
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: 7 December 2016

Appeal Ref: APP/C3105/W/16/3154758

31 Crouch Hill Road, Banbury, Oxfordshire OX16 9RG

- 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 J Kent-Baguley against the decision of Cherwell District Council.
 - The application Ref 15/02146/F, dated 20 November 2015, was refused by notice dated 19 January 2016.
 - The development proposed is a new end-of-terrace dwelling with associated internal and external works.
-

Decision

1. The appeal is allowed and planning permission is granted for a new end-of-terrace dwelling with associated internal and external works at 31 Crouch Hill Road, Banbury, Oxfordshire OX16 9RG in accordance with the terms of the application, Ref 15/02146/F, dated 20 November 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: P/15/067/010; P/15/067/011; P/15/067/012 A.
 - 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling 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 dwelling hereby permitted shall not be occupied until the first floor windows in the front north-west elevation have been fitted with obscured glazing that complies with the current British Standard. Once installed the obscured glazing shall be retained thereafter.

Preliminary Matters

2. The planning application form and the Council's decision notice refer to the erection of a semi-detached dwelling. However, given that 31 Crouch Hill Road itself is a terrace property, the proposal is in fact for a new end-of terrace dwelling. As the plans clearly show what is proposed, I am satisfied that no
-

party has been prejudiced by the error and I have amended the description of the development in the header above to rectify this.

3. The Local Highway Authority has retracted its objection to the proposal and the Council is no longer seeking to defend its third reason for refusal in respect of highway safety. I therefore do not address this matter in the reasoning below.

Main Issues

4. The main issues are the effect of the proposed development on:

- The character and appearance of the area; and
- The living conditions of the occupants of 32 Crouch Hill Road with regard to outlook and privacy.

Reasons

Character and appearance

5. Crouch Hill Road is a residential cul-de-sac characterised by a mix of 2 storey semi-detached and terraced properties of varying styles, designs and ages. The end of the cul-de-sac is framed by 3 short blocks of terrace properties with the appeal property comprising the end property in the terrace at the head of the cul-de-sac.
6. The properties set around this part of Crouch Hill Road are of the same style and design and they are constructed of similar materials which gives them a uniform appearance. The properties front the road behind modest front gardens and there is a largely consistent front and rear building line to each terrace block.
7. The appeal property occupies a fairly sizable corner plot with a large side garden. The proposal would see the erection of a dwelling in the large side garden that would be attached to No 31.
8. The dwelling would be set back behind the front building line of No 31 and would have a lower ridge height to give the appearance of a subordinate addition to the host property. It would be of a similar width to the existing properties in the terrace. The proposed development would not therefore appear bulky or overly prominent and would be compatible with the scale and density of existing dwellings in the vicinity, as required by saved Policy C30 of the Cherwell Local Plan (CLP) 1996.
9. The proposed dwelling would be located towards the corner of the cul-de-sac and would be set behind the front building line established by 32 – 35 Crouch Hill Road. Nevertheless, it would be seen as part of the existing terrace from the street and would have positive relationship with it. Given this, together with the large plot size at No 31, I do not consider that it would appear as a cramped or contrived form of development.
10. The layout, design and external appearance of the dwelling would be similar to the other houses in the row and those in the surrounding terraces along this part of Crouch Hill Road. The development would therefore be sympathetic to the character of its urban context, as required by saved Policy C28 of the CLP 1996.

11. The proposed development would increase the number of houses in the terrace from 3 to 4; the same the neighbouring terrace to the north-west. The width of the resultant built form would not therefore be out of keeping with this neighbouring terrace or the terrace to the south-west, where the end property also has a 2 storey side extension. In this context, I do not consider that the proposed development would unbalance the appearance of the existing terrace or be incompatible with the surrounding development. Moreover, whilst the appeal site is an irregular shape, given its overall size, the resultant plot sizes of the new dwelling and No 31 would not be inconsistent with those of the surrounding dwellings. The proposal would therefore respect the traditional pattern of blocks and plots as required by policy ESD 15 of the Cherwell Local Plan 2011 – 2031¹
12. Consequently, I do not consider that the proposed development would have a harmful effect on the character and appearance of the area. I find no conflict with saved policies C28 and C30 of the CLP 1996 and Policy ESD 15 of the Cherwell Local Plan 2011 – 2031 which seek to ensure, amongst other things, that development is compatible with the appearance, character, layout, scale and density of existing dwellings, and complements the character of its context.

Living conditions

13. The proposed dwelling would not extend beyond the rear building line established by 32 – 35 Crouch Hill Road. As such, it would not directly overlook the rear garden of No 32; it would instead face the detached garage and side elevation of this property. I have seen that there is a small, single window at first floor level in the side elevation of No 32; however, given the size and position of this window, together with the similar design and layout of the properties in this part of the street, it is reasonable to assume that it serves a landing, rather than a habitable room.
14. Views of No 32 from the ground floor of the proposed dwelling would be restricted by the detached garage and existing boundary fence and it is proposed that the first floor windows facing No 32 be obscure glazed to prevent overlooking. It is also suggested by the appellant that these windows could be fixed shut.
15. I am satisfied that the use of obscure glazing would prevent overlooking and perceived overlooking with regard to No 32. I have also seen that obscure glazed first floor windows are not uncommon along this part of Crouch Hill Road. Nevertheless, I agree with the Council that a condition requiring the windows to be fixed shut would not result in a good standard of residential amenity for future occupants of the proposed dwelling.
16. However, given the position of the proposed dwelling in relation to No 32 and the fact that the first floor windows would serve a bathroom and a dressing room rather than habitable rooms, I do not consider that it is necessary for these windows to be fixed shut as such rooms would be unlikely to be occupied for significant lengths of time.
17. There is already built development between No 32 and the proposed dwelling in the form of the detached, pitched roof garage. The siting of the proposed

¹ Part 1 Adopted 20 July 2015

dwelling would also mean that much of the eastern boundary of the rear garden of No 32 would not be bordered by the proposed dwelling and would remain open. Furthermore, it is unlikely that the small, window in the side elevation of No 32 serves a habitable room. As such, I do not consider that the proposed development would have an overbearing impact or result in an unacceptable loss of privacy for the occupants of No 32.

18. I note that the Council refers to guidance contained in its Home Extension and Alterations Design Guide (March 2007) regarding distances between windowless elevations and windows of a neighbouring habitable room. I have not been provided with a copy of this document; however, whilst the Council state that the distance between the proposed dwelling and No 32 may fall short of what is suggested, the front elevation of the appeal dwelling would not be windowless, nor is the side elevation of No 32. I do not therefore consider that this guidance is entirely relevant in this case.
19. I therefore conclude that the proposed development would not have a harmful effect on the living conditions of the occupants of 32 Crouch Hill Road with regard to outlook and privacy. I find no conflict with saved Policy C30 of the CLP 1996 or Policy ESD 15 of the Cherwell Local Plan 2011 – 2031 which require development to consider the amenity of both existing and future development including matters of privacy and outlook.

Other Matters

20. Whilst I note the concerns of a neighbouring resident regarding parking, the proposed development would not include vehicle access to, or parking in front of No 31 or the proposed dwelling. Having considered the plans since the determination of the planning application, the Highway Authority accepts that an error was made and consideration was not given to the provision of an allocated space in the garage block. The Highway Authority has removed its objection and I am also satisfied that the proposal would be acceptable in terms of highway safety and parking.

Conditions

21. I have had regard to the conditions put forward by the Council and the appellant. Having considered them against the tests in the National Planning Policy Framework (the Framework) and advice in the National Planning Practice Guidance (NPPG), I have made amendments as necessary.
22. 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. A condition relating to the use of external materials is also necessary to ensure the satisfactory appearance of the development.
23. To safeguard the privacy of the occupants of 32 Crouch Hill Road it is necessary to impose a condition requiring the first floor windows of the front north-west elevation of the dwelling to be obscure glazed. For the reasons outlined above, I do not consider it necessary to impose a condition which requires the windows to be fixed shut.
24. The Council has suggested the removal of permitted development rights. However, in accordance with the Framework and the NPPG there should be

clear justification for doing so. I do not consider that the removal of permitted development rights is necessary in this case.

Conclusion

25. 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