

Appeal Decision

Site visit made on 1 December 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/T0355/D/20/3259335
45 Summerleaze Road, Maidenhead SL6 8EW

- 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 Mohammad Shafiq Khan against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/00818, dated 23 March 2020, was refused by notice dated 22 June 2020.
 - The development is part two storey part single storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council contends that development in breach of planning control has taken place at the site, comprising a two storey rear extension. This is the subject of ongoing enforcement proceedings. The appeal before me now is for a different configuration of development, albeit some of it has already been carried out through the existing breach of planning control, and therefore planning permission is being sought retrospectively. Accordingly, the appeal has been determined using the plans submitted to the Council, which provide the basis for which planning permission is being sought.
3. Although I can sympathise with the appellant, on the basis that a potential mistake was made with regards the interpretation of permitted development rights outside of their control, the appeal has been considered on the planning merits of the case. In a similar context, it is not for me under this appeal to consider matters of permitted development rights and whether they are lawful. To that end, it is open to the appellant to make an application under sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) and this would be unaffected by my determination of this appeal.

Main Issue

4. The main issue is the effect of the development on the living conditions of neighbouring occupiers at No. 43 Summerleaze Road, in relation to daylight and outlook.

Reasons

5. The site is located at No. 45 Summerleaze Road and set back a considerable distance relative to its neighbour at No. 43 Summerleaze Road, on the north side of the highway.

6. The relationship between the two properties means that No 45 protrudes some distance beyond the rear building line of No. 43. Furthermore, the properties are in close proximity to each other in terms of their flank wall relationship, separated by a side access at No 45, which is only around a couple of metres wide at most. Consequently, even without the two storey rear extension that has come forward in breach of planning control, No. 43 already had poor levels of outlook and daylight due to the enclosed nature of the space between properties, something that was also found under another appeal¹.
7. Furthermore, under that appeal, it was found that the two storey rear extension would exacerbate matters to an unacceptable degree. The development in this case would seek to reduce the bulk of the two storey rear extension, comprising a part one and part two storey rear extension. The one storey extension would be sited adjacent to the boundary with No. 43 in order to try and mitigate the harmful effects on outlook and daylight that currently exist. However, the degree of change is only slight and there would still be an appreciable amount of second storey extension remaining.
8. Consequently, there would still be an exacerbating effect on the outlook and daylight reaching the rear of No. 43. The development would be similar to that subject to another appeal² and where similar conclusions were also drawn. The appellant contends that the main reason for dismissing was the depth of the ground floor extension, but it is clear from the appeal decision that the reasoning relates to the *"additional area of single and 2-storey flank wall next to the boundary with No. 43"*.
9. Planning permission³ was granted for a single storey rear extension, which the Council clearly determined would preserve the living conditions of neighbouring occupiers. Consequently, it is clear to me in this case that the addition of a second storey is the particular component of the development that would not preserve the living conditions of neighbouring occupiers, due to the additional height and scale it would impose. Evidence on view lines is not related back to policy or guidance in order to assess the development's compliance with it. Consequently, there is little to change my assessment from viewing the site on the ground in conjunction with other relevant evidence.
10. Overall, the development would harm the living conditions of neighbouring occupiers at No. 43 Summerleaze Road, in relation to daylight and outlook, and conflict with Policy H14 of the Royal Borough of Windsor and Maidenhead Local Plan 2003 and Paragraph 127 of the National Planning Policy Framework. Among other things, these require that extensions should not cause an unacceptable loss of light to adjacent properties or significantly affect the amenities of neighbours.

Conclusion

11. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR

¹ APP/T0355/D/19/3223125

² APP/T0355/D/17/3187866

³ 18/00746/FULL