



Appeal Decision

Site visit made on 3 December 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/C3105/W/19/3237101

Purbeck End, 5 Vicarage Road, Kidlington OX5 2EL

- 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 Mrs N Benjamin against the decision of Cherwell District Council.
 - The application Ref 19/00661/F, dated 11 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is change of use of converted garage to independent dwelling unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development shown in the planning application form and the Council's decision notice refers to the change of use of attached garage to an independent dwelling unit. Planning permission Refs 09/00325/F & 16/01849/F have previously permitted the conversion of the garage to habitable accommodation as an annex to the main dwelling. Planning permission Ref 16/01849/F permitted external alterations including the replacement of the garage door with an entrance door and 2 windows; a dormer window on the front roof slope; and, 2 rooflights in the rear roof slope.
3. The parties have agreed that the garage had already been converted to habitable accommodation and so the description of development should have referred to the change of use of a converted garage to an independent dwelling unit. I have therefore reflected this in the description shown in the banner heading and determined the appeal on this basis. I have however removed the term 'retrospective' because this is wording that is not a description of development.
4. At my site visit I observed that the change of use of the converted garage to an independent dwelling unit had already been carried out. I have therefore determined the appeal on the basis of the development that has taken place.

Main Issues

5. The main issues are the effect of the proposed development on (i) the character of the area, and (ii) the living conditions of the occupiers of the appeal dwelling and No 5 Vicarage Road, with particular regard to privacy and amenity space.

Reasons

Character

6. The appeal site is located in a residential area, which is characterised by 2 storey dwellings situated on spacious plots with sizeable gardens set to the rear. The properties in Vicarage Road are sited in a linear arrangement and generally have wide frontages facing the road.
7. The appeal dwelling is accessed through the driveway of No 5 Vicarage Road and its front elevation is sited perpendicular to the highway. The dwelling does not have its own frontage facing Vicarage Road, which is out of character with the linear arrangement of dwellings in the street. Furthermore, the small size of the dwelling and its siting attached to the front elevation of No 5 fails to respect the form, scale and siting of neighbouring properties in Vicarage Road.
8. Moreover, the red edge of the location plan is drawn around the building and therefore it does not have its own garden. This is out of character with the prevailing form of development in the area, which consists of sizeable gardens set behind houses. The appellant has requested a condition to be imposed to require a courtyard garden to be provided for the dwelling, however this is not possible because the garden land referred to is outside the appeal site. In any event, the size of the courtyard area indicated in the appellant's statement is small and would not be comparable to the size of neighbouring gardens.
9. For the above reasons, I conclude that the development is harmful to the character of the area. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996, which amongst other things, state that new development will be expected to complement and enhance the character of its context. The proposal is also contrary to Chapter 12 (Achieving well-designed places) of the National Planning Policy Framework ('Framework'), which, amongst other things, states that planning decisions should ensure that developments are sympathetic to local character.

Living conditions

10. The front door of the appeal dwelling is positioned close to the front door of No 5 Vicarage Road, however given the relatively small number of comings and goings associated with each dwelling, I do not consider that this relationship is harmful to the privacy of the occupiers of either dwelling. The ground floor window closest to No 5 is an obscurely glazed window serving a W.C. and the kitchen window is positioned far enough away from the front windows of No 5 to ensure that there is not significant inter-visibility between the windows.
11. Nevertheless, the first floor front bedroom window of the appeal dwelling is positioned close to the first floor front bedroom window of No 5. Whilst the windows are orientated at right angles to each other, they enable close-range views. I acknowledge that this relationship was permitted by planning permission Ref 16/01849/F, however this was on the basis of the annex being part of the same household as No. 5. Consequently, the close proximity of the first floor bedroom windows and the occupation as 2 separate households has an adverse effect on the privacy of the occupiers of the appeal dwelling and No 5 Vicarage Road.

12. The absence of outdoor amenity space for the appeal dwelling is not harmful to the living conditions of the occupiers given that the development does not provide family-sized accommodation and that a recreation ground is nearby.
13. For the above reasons, I conclude that the development is harmful to the living conditions of the occupiers of the appeal dwelling and No 5 Vicarage Road in respect of privacy. The development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and saved Policy C30 of the Cherwell Local Plan 1996, which amongst other things, state that new development proposals should consider the amenity of both existing and future development, including matters of privacy. The proposal is also contrary to paragraph 127 of the Framework, which, amongst other things, states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

14. Whilst paragraph 59 of the Framework refers to significantly boosting the supply of housing, the net increase of one additional dwelling would make a small contribution. The development provides a small social benefit by providing one additional dwelling. However, this benefit is outweighed by the harm to the character of the area and the living conditions of the occupiers of the appeal dwelling and No 5 Vicarage Road. As a result, the environmental role of sustainable development is not achieved.
15. Although Chapter 11 of the Framework promotes the effective use of land, it states that planning decisions should safeguard and improve the environment (paragraph 117) and take into account the desirability of maintaining an area's prevailing character and setting (paragraph 122). In these respects, the development does not make an effective use of land.

Conclusion

16. For the above reasons, and having had regard to all other matters, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR