
Appeal Decision

Site visit made on 3 September 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/Q3115/W/19/3231577

Shirwin, Upperton, Brightwell Baldwin, Watlington OX49 5PA

- 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 Ms Jasmine Read against the decision of South Oxfordshire District Council.
 - The application Ref P19/S0360/HH, dated 6 February 2019, was refused by notice dated 2 April 2019.
 - The development proposed is the demolition of the existing dilapidated outbuildings and replacement with a new outbuilding occupying a similar footprint and overall height.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposed development as described above has been taken from the submitted application form. Specifically, the proposal seeks to provide a new outbuilding to provide ancillary residential accommodation for carers and family members to support the existing occupant of the host dwelling (the appellant's mother who she describes as elderly and disabled). I understand that her mother already receives several visits from carers a day and that the appellant anticipates full time care will be required in the future. The Council's case indicates at times that the proposal equates to a new dwelling. To remove any doubt, and since that is what was applied for, my assessment of the proposal is as a new outbuilding intended to be used as ancillary residential accommodation to the host dwelling.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the surrounding area, including the host dwelling;
 - living conditions of neighbouring occupiers at "Little Finches", with regard to privacy; and
 - highway safety, with reference to the provision of off-street parking and manoeuvring areas.

Reasons

Character and appearance

4. The appeal property is a detached bungalow with an attached carport to the side and a cluster of dilapidated ancillary structures to the rear, including a shed, a summer house and a garage. It is located within the small hamlet of Upperton which is characterised by linear residential development within a spacious rural setting. Surrounding properties present a residential character and appearance within the street scene, with large rear gardens extending into the open countryside which remain predominantly undeveloped land. Some have small scale structures in their rear gardens which for the most part appear subordinate to the host dwellings, and maintain the spacious character of the area.
5. The proposed building would replace the dilapidated cluster of buildings to the rear of the host dwelling and amalgamate their footprint to form a single building for accommodation purposes. The detached layout of the existing outbuildings breaks up their cumulative physical and visual mass, which compliments the open characteristics of the rear garden towards the open countryside and the small scale of rear garden development in the immediate surrounds. By unifying the existing outbuildings the proposal would produce a more prominent outcome in the rear garden with a bulkier visual mass, exacerbated by the larger physical footprint and increased height. Considering the proposals ancillary role it would appear unduly large within the residential plot, consequently eroding the spacious character of the rear garden and the built pattern of small scale rear garden development in the immediate surrounds. Compounding this effect would be the proposed use of the ancillary building for accommodation purposes.
6. The proposed building would appear separated from the host dwelling, as it would only be physically linked by the existing carport, and includes two bedrooms, two bathrooms, a living area, kitchen and laundry facilities. It is therefore reasonable to consider the proposed building to be a self-contained unit for residential accommodation. Policy H13 of the South Oxfordshire Local Plan 2011 (LP) relates to the erection of ancillary buildings within the curtilage of existing dwellings. It sets out the primary criteria that the proposed building must satisfy which includes, but is not limited to, that any such proposal should not be tantamount to the creation of a separate dwelling. Paragraph 5.63 of the Policy's supporting text expands upon this point, specifying that that self-contained units of residential accommodation, for staff or relatives, are generally not acceptable. When considering the comparable footprint size and layout of the existing bungalow, which comprises three bedrooms, two bathrooms, a living area, kitchen and laundry facilities, the extent of the proposed ancillary accommodation would be of such a scale as to compete with the primary function and dominant appearance of the host dwelling. As such, in my view it would introduce an overly large building and unduly intensive use within the rear garden that would be out of keeping with the surrounding area.
7. The appellant considers the proposal to be a visual improvement upon the existing dilapidated outbuildings and an efficient use of the large rear garden. Although the rear garden is described as being larger than those surrounding it, I consider that the built extent of the rear garden is consistent with those of neighbouring properties. Within this space at the appeal site, although a

useable garden space would be retained, the proposed outbuilding would appear oversized and at odds with to the overall open characteristics of the site which provides a transition to the countryside beyond. Whilst the dilapidated buildings would be removed, the proposal would introduce a larger visual mass into the rear garden in their place, which in combination with the intensified use of the proposed building for accommodation purposes would undermine the character of the area and the built pattern nearby. That it would not be prominent in the street does not alter my view.

8. The appellant refers to numerous examples of rear garden extensions for accommodation purposes within the surrounding area. Of the examples I could view from the appeal property, they did not appear to have a comparable size or visual prominence to that proposed under this appeal, and I could not be certain that they were used for accommodation purposes. That withstanding, no specific details of those cases have been brought before me, and therefore I cannot be sure that the circumstances leading to those developments are the same as in the case before me. As such, they do not in themselves justify the proposed development on the appeal site.
9. Accordingly, I conclude on this main issue that the proposed outbuilding would harm the character and appearance of the surrounding area and the host dwelling. It would therefore conflict with Policies H4, H13, D1 and G2 of the South Oxfordshire LP (strike-through version adopted December 2012) and Policies CSR1 and CSQ3 of the South Oxfordshire Core Strategy (adopted December 2012) (CS). Policies H4 and H13 of the LP and Policy CSR1 of the CS make up the housing policies relevant to the proposal which set out the principles and criteria for residential development outside of larger settlements. They emphasise, amongst other things, the need for new development to match the character and appearance of these areas and to be of an appropriate scale and intensity in relation to host dwellings. Policies D1 and CSQ3 relate specifically to the design principles for new development, whilst Policy G2 seeks to protect the countryside from adverse developments.

