



Appeal Decision

Site visit made on 7th July 2022

by Megan Thomas Q.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 25th July 2022

Appeal Ref: APP/Z5630/D/22/3297691

68 Malden Hill, Kingston Upon Thames KT3 4DR

- 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 & Mrs Shah against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref.22/00657/HOU dated 26 February 2022, was refused by notice dated 25 April 2022.
 - The development proposed is a 6.43 metre ground floor and first floor infill extension to the rear of the property and a loft extension including removal of the chimneys.
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Decision

1. The appeal is allowed and planning permission is granted for a 6.43 metre ground floor and first floor infill extension to the rear of the property and a loft extension including removal of the chimneys at 68 Malden Hill, Kingston Upon Thames KT3 4DR, in accordance with the terms of the application, Ref. 22/00657/HOU dated 26 February 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: Location Plan dated 16 December 2021, 21134_100 Rev A (Existing & Proposed Block Plans), 21134_101 Rev C (Existing and Proposed Ground Floor Plans), 21134_202 Rev D (Existing and Proposed First Floor, Loft, Roof Plan), 21134_210 Rev B (Existing and Proposed Elevations – side and rear), 21134_211 Rev A (Existing and Proposed Front Elevations and Section AA).
 - 3) The development hereby permitted shall be carried out in accordance with the materials specified on the approved plans and on the application form unless otherwise agreed in writing by the Local Planning Authority.
 - 4) Windows shown on plan number 21134_210 Rev B which are shown as being fitted with obscured glazing shall be fitted with obscured glazing which shall be permanently retained and, if requiring replacement in the future, it shall be replaced with obscured glass.

- 5) Prior to any above ground works (excluding demolition) a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details: 1) suitably positioned outside space for fire appliances/ an evacuation assembly point; 2) Appropriate fire alarm systems; 3) Passive and active fire safety measures; 4) appropriate construction details to minimise the risk of fire spread; 5) provision of suitable and convenient means of escape/ an evacuation strategy; 6) provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development. The Fire Safety Strategy shall include a statement of competence. The development shall be carried out in accordance with the approved Strategy and thereafter maintained.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the living conditions of the future occupants of the host dwelling in respect of outlook from the proposed middle first floor bedroom.

Reasons

3. The appeal site is a semi-detached two storey dwelling located on the north side of Malden Hill. It is a residential street. The semi-pair to the appeal site is no.70 Malden Hill. The dwelling located to the west of the appeal site is no.66 Malden Hill which is also a two storey semi-detached dwelling. No.66 has had a loft conversion and has rooms in the roof. At the front it shares a section of alleyway with no.68 and then there is a substantial close-boarded fence between the properties. It has a kitchen/living/children's play area at the rear of the dwelling which has access out to the rear garden and is also served by a high level horizontal window on the flank wall facing the appeal site. Also on the flank wall facing the appeal site, amongst other windows, is a two paned window at first floor level which has obscured glass and a window in the loft conversion which also faces the appeal site.
4. The proposal is to construct a two storey infill extension to the rear of the property on the western side, a hip-to-gable roof extension with rear dormer and Juliette balcony, installations of 1x front and 2x side rooflights to facilitate a loft conversion. The chimneys would be removed. The proposed two storey side extension would have a flat roof. The infill extension would block/remove a window which looks out to the rear recess and rear garden and serves a first floor bedroom. The proposal is to insert a new window of similar size into the flank elevation at first floor level so that the proposed bedroom continues to have a window.
5. No.66's eastern flank wall is situated away from the common boundary with the appeal site and the appeal site's existing western flank and new western flank to the extension would also step back from the common boundary. As a result, the outlook from the proposed first floor middle bedroom window would not give rise to an unacceptable sense of enclosure. The separation distance from

the eastern flank of no.66 would be sufficient to render the aspect from the room acceptable. The proposed window would be a reasonable size and would be clear glazed and would allow sufficient daylight into the bedroom in the particular circumstances of this case.

6. On this issue, therefore, I conclude that the proposal would not result in an unreasonable outlook or unreasonable sense of enclosure for future occupants of the proposed bedroom. Future living conditions would be acceptable in this respect. There would be no conflict with policy D6 of the London Plan 2021 or policy DM10 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy(2012) or the guidance in the Royal Borough of Kingston upon Thames *Residential Design Guide* Supplementary Planning Document (2013).

Other Matters

7. Turning to privacy issues in respect of no.66, I am in agreement with the Council that ground floor windows inserted on the western flank of no.68 do not have to be conditioned to be obscurely glazed. The proposed shower room on the ground floor of no.68 is shown on the approved plan as obscurely glazed in any event, as is the shower room at first floor level. However, whilst noting the shared alleyway, the existing relationships between the two properties, and the position of the boundary fence, the juxtaposition of windows on the ground floor flank wall of no.66 and of no.68 lead me to conclude that there would be no unacceptable loss of privacy for either sets of occupants (including future occupants) of no.66 and no.68. In respect of the first floor and second floor windows in the western flank of no.68 (other than the first floor shower room), given the separation distances from potentially affected windows in the eastern flank wall of no.66, I do not consider it is necessary for these to be obscurely glazed in order to adequately protect the privacy of occupants of no.66 or 68. This was confirmed by what I observed on my site visit.
8. Given that the rear room used as a kitchen/living/children's play area at no.66 has a source of daylight from the rear elevation in addition to the high level horizontal flank window, I do not consider that there would be an unacceptable loss of light to that room from the proposed development. No rooms in no.66 would suffer from inadequate light or an unreasonable sense of enclosure as a result of the proposed development.
9. The appeal proposal would not appear out of character with the host dwelling or the streetscene and, as it is determined on its own particular individual merits it would not necessarily set a precedent that would make it very difficult for the Local Planning Authority to refuse other two storey infill developments. I do not agree that the proposed development would result in a significantly increased energy bill for the occupants of no.66.

Conditions

10. I have considered the imposition of planning conditions in the light of advice in National Planning Practice Guidance. The Local Planning Authority put forward some conditions in the event that the appeal might be successful. A condition which ties the built development to the approved plans is necessary in the interests of certainty. This includes ensuring that any windows which are shown on the plans as obscurely glazed are obscurely glazed. Other than the first floor western flank shower room window which is shown as being non-

opening below 1.7m from floor level, I do not consider it is necessary to prevent windows in the western flank wall or flank roof/loft profile of no.68 from opening for ventilation purposes given their locations within the elevations. However, I have imposed a condition to ensure that where obscured glazing is shown on the approved plans, it is a permanent feature of the glass in those windows. I do not consider it is necessary to specify the degree of obscurity of the window panes.

11. It is necessary in order to protect the character and appearance of the host dwelling and surrounding area to impose a condition which specifies that the development shall be carried out in accordance with the materials specified on the approved plans and on the application form unless otherwise agreed in writing by the Local Planning Authority. In the interests of fire safety and in the interests of all building users, I have imposed a condition which requires a fire safety strategy to be submitted, approved, implemented and maintained.

Conclusion

12. Having taken into account all representations made including those of made by the occupants of no.66 Malden Hill, for the reasons given above, I allow the appeal and grant planning permission subject to conditions.

Megan Thomas Q.C.

INSPECTOR