

# 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**

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**Appeal Ref: APP/G3110/D/17/3167834**

**26 Silver Road, Oxford OX4 3AP**

- 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 Dominic Woodfield against the decision of Oxford City Council.
  - The application Ref 15/03605/FUL, dated 9 December 2015, was refused by notice dated 29 December 2016.
  - The development proposed is the erection of a single storey rear extension.
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## Application for Costs

1. An application for costs was made by Mr Dominic Woodfield against Oxford City Council. This application is the subject of a separate decision.

## Decision

2. The appeal is allowed and planning permission granted for the erection of a single storey rear extension at 26 Silver Road, Oxford OX4 3AP in accordance with the terms of the application, Ref 15/03605/FUL, dated 9 December 2015, 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: 15/1107/26PBP1; 15/1107/P1(A) and 15/1107/P2(A).
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

## Procedural Matter

3. During the site visit the opportunity was taken to visit 25 Silver Road to enable an assessment of the proposed development from this neighbouring property.

## Main Issue

4. It is considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of 25 Silver Road.
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## Reasons

5. The appeal property is a 2-storey terraced dwelling which has been altered by the erection of a single storey rear addition and a dormer within the rear roofslope. The proposed development includes the demolition of the existing addition and the erection of a larger single storey rear extension which would result in a flank wall being sited close to the shared boundary with 25 Silver Road. The original intention was that the appeal scheme would be erected in conjunction with a similar proposal at No. 25 (Ref 15/03606/FUL) but this is no longer the case. The lack of objection from the current occupier of No. 25 has been noted but others may occupy this neighbouring dwelling at a later date.
6. By reason of the appeal scheme proceeding as an independent extension, the Council's reason for refusal specifically identifies concerns about the level of daylight reaching a habitable room window within the rear elevation of No. 25. A concern is identified in the Planning Officer's report about the proposed extension also being an overbearing form of development within the outlook from the same window. However, this is not referred to in the reason for refusal.
7. By notice the Council has confirmed that prior approval is not required to exercise the permitted development rights for the erection of a 6-metre extension from the rear of the property (Ref 16/02351/H42). This extension would occupy a smaller footprint than the appeal scheme but would include a flank wall being erected adjacent to the shared boundary with No. 25. Significant weight is given to this potential extension as a fall-back position if this appeal fails. However, it is noted that the appeal scheme would be about 1.4 metres longer than what could be lawfully erected as the fall-back scheme.
8. By reason of orientation, levels of sunlight reaching the habitable room window at No. 25 are already affected by the 2-storey addition to the rear of the property. This situation would not be materially altered by either the lawful or the proposed extensions. Further, by reason of height and siting, there would be a negligible change in the amount of sunlight reaching the window to the rear of No. 25 when comparing the effects of the appeal and fall-back schemes.
9. There is no dispute that the proposed extension would fall within a 45° line drawn from the centre of the rear window at No. 25 and, as such, in normal circumstances this would conflict with the approach contained at Appendix 7 of the Sites and Housing Plan (SHP). However, SHP Policy HP14 refers to Appendix 7 and the 45° line as being a guideline.
10. In this case, as part of the consideration of the appeal application the appellant provided a detailed assessment of the effect of the proposed extension on levels of daylight reaching the neighbouring window, including consideration of both the effects on the vertical skylight and no-sky line components. The assessment concluded that the reduction in the level of daylight would not be material and the degree of change would not exceed the vertical skylight component threshold identified in BRE 209 *Site layout planning for daylight and sunlight – A guide to good practice*. Overall, a reasonable level of daylight would remain. This assessment is given significant weight because it is more detailed than the application of the 45° guideline.

11. The potential extension which could be erected as permitted development would equally breach the 45° line affecting the level of daylight reaching the window. As part of this appeal a further report has been submitted which compared the effects on the levels of daylight reaching the rear window of No. 25 for both the proposed development and the fall-back scheme. This assessment advises that, even with the increase in length, the reduction in daylight attributable to the appeal scheme when compared to the fall-back scheme would not be perceptible to the occupiers of the room.
12. If the potential permitted extension was erected then, because of its height and siting, there would be an increased sense of enclosure for the occupiers of No. 25 associated with the outlook from the rear window and the side kitchen window. However, although the length would be greater, the difference in the perception of this sense of enclosure and outlook would not be materially different when comparing the effects of the fall-back and appeal schemes. This comparative judgement equally applies to considering whether the appeal scheme would be an unacceptably overbearing form of development.
13. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 25 Silver Road and, as such, it would not conflict with Policy CP.1 of the Oxford Local Plan and SHP Policy HP14. Amongst other matters these policies require development, including extensions, to safeguard local amenity and provide reasonable daylight for the occupants of both existing and new homes. These policies are consistent with the National Planning Policy Framework's (the Framework) core principle of securing a good standard of amenity for all existing and future occupants of land and buildings.

### **Conditions**

14. The Council has suggested a number of conditions in the event that this appeal is successful which have been assessed against the test contained in the Framework and the National Planning Practice Guidance. For reasons of certainty and proper planning, a condition is necessary for the proposed development to be erected in accordance with the approved plans which include the revised drawings submitted in June 2016. Further, to assimilate the proposed development, the external materials should match those of the host property. Accordingly, and taking into account all other matters including the Framework's presumption in favour of sustainable development, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR