

Appeal Decision

Site visit made on 8 March 2017

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/C3105/D/17/3167515

66 Bath Road, Banbury OX16 0TR

- 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 Mr Robin Booth against the decision of Cherwell District Council.
 - The application Ref 16/01728/F, dated 23 August 2016, was refused by notice dated 1 November 2016.
 - The development proposed is the demolition of the existing rear extension. Proposed rear extension, as well as some minor internal works.
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Application for Costs

1. An application for costs was made by Mr Robin Booth against Cherwell District Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission granted for the demolition of the existing rear extension and proposed rear extension, as well as some minor internal works at 66 Bath Road, Banbury OX16 0TR in accordance with the terms of the application, Ref 16/01728/F, dated 23 August 2016, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1485_101; 1485_102; 1485-110; 1485_200; 1485_201; 1485_202 and 1485-210.
 3. The materials to be used in the construction of the external surfaces of the walls of the development hereby permitted shall match those used in the existing building.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of 64 Bath Road.

Reasons

4. The proposed development includes the demolition of an existing single storey rear addition and its replacement by a larger extension. The flank wall of the
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proposed extension would be sited closer to the shared boundary with 64 Bath Road. Rather than the rear elevation of No. 64 possessing a similar orientation as the appeal property it is slightly angled towards the side elevation of the property. Accordingly, the rear kitchen windows and door of No. 64 have an outlook towards the appeal property's existing rear addition. The roof of the addition is visible above the brick boundary wall.

5. There are no specific objections by the Council to the effect of the appeal scheme on the living conditions of the occupiers of No. 68. Further, there is no dispute that the appeal scheme would encroach into a line drawn at 45° from the centre line of the rear windows of No. 64 and that the flank wall of the proposed extension would be sited closer to the shared boundary.
6. The 45° line is referred to in the Council's *Home Extensions and Alterations: Design Guide for Householder Applications* as the basis to protect the daylight to, and amenity from, neighbouring living area windows. Such windows include rooms for cooking or eating purposes. The *Design Guide* acknowledges that its content is for guidance only and there may be exceptions to certain advice given. By reason of not being orientated at 90° to No. 64, the existing addition already encroaches into the 45° line and this is a significant material consideration when assessing the appeal scheme. However, it is still necessary to assess the effects of the proposed development on the neighbouring occupiers' living conditions.
7. The proposed development would be a single storey extension with a flat roof and would be sited about 1.2 metres away from the boundary wall. Although sited closer to the shared boundary than the current addition, the occupiers of No. 64 would have a similar outlook from their rear windows, namely the brick wall and only the upper part of a single storey rear extension. A significant proportion of the proposed side elevation that would be visible would be glazed rather than being a solid mass of wall. Accordingly, the siting and height of the proposed extension would not result in an overbearing form of development for the occupiers of No. 64, particularly when compared to the current situation. Further, and also noting the orientation of the properties, the siting and height of the appeal scheme would not result in an unacceptable reduction in levels of daylight reaching the rear windows of No. 64.
8. Accordingly, and as required by the *Design Guide*, the proposed extension would be designed so that it would not cause unacceptable loss of daylight, sunlight, privacy and amenity to neighbouring buildings or gardens. In making this assessment no account has been taken of any potential permitted development rights. The reason for this approach is the lack of any clear evidence about what type of extensions could be erected to rear of the property.
9. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 64 Bath Road and, as such, there would not be a conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031: Part 1, Policy C30 of the Cherwell Local Plan (LP) and the *Design Guide*. Amongst other matters, these policies require consideration of the amenity of existing and future development, including matters such as outlook and natural lighting, and for extensions to achieve acceptable standards of privacy and amenity. These policies are consistent

with the National Planning Policy Framework's (the Framework) core principle of a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

10. The property is situated within the Frontispiece Conservation Area where there is a statutory duty for developments to preserve or enhance the character or appearance of the area. The Council has assessed that the proposed development would preserve the character and appearance of the Conservation Area and there are no reasons for me to reach a different conclusion. The appeal scheme would not conflict with the design requirements of LP Policy C28 for developments in Conservation Areas.

Conditions

11. The Council has suggested a number of conditions in the event that this appeal succeeds and they have been assessed against the tests in the Framework and the National Planning Practice Guidance. For reasons of certainty and in the interests of good planning, a condition is required to ensure the proposed development is erected in accordance with the approved drawings. For reasons of precision, because of the flat roof design the control on the choice of external materials should be limited only to the external walls matching those of the host property. Accordingly, and taking into account all other matters, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR