
Appeal Decision

Site visit made on 18 November 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/C3105/W/19/3235781

Sycamore House, Shepherds Close, Weston On The Green OX25 3RF

- 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 I Burnaby-Smith of Riverhall Ltd against the decision of Cherwell District Council.
 - The application Ref 19/00962/F, dated 24 May 2019, was refused by notice dated 19 July 2019.
 - The development proposed is erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in Section E of the appeal form is taken from the application form. However, I note that the appellant agreed to a different form of wording prior to registration of the application. I have used this wording in the banner heading above as it is more accurate in reflecting the fact that the previous building on the site has been demolished.

Main Issue

3. The main issue is whether the proposed development would afford its occupiers with an acceptable living environment, with particular regard to the standard of external amenity space.

Reasons

4. At the time of my site visit the appeal site formed part of a temporary builder's compound for two new dwellings which were being constructed to the south. These properties appeared substantially complete, at least externally.
5. The new single-storey dwelling would be similar in form and siting to that which was proposed under an earlier planning application¹ and dismissed on appeal². The Inspector in that case concluded that the proposal would not afford adequate living conditions for its future occupants in relation to the standard of outdoor space.

¹ Council Ref 18/01644/F

² PINS Ref APP/C3105/W/19/3220803

6. The scheme before me has sought to address these concerns by relocating the external amenity area from the southern end of the proposed dwelling to a position immediately to the east of the property. The Council accepts that this would address one of the concerns raised by the previous Inspector in relation to overshadowing from an adjacent garage building. However, it maintains that enjoyment of the outdoor space would be adversely affected by the proximity of the newly constructed dwellings to the south.
7. The appellant argues that the separation distance between the amenity area and the neighbouring properties would comply with the minimum standards set out in the Cherwell Residential Design Guide Supplementary Planning Document 2018 (SPD). However, it seems to me that those standards, which are only guidance in any event, were not devised with this particular scenario in mind, whereby a two and a half storey dwelling faces directly towards a modest courtyard garden. Each case must be treated on its own merits.
8. The proposed amenity area would be approximately 15.3 m from the two and a half storey dwelling. At this distance, I do not consider that the building would be overbearing for future occupiers of the appeal scheme. However, it would still provide the opportunity for overlooking from upper floor windows, particularly the dormers in the roof. There would be views of a direct nature from elevated vantage points into the amenity area, notwithstanding its enclosure with a wall. The amenity area would be restricted in size and almost every part of it would be overlooked, providing its users with limited privacy. This would render the outdoor space of poor quality, thereby discouraging its use for activities such as sitting out and relaxation.
9. I acknowledge that the SPD stipulates that back-to-back distances of 22 m should be maintained. However, in these cases there would be mutual overlooking and the most frequently used parts of the gardens would be those areas closest to the dwelling. The effective separation would be greater than in the current scenario.
10. I have considered the appellant's suggestion of providing soft landscaping and planting in the area to the south of the amenity area. A tree would take some time to establish and it would not provide privacy during the winter months when not in leaf. Throughout the rest of the year, the tree would be likely to cause shading to the detriment of the recreational value of the courtyard garden.
11. The deficiency in the standard of external amenity space leads me to conclude that the proposal would not provide an acceptable living environment for future occupiers. There would be conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (2015) and saved Policy C30 of the Cherwell Local Plan 1996, insofar as these policies seek to ensure that new development provides acceptable standards of amenity and privacy, including in relation to outdoor space.

Planning Balance and Conclusion

12. The proposal would deliver a small dwelling in a location where local plan policy permits minor residential development. However, this very modest benefit is outweighed by the harm arising from the poor standard of external amenity space. For this reason, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR