

Appeal Decision

Site visit made on 30 May 2017

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 22nd June 2017.

Appeal Ref: APP/G3110/W/17/3168921 301 Marston Road, Oxford OX3 0EW

- 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 Garewal against the decision of Oxford City Council.
 - The application Ref 16/03023/FUL, dated 23 November 2016, was refused by notice dated 18 January 2017.
 - The development proposed is the erection of an ancillary granny annexe in the rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an ancillary granny annexe in the rear garden at 301 Marston Road, Oxford OX3 0EW in accordance with the terms of application ref: 16/03023/FUL, dated 23 November 2016, 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: Block plan Rev: B, Elevations Rev: B, and Floor and roof plans Rev B.
 - 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 301 Marston Road, Oxford OX3 0EW.
 - 4) The external surfaces of the development hereby permitted shall be constructed in the materials described on the plan titled Elevations Rev: B.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and the impact on the living conditions of the occupiers of neighbouring dwellings in respect of visual dominance and privacy.

Reasons

Character and appearance

3. The appeal site is located within an area of suburban residential character. The majority of the houses are semi-detached and all have rear gardens. The gardens vary in size and shape particularly in the proximity of the appeal site, where the rear boundaries of a number of properties in Nicholson Road and Hugh Allen Crescent abut the side and rear boundaries of gardens in Marston
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Road. Several properties, including the appeal property, do not have straight gardens, with these set at an angle towards the rear. A portion of the rear garden for 301 Marston Road sits behind the rear boundary of No 303. This has resulted in there being no consistent form to the shape and size of the rear gardens in this particular location.

4. Outbuildings of various sizes and positions are prevalent in the rear gardens. There is variety in the form, design, and height to the buildings and they range from modest timber sheds to block built structures of relatively significant proportions. There are several examples of double garages that sit on the boundary of two neighbouring properties. These outbuildings form an intrinsic part of the character of the gardens around the appeal site.
5. The end of the site is formed of the bottom portion of the rear garden for 301 Marston Road and the end of what was formally a separate rear garden for No 299. No boundary is present between these areas and it now appears as a single garden. The appeal scheme would result in an L shaped building being located towards the bottom of the site straddling the previous boundary line.
6. Although the proposed annexe would be larger than some of the surrounding outbuildings, it would be broadly comparable in size to several of the buildings including some of the double garages. At a little over 3m in height the building would not appear disproportionately tall and it would sit adjacent to outbuildings located at the rear of a property in Hugh Allen Crescent. Its scale and position would therefore appear in keeping with the character of outbuildings in the locality and it would not harm the suburban character of the area.
7. The building would straddle what were formally two gardens. This would only be apparent from a small number of neighbouring properties and, given the eclectic shape and size of gardens in the immediate area, this would not appear unusual and as such the appeal building would not draw attention to the current form of the rear garden and no harm would arise.
8. I therefore conclude that the development would not be harmful to the character and appearance of the area. It would comply with Policy CS18 of the Oxford Core Strategy 2026, Policy H9 of the Sites and Housing Plan 2011-2026 (the S&HP), and Policies CP.1 and CP.8 of the Oxford Local Plan (the LP). These policies seek to secure a high standard of design that responds to and protects the character of the site and its surroundings.
9. The Council refer to Policy CP.10 of the LP in the first reason for refusal; however I find no conflict with it in terms of the siting of the building and its effect on the character and appearance of the area.

Living conditions

10. Rear gardens for properties in Nicholson Road, Hugh Allen Crescent, and Marston Road are located close to where the appeal building would be sited. All these gardens are generous in terms of their length. Thus the building would be sited at a very considerable distance from neighbouring dwellings, and large portions of each garden would also be located significantly distant from the building. The annexe would be set in some distance from each boundary and, with its height at just over 3m, it would not appear unduly tall. Taking all these factors together, the building would not appear dominant or result in a

substantive loss of privacy. Adequate gardens would remain for both Nos 299 and 301. As such there would be no significant adverse effect on the living conditions of the occupiers of the neighbouring dwellings.

