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# Appeal Decision

Site visit made on 18 May 2022

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 May 2022**

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**Appeal Ref: APP/P4225/W/22/3292151**

**16 Huddersfield Road, Milnrow OL16 3QF**

- 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 Prakash Gorsia against the decision of Rochdale Metropolitan Borough Council.
  - The application Ref 21/01256/FUL, dated 26 August 2021, was refused by notice dated 15 November 2021.
  - The development proposed is 'single storey rear extension to form shop extension, walkway at first floor level, including external staircase and new door at first floor rear elevation following demolition of existing rear extension.'
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. I have used the description of the proposal from the appeal form and the Council's decision notice, as it more accurately defines the entirety of the development proposed. My use of the description does not fundamentally change the appeal scheme, nor prejudice the cases of the main parties in relation to it.

## Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupiers of 14 and 18 Huddersfield Road, with particular regard to loss of light, privacy and disturbance.

## Reasons

### *Loss of Light*

4. The proposed single storey rear extension would replace an existing extension that is tucked into a corner of the rear elevation of the host property. Being both longer and wider, the side elevation of the proposed extension would be sited adjacent to the ground floor side window on the rear outrigger of 18 Huddersfield Road. I agree with the parties that this is a secondary window, as it is obscurely glazed and a further window with an open outlook, is present within the rear elevation of the outrigger.
5. I have been directed towards the guidance contained in the Guidelines and Standards for Residential Development Supplementary Planning Document 2016 (SPD). Whilst not explicitly referencing secondary windows, the guidance is clear in its aim to ensure that all new development should avoid causing a significant loss of privacy, and/or light for occupiers of existing dwellings.

6. The side window, given its orientation to the south-west, provides an important source of afternoon sunlight for the rear habitable room of No 18. Due to the proximity, height and solid form of the proposed extension, the entirety of the window would be obstructed and overshadowed, removing the majority of sunlight it currently receives. The occupiers of No 18 would experience a substantial loss of afternoon sunlight to their kitchen and dining space as a result.
7. Whilst the proposed extension would be discernible through the side window and be overbearing due to its proximity, it would not significantly affect the outlook of the window, given that it is obscurely glazed.

#### *Loss of Privacy*

8. The erection of the proposed external staircase would include a first floor platform, above the proposed single storey extension. Whilst I accept that the platform from the staircase to the first floor flat door would be narrow, it would nonetheless, not preclude a future occupier from standing, sitting or lying on it, and overlooking the rear yard area of No 18 from a height. Although the rear yard of No 18 is small and faces onto an alleyway, nevertheless it is the only private amenity space afforded to the occupiers of the neighbouring dwelling, from which they can expect a reasonable degree of privacy. Overlooking of the rear yard area does not currently occur from this vantage point.
9. Likewise, users of the elevated staircase platform would have a direct view down into the rear yard area of 14 Huddersfield Road. Whilst this area is somewhat compact, it nevertheless is the only private space for this property. It is not currently overlooked from such close quarters as would be possible from the proposed development. Therefore, I find that the privacy afforded to the occupiers of No 14 and 18 would be unduly harmed from this aspect of the proposal.

#### *Disturbance*

10. Conflicting evidence is provided as to the location of deliveries to the ground floor retail premises of the appeal site. The appellant advises that they are made to the front of the shop, while an interested party suggests that they are made to the rear. Either way, no evidence is before me as to whether the increased floor area of the shop would result in additional deliveries. All the same, I agree with the Council that a condition restricting the hours of deliveries, could mitigate against potential increased disturbance.
11. Currently, the shop and flat are managed and occupied by the appellant as one planning unit. However, the proposal for an external staircase would enable the flat to be severed from the retail premises, allowing occupation by persons unconnected to the commercial enterprise. Increased footfall to the first floor flat would not therefore be rare, given that the proposed staircase would become the only external means of access.
12. Notwithstanding the urban context, the close relationship of the terraced properties is such that increased comings and goings to the flat would be discernible from No 18 in particular, and to a lesser extent from No 14 Huddersfield Road. Both the physical movement of people to and from the flat and associated noise would be increased, given the metal material choice for the proposed staircase. I also find that the staircase could enable people to congregate close to the first floor windows of No 14 and 18 than is currently

possible. This would be injurious to the neighbouring occupants' privacy and peaceful enjoyment of their homes. A condition to control access to the flat would be unreasonable and unenforceable and would therefore fail to adequately mitigate the impact of increased disturbance.

13. The proposed development would have an adverse effect upon the living conditions of the occupiers of No 18, with particular regard to loss of light, privacy and disturbance and No 14 to a lesser degree, in respect of privacy and disturbance. Therefore, conflict is found with Policy DM1 of the Rochdale Core Strategy (2016) which amongst other things, seeks to ensure that new development is compatible with surrounding land uses and does not adversely affect the amenity of residents through overbearing impact, overshadowing or loss of privacy, an objective shared with the SPD (2016). It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which requires new development to have a high standard of amenity for existing users.

### **Other Matters**

14. Reference is made to the presumption in favour of sustainable development. The Framework is clear that this presumption, does not change the statutory status of the development plan as the starting point for decision making. Where a proposal conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations indicate that the plan should not be followed. I have found that the appeal proposal conflicts with development plan policy. I recognise that the proposed development would be of benefit to the appellant through enhancing and extending the commercial enterprise, considered by supporters to be an asset to the community. However, these matters are not sufficient to outweigh the detrimental effect upon neighbours' living conditions, and do not lead me to determine the appeal, otherwise than in accordance with the development plan.

### **Conclusion**

15. There are no considerations that would warrant taking a decision otherwise than in accordance with the Development Plan when considered as a whole. I conclude that the appeal should be dismissed.

*M Clowes*

INSPECTOR