
Appeal Decision

Site visit made on 20 April 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.05.2024

Appeal Ref: APP/Q4625/D/24/3338720

149 Marshall Lake Road, Shirley, Solihull B90 4RB

- 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 Liang He against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2023/02091/MINFHO, dated 6 October 2023, was refused by notice dated 19 December 2023.
 - The development proposed is single storey side and rear extension and first floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for single storey side and rear extension and first floor rear extension at 149 Marshall Lake Road, Shirley, Solihull, B90 4RB in accordance with the terms of the application, Ref PL/2023/02091/MINFHO, dated 6 October 2023, subject to the following condition:
 - 1) The windows hereby approved in the side elevation facing No 147 Marshall Lake Road, and any new or replacement windows in the same elevation, shall be obscurely glazed and non-opening below 1.7m from the floor level of the room in which the window is installed. The windows shall thereafter be permanently retained in that condition.

Application for costs

2. An application for costs was made by Liang He against Solihull Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal proposal has already been constructed. Therefore, this appeal is being determined retrospectively.

Main Issues

4. The main issues are the effect of the appeal proposal on the character and appearance of the host property and the surrounding area; and its effect on the living conditions of the occupiers of No 147 Marshall Lake Road (No 147) by reason of loss of light and an overbearing impact.

Reasons

5. The extensions were constructed following the approval of a planning application reference PL/2023/00852/MINFHO. However, the extensions were

not built in accordance with the approved drawings. The appeal application was submitted to regularise the situation and retain the development as built. The extant planning permission is a material consideration of significant weight.

6. The extensions were measured by the Council and the officer report identifies the differences between the two schemes. These include the installation of additional obscurely glazed windows in the side elevation, the incorporation of a fall to the flat roof and a consequential small increase in the height of the first-floor extension. Whilst the appellant contends that the roof is no higher than in the previously approved scheme, the Council's evidence on this point is the more convincing. But in any event, the officer report concluded that the proposal differs only marginally from the approved scheme and recommended that planning permission should be granted. However, the planning committee reached a different conclusion, although no details of its assessment have been provided.
7. As the extensions have been constructed, their impacts are readily discernible. The proportions, massing and appearance of the extensions respect the scale, design and character of the existing house. The location and design of the extensions have no adverse visual impact on the street scene or wider locality. Accordingly, the proposal complies with Policy P15 of the Solihull Local Plan (LP) and the detailed guidance set out in the House Extension Guidelines SPD (SPD). In my judgement there is no material difference between the approved scheme and the appeal proposal in this regard and it remains unclear why the Council concluded that a very similar scheme to one that had been recently approved would be out of character.
8. The relationship between the two adjoining properties has inevitably changed following the construction of the extensions. However, the submitted comparison of the two schemes demonstrates that they are not materially different in respect of their effects on the neighbouring occupiers. Contrary to the opinion of objectors, the officer report indicates that the extensions do not breach the 45-degree line when assessed from the conservatory in accordance with the SPD. Moreover, having regard to the overall size of the development, the distance between the extension and No 147 and the boundary treatment between them, there is no unacceptable loss of light or overbearing effect.
9. The side elevation windows are obscurely glazed and this prevents any harmful overlooking. A condition is imposed to retain the obscure glazing and requiring the windows to be non-opening below 1.7m to protect the privacy of the neighbouring occupiers. I am not convinced by the evidence that electric light from these windows causes unacceptable harm to the amenities of the adjacent occupiers. Overall, I conclude that the development accords with LP Policy P14 and the SPD in respect of the need to protect neighbouring living conditions.
10. In terms of other matters raised, including the location of drainage pipes, air and boiler vents and domestic noise and smells, these matters are controlled by other legislation and do not affect my conclusions.
11. For the reasons set out above, the appeal is allowed.

Elaine Benson

INSPECTOR