11. I conclude that the development would therefore accord with Policy HP14 of the S&HP or Policy CP.10 of the LP which seeks to ensure that development does not have an overbearing effect on existing homes, that privacy should not be significantly compromised, and that the use of other properties and the living conditions of neighbouring occupiers is adequately safeguarded.

Other matters

12. The Council considers that the proposed building would not amount to permitted development (PD), and it appears the appellant agrees with this conclusion. Notwithstanding that some structures may be able to be constructed under PD rights, I have determined the appeal on its own merits and found it acceptable in respect of the main issues.
13. There is some evidence that flooding has occurred on or near the site in the past. The floor level of the building would be raised above the existing garden level and I have no substantive evidence that the annexe would result in significant flooding issues.
14. I note the concerns in respect of the photographs of the site, the size of the garden, and the illustrative drawing. However I have made my assessment based on the technical drawings and my observations on site. I was therefore able to fully assess the impact of the proposed development. There is evidence that a tree has fallen within the site and there are other trees close to the proposed siting of the appeal building. However it is not uncommon for buildings to be sited in proximity to trees and I have no evidence that this would be a significant issue.
15. The occupancy of No 299 or the use of the existing double garage does not have any bearing on the acceptability of the appeal scheme. I have considered the proposal on its planning merits and the level of other accommodation available to the appellant, and the alleged mobility of his parents, also does not alter my conclusions on the main issues.
16. Whether the rear garden has become unmanageable, and the appellant's stated wider intentions for landscaping the site, do not alter the effect of the proposed building. I have no substantive evidence to conclude that the level of workmanship is likely to be poor and the installation of electricity and drainage is controlled by other legislation. Therefore these factors have no significant weight in the consideration of this appeal.
17. I note the concerns that the building may not be used for its intended purpose, however a planning condition can be put in place to ensure the use is ancillary to the main house. The Council would be able to enforce against any breach of the condition. The height of the building appears to have been raised from a previous application and I note comments that suggest the size of the building could be reduced. However, for the reasons given above, I have found no harm would arise from the building in its proposed form. Given this lack of harm, there is no reason why the building could not be used in association with the main house including for sleeping. Nor would the addition of some kitchen facilities have any bearing on the impact of the structure.

Conditions

18. I have imposed a condition specifying the relevant plans as this provides certainty. To ensure a suitable standard of accommodation is provided for occupants of the building, and that the living conditions of neighbouring residents are protected, it is necessary to ensure that the building is not used independently from the host dwelling. In the interests of the character and appearance of the area suitable materials must be used, adequate details are indicated on the plan and it is not necessary that samples are first approved by the Council.
19. There is no justification to remove PD rights to extend the host dwelling, given the appeal building would be sited a considerable distance from it. The Planning Practice Guidance (PPG) advises that conditions restricting PD rights should only be used in exceptional circumstances¹. Given the proposed outbuilding would not result in harm, and the PD rights have been designed with limitations to control their impact, I do not consider that there is an exceptional case to prevent further outbuildings being erected under these rights.
20. The Council's delegated report suggests that a condition to provide tree root protection measures may be necessary. I have no substantive evidence that this is necessary and I note that the Council has not sought this condition at the appeal stage. I am also aware that structures could be erected in this garden under PD rights that would have a similar impact in respect of trees. I have therefore not imposed such a condition.
21. As the building would not harm the character of the area and its siting is such that the living conditions of neighbouring residents would not be adversely affected, there is no reason to require that additional landscaping or fencing is provided. I have amended some of the wording in the suggested conditions for clarity and to meet the tests in the National Planning Policy Framework.

Conclusion

22. For the above reasons, I consider that the development accords with the development plan when considered as a whole. I conclude that the appeal should be allowed.

K Taylor

INSPECTOR

¹ PPG Reference ID: 21a-017-20140306