it can be demonstrated that the proposal would not, in itself or cumulatively, reduce the capacity of the flood plain to store water or to increase the number of people at risk of flooding. The supporting text to this policy advises that

detached ancillary buildings within the curtilage of a property will count as additions where they result from the grant of planning permission.

19. The proposed extension requires planning permission and together with the existing extensions would have a combined floor area of in excess of 30m². No evidence has been submitted to demonstrate the need for the outbuilding. No evidence has been submitted to demonstrate that the development would not, in itself or cumulatively, impede the flow of water, or reduce the capacity of the flood plain to store water. Similarly it has not been demonstrated that the proposal would not increase the number of people or properties at risk of flooding.
20. I conclude on the fourth main issue that the Appellant has failed to demonstrate that the proposal would not increase the risk of flooding for people and property in the area. It would therefore conflict with policy F1 of the Local Plan and the NPPF.

Other matters

21. The Appellant has commented that the proposed outbuilding would fall within the current permitted development tolerances if it was 0.240 metres lower. Whilst a lower building would not address all of the concerns raised, it would be less visible from the surrounding rear garden environment and the garden at No.23. As such the harm it would cause to the character and appearance of the surrounding area and the living conditions of the occupiers of No.23 would be slightly less. At the same time it would need to be demonstrated that the proposed building was to be used for purposes incidental to the enjoyment of the host dwelling.
22. Accordingly, even if the property does benefit from such permitted development rights, their availability would not outweigh the harm that would be caused by the proposed outbuilding. In addition, the fact that a lower extension may fall within the permitted development tolerances does not obviate the need to comply with policy F1 of the Local Plan and the NPPF, where applicable.
23. Concern has been expressed that the proposed gym could be used for habitable accommodation in the future. This is a matter that could be satisfactorily addressed through the imposition of a condition which would prevent its use for habitable accommodation.

Conclusion

24. Having regard to the conclusions on all four main issues and having regard to all other matters raised the Appeal is dismissed.

Elizabeth Lawrence

INSPECTOR