

Appeal Decision

Site visit made on 10 January 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/C3105/W/16/3157531

Airlie Hill, Banbury Hill, Shutford, Oxfordshire OX15 6PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Howard Stubbs against the decision of Cherwell District Council.
 - The application Ref 16/00413/F, dated 7 January 2016, was approved on 16 May 2016 and planning permission was granted subject to conditions.
 - The development permitted is the partial demolition of existing dwelling and erection of new two storey extension.
 - The condition in dispute is No 4 which states that:
 - 1) *"Prior to the first occupation of the development hereby approved, the external walls of the planning unit shall be rendered in all respects in lime mortar only."*
 - The reasons given for the condition is:
 - 1) *"To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework."*
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Decision

1. The appeal is allowed and the planning permission Ref 16/00413/F, for the partial demolition of existing dwelling and erection of new two storey side extension at Airlie Hill, Banbury Hill, Shutford, Oxfordshire OX15 6PE, granted on 16 May 2016 by Cherwell District Council, is varied by deleting Condition 4.

Application for costs

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

Main Issue

3. The main issue is whether the condition is reasonable and necessary in the interests of the character and appearance of the area.

Reasons

4. Airlie Hill comprises a two storey detached dwelling set well back from the site frontage and within a very spacious plot. The Council granted the above planning permission on 16 May 2016 for the partial demolition of existing dwelling and the erection of a new two storey extension. The approved additions are substantial and would fundamentally change the scale and appearance of the existing dwelling.
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5. The approved plans detail that the entire south elevation facing the road and the majority of the rear north elevation would be finished in natural stone. The other elevations are elevations are shown in a combination of render, stone and cedar cladding.
6. The planning permission granted by the Council is subject to the imposition of four conditions. Condition 3 requires that the external walls of the development be laid, dressed, coursed and pointed in strict accordance with an approved stone sample panel. Condition 4, which is the subject of this appeal, requires that *"Prior to the first occupation of the development hereby approved, the external walls of the planning unit shall be rendered in all respects in lime mortar only."* The reason given for the condition is *"To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework."*
7. There is therefore a clear conflict between the requirements of Conditions 3 and 4 and the Council accept that that it was unnecessary to require the "planning unit" to be "rendered in lime mortar only" and that the condition should have made a distinction between the elements of the dwelling to be faced in natural stone and other elements which were shown in the submitted plans to be rendered or timber-clad.
8. Nevertheless, the wording of Condition 4 as it appears in the decision notice is confusing in its intention as it is unclear whether it is intended to relate to the rendered sections of the dwelling or the mortar mix for the natural stone sections. The Condition is therefore imprecise.
9. The Council acknowledge that the dwelling is not listed and that it does not fall within a designated Conservation Area. I accept that dwelling is located on the eastern edge of the village and that the east facing elevation, which would be of substantial depth, would include the largest expanse of render. However, the dwelling is set well back from the road and any views of this side of the dwelling when entering the village along Banbury Road are largely screened, even during the winter, by the hedgerow to the field along the northern side of the road and the line of mature trees along the eastern boundary of the site. Consequently, the dwelling is not the first house seen when entering the village. That is the neighbouring property known as Chance which is positioned much closer to the road frontage.
10. The plans show that the front part of the western side elevation would also be rendered but because of the set back of the dwelling and the mature hedging surrounding the front and side of the neighbouring property, that elevation would not be readily visible from Banbury Road. From the road therefore, the dwelling would be mainly seen in direct facing views of the southern elevation which would be finished in stone. The rear part of the front elevation, which would be visible from properties on the opposite hill, would also be finished in stone.
11. Whilst the Council highlight the proximity of footpaths to the site, I note that Officer report states that the extension would be partially visible in view and would not result in any significant detriment to the visual amenities of the area. It is also stated that the boundary hedgerow is mature and camouflages the views. I agree.

12. I note that there are a number of listed buildings within the village. However, given the separation and intervening features and the respective orientation of the rendered elevations, I do not consider that the removal of Condition will have any effect on the setting of those listed buildings, thereby preserving the same.
13. The dwelling is also of modern design and the render is to be applied to blockwork and reconstituted stone, rather than cover natural stone. In these circumstances, a condition requiring the use of lime render is not reasonable or necessary. Indeed the Council confirm that it would be happy with the use of pre-coloured render.
14. Even if the intention for the condition is to control the mortar mix to be used to bind the natural stonework together, the Council accept that it is not necessary to restrict the mortar to "lime mortar" and that it should have required a mortar mix to be agreed in writing and for that mortar mix to include lime. However, this is evidently unnecessary as the Council has confirmed that Condition 3 has already been satisfied. For this it is stated that the sample panel would "appear" to have contained an element of lime, thereby implying that the approval has been granted without confirmation of this.
15. My concerns over the condition are compounded by a prior to occupation trigger, which is also unreasonable given the existing dwelling is already occupied.
16. I therefore conclude that Condition 4 fails to meet the tests for conditions set out in paragraph 206 of the National Planning Policy Framework (the Framework) in that it is unreasonable, imprecise and unnecessary in the interests of protecting the character and appearance of the area. Accordingly, its removal would not result in conflict with Saved Policy C28 of the Cherwell Local Plan November 1996 or Policy ESD15 Cherwell Local Plan 2011 - 2031. These require, amongst other matters, the choice of external-finish materials to be sympathetic to the character of the context of that development and for new development to reflect or re-interpret local distinctiveness, including surfacing materials and colour palette. It follows that there would be no conflict with paragraphs 17 and 61 of the Framework, which require high quality and inclusive design and the integration of new development into the natural, built and historic environment.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed. I will therefore vary the planning permission by deleting Condition 4.

Richard S Jones

Inspector