



Appeal Decision

Site visit made on 21 January 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/G3110/D/19/3239593

26 Headley Way, Headington, Oxford OX3 0LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Dr Mahroo McGuire against the decision of Oxford City Council.
 - The application Ref 19/02031/H42, dated 26 July 2019, was refused by notice dated 2 September 2019.
 - The development proposed is the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 5 m, for which the maximum height would be 2.2 m, and for which the height of the eaves would be 2 m.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 5 m, for which the maximum height would be 2.2 m, and for which the height of the eaves would be 2 m at 26 Headley Way, Headington, Oxford OX3 0LT in accordance with the application Ref 19/02031/H42 made on 26 July 2019 and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2) and subject to the following condition:
 - 1) Notwithstanding any details included within the application to the contrary, the extension hereby granted prior approval shall not exceed 2.2 metres high maximum height, shall not exceed 2 metres high to eaves and shall be positioned 500 millimetres from the boundary as shown on the proposed ground floor image included on the approved un-numbered drawing entitled Proposed Rear Extension and drawn at scale of 1:100 at A1 plan size.

Procedural Matters

2. The description of development in the header and decision above is taken from the Council's decision notice as that on the application form includes superfluous comments that do not describe the proposal. There are slight discrepancies between the height dimensions as shown on the appellant's drawing and those included in the description of development. As they are the same as those included on the application form, I have based my assessment on the dimensions as stated in the description.

3. The submitted floor plan shows the proposed extension set 500 mm off the site boundary but is at odds with the proposed elevation drawing. In line with the Council, I have assessed the proposal on the basis of the extension being set off the side boundary as shown on the floor plan.
4. The provisions of the relevant Order¹ require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.

Reasons

5. 28 Headley Way (No 28) is attached to the appeal property and a fence runs along the common boundary between the back gardens. The extension would project out 5 m beyond the windows and patio doors in the rear of No 28.
6. The proposed extension would be set off the boundary and would be only marginally taller than the boundary