
Appeal Decision

Site visit made on 18 October 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

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

Decision date: 06 December 2016

Appeal Ref: APP/C3105/W/16/3151481

Sundown, Crowcastle Lane, Kirtlington, Oxfordshire OX5 3HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs N Perry against Cherwell District Council.
 - The application Ref 16/00002/F, is dated 29 December 2015.
 - The development proposed is extensions and alterations to form enlarged dwelling house.
-

Decision

1. The appeal is allowed and planning permission is granted for extensions and alterations to form enlarged dwelling house at Sundown, Crowcastle Lane, Kirtlington, Oxfordshire OX5 3HP in accordance with the terms of the application, Ref 16/00002/F, dated 29 December 2015, 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 accordance with the following approved plans: 14772/1; 14772/2; 14772/3; 00000-P-L0001; 00000-P-E0001; 00000-P-S0001; 00000-P-P0001; 00000-P-X0001; 00000-P-S0002; 00000-P-E0002; 00000-P-E0003; 00000-P-E0004; 00000-P-P0004.
 - 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 4) The recessed area of the western elevation of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development as set out in Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.
-

Application for costs

2. An application for costs was made by Mr and Mrs N Perry against Cherwell District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. There has been some dispute between the appellant and the Council regarding the description of development and whether the proposal constitutes an extension of a dwelling house or a new build. However, as the application has been validated by the Council, I have considered the appeal on the basis of the application submitted and the description of development given.
4. The Council resolved, at its Planning Committee on 4 August 2016, that had it been able to determine the application, planning permission would have been refused due to the proposal's significant and demonstrable harm to the character and appearance of the area.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. Sundown is a modest detached bungalow set in a sizeable plot on the eastern side of Crowcastle Lane. This narrow lane has a fairly open and rural character and appearance which is reinforced by the absence of built development on the opposite side of the road which allows views of the open countryside. The appeal dwelling fronts onto Crowcastle Lane but also has a secondary access from Park Close located to the rear.
7. The rear gardens of the properties along Park Close back on to the Crowcastle Lane to the south of the appeal site. These properties include 2 storey detached dwellings, as well as bungalows, some with sizeable flat roof rear dormer extensions. Whilst not fronting Crowcastle Lane these properties are nevertheless fairly visually prominent and form part of its overall character.
8. To the north of the appeal site 4 other properties front Crowcastle Lane. The adjacent property known as Silver Birch cottage is a detached chalet bungalow with pitched roof dormer windows to both the front and rear. It sits on a much narrower plot and has a more modern appearance than Sundown. The remaining properties include Kirtlington House which is set back from Crowcastle Lane in a substantial plot. Beyond this is a traditional 1.5 storey thatched roof cottage with a steep roof and a ridgeline that is notably higher than its neighbouring single storey bungalow to the north. The thatched cottage and bungalow sit fairly close to the road, and in contrast to the appeal property, their open front boundaries give them a more exposed appearance in the street scene.
9. Crowcastle Lane is therefore comprised of a mix of property types of varying architectural styles, designs and ages. There is not a regular pattern of development or a particularly consistent height to the built form. Consequently, I take a different view to the Council in that I do not consider that the character of this part of the village is formed by single storey dwellings.

10. There is also a variety of plot sizes and frontage widths and given the siting and position of the majority of the other properties fronting Crowcastle Lane, I do not consider that Sundown is particularly prominent.
11. The appeal proposal would result in a 2 storey, flat roof dwelling; however, its overall height would not increase significantly above the roofline of the existing dwelling. Consequently, it would remain largely consistent with the height of its immediate neighbours. Moreover, given that flat roof rear dormers are features of the adjacent bungalows to the south, the appeal proposal would be seen in this context and its own flat roof design would not therefore appear visually incongruous.
12. Whilst the proposal would extend further across the width the site than the current dwelling, it would project no further forward and the front building line established by the existing dwelling would be maintained. Although also being extended at the rear, the dwelling would still occupy a spacious plot and would retain a gap to the neighbouring property to the south and remain set back from the lane.
13. Although the appeal proposal would be of a contemporary design, the ground floor element would be clad in natural stone which is a prevalent material in the surrounding area. The use of render would also reflect the properties in the immediate vicinity. The development would therefore re-interpret local distinctiveness in accordance with Policy ESD 15 of the Cherwell Local Plan 2011 - 2031¹ (CLP 2015) and would respond to local character and reflect the identity of local surroundings and materials as required by paragraph 58 of the National Planning Policy Framework (the Framework).
14. I am also mindful that a Certificate of Lawfulness of Proposed Development for a similar scheme has been granted by the Council. This represents a 'fallback' option that I consider would be likely to be implemented should this appeal be dismissed. Notwithstanding this 'fallback' option, given the scale, design, form and layout of the appeal proposal in the context of the existing dwelling and the wider locality, it would not be a highly conspicuous form of development that would have an adverse visual impact or be significantly incompatible with the pattern of development in the vicinity.
15. Consequently, the proposal would not have a harmful effect on the character and appearance of the area. I find no conflict with Policies C28 and C30 of the Cherwell Local Plan 1996 which seek to, amongst other things, ensure development is sympathetic to the character of its context in terms of layout, design and external materials and is compatible with the scale of the existing dwelling, its curtilage and the character of the street scene. The proposal accords with Policy ESD 15 of the CLP 2015 in that it would re-interpret local distinctiveness and complement the character of its context.

Other Matters

16. I note the concerns of the occupants of the adjacent property regarding the effect of the appeal proposal on their living conditions with regard to light and privacy. However, the proposed development would be no closer to the neighbouring property than the current dwelling and part of the first floor front elevation nearest Silver Birch cottage would be recessed. The Council accepts

¹ Part 1 Adopted July 2015

that the proposal would comply with the 45 degree rule (used to assess whether there would be an impact on the amount of light reaching windows) in relation to this neighbouring property. I therefore agree that the proposal would not cause an unacceptable loss of light.

17. There would be no north facing first floor windows and the first floor windows in the rear elevation would be set behind the rear extension and would allow very limited views of the neighbouring garden. Notwithstanding this, I acknowledge that the recessed part of the front elevation facing Crowcastle Lane could be used as a balcony if access was available from the proposed living room. If this were the case, there would be an unacceptable loss of privacy for the occupants of Silver Birch Cottage due to overlooking. However, I consider that an appropriate planning condition preventing the use of this outside space as a balcony, roof garden or similar amenity area would overcome this issue.

Conditions

18. I have had regard to the conditions suggested by the Council and the appellant's comments and have considered them against the tests in the Framework and advice in the National Planning Practice Guidance (NPPG).
19. In addition to the standard time limit condition, a condition requiring development to be carried out in accordance with the approved plans is necessary to provide certainty.
20. As materials are not specifically identified on the plans, it is reasonable and necessary to impose a condition relating to the use of external materials to ensure the satisfactory appearance of the development.
21. To safeguard the privacy of the occupants of the neighbouring property at Silver Birch cottage, I consider it is necessary to impose a condition which prevents the use of the recessed part of the front elevation of the proposed development being used as a balcony or other outside space. In addition, it is also reasonable to impose a condition restricting extensions or alterations that may otherwise be permitted development, in order to safeguard neighbour amenity and the character and appearance of the area.

Conclusion

22. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Emma Tinsley-Evans

INSPECTOR