Living Conditions

10. The proposed development would result in several windows and doors to habitable rooms facing directly towards the rear garden of the neighbouring property to the south, known as "Little Finches". The Council suggest that the proposal, due in part to its proximity to the property boundary, would result in the high level perception of being overlooked. However, in practical terms it is my view that the proposal would not result in any actual loss of privacy based on my observations during the site visit. The separation distance between the proposed outbuilding and the neighbouring property was generous, and any views from the proposed building towards "Little Finches" would in any event be obscured by an existing outbuilding on the neighbour's property as well as by established landscaping. As such, I am satisfied that no actual opportunities for overlooking would arise as a result of the proposed building and no undue loss of privacy would be experienced by the occupiers of "Little Finches".
11. Accordingly, I conclude on this main issue that the proposed development would not harm the living conditions of neighbouring occupants at "Little Finches" with regard to privacy. The proposal would therefore satisfy Policies H13, D1 and D4 of the LP and Policy CSQ3 of the CS on this matter, which seek to ensure development is designed to avoid material harm to neighbouring

occupiers including the loss of privacy. I note that Policy G4 of the LP, although referenced in the Council's reasons for refusal, is not considered relevant to this issue based on my review of the Council's delegated report and the planning policies submitted.

Highway Safety

12. The planning application form indicates that a total of three off-street parking spaces are currently provided for the existing bungalow. The Council identify a need for four parking spaces to be provided to cater for the size and function of the proposed development. No information or plans have been provided by the appellant to demonstrate how and where this additional parking would be provided onsite and in particular how vehicles would be able to turn within the site without impediment. Anecdotally the appellant has stated that more than four cars can be parked onsite at any given time and that there is sufficient space to manoeuvre, with accompanying photos of those areas. However, I have seen no substantial evidence to demonstrate how vehicles would enter and exit the appeal property in a forward gear.
13. Due to the narrow site access, the existing boundary treatments restricting visibility, the narrow width of the road, the absence of a pedestrian footpath along the road and the prevalence of on-street parking adjacent to the site access, the reversing of additional vehicles associated with the proposal into or out of the appeal site would unacceptably increase the likelihood of conflict between vehicles and between vehicles and pedestrians. I therefore conclude on this main issue that, based on the evidence before me, the proposal would be harmful to highway safety with reference to the provision of off-street car parking and manoeuvring areas. This would conflict with Policies H13, T1, T2 and D2 of the LP and Policy CSQ3 of the CS. These policies all specify the need to provide adequate off-street parking and turning areas for development to ensure the safety of users on the highway network. Policy H13 relates specifically to the erection of ancillary buildings, Policy T1 the broader need for development to provide safe access to the highway network, Policy D2 the need to incorporate adequate parking areas and Policy CSQ3 outlines the broader design objectives of new development. Although not listed in the Council's reasons for refusal it is my view that the proposal would also conflict with Policy T2 which specifically makes reference to the need for providing turning areas.

Other Matters

14. Neighbouring the appeal property to the north is a Grade II Listed Building called "The Row". The listed building is a row of terrace houses which sit immediately along the street frontage of the site, well forward of the detached bungalow on the appeal property. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The significance of the listed building is derived from its traditional character and appearance and less so from its surrounding setting, which is characterised by residential buildings. I am satisfied that the proposed development would not harm the significance or the setting of "The Row".

Conclusion and Planning Balance

15. Whilst I have found that the proposal would cause no harm to the living conditions of the neighbouring occupiers at "Little Finches", it would result in harm to the character and appearance of the surrounding area, the host dwelling, and to highway safety. I note the benefits of the proposal to the appellant, including the securing of carer arrangements onsite for the existing occupant, the replacement of dilapidated buildings and efficient use of the rear garden, and to the Council, by alleviating pressure on public care services and facilities. However, the benefits of the proposal and other considerations put forward are insufficient to outweigh the identified harm in this instance and the resultant conflict with the development plan that would arise.
16. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, as the appellant has identified that the existing occupant is subject to the protected characteristics of age and disability. Since there is the potential for my decision to affect persons with protected characteristics I have had due regard to the three equality principles set out in Section 149(1) of this Act. Although the dismissal of this appeal may result in a negative impact to the existing occupant by restricting accommodation options for family or carers at the appeal property, it would be proportionate having regard to the legitimate and well-established planning policy aims to protect character and appearance. Therefore, I confirm that even taken alongside the other considerations forwarded, including the benefits of the scheme discussed above, the PSED considerations do not outweigh the harm I have identified.
17. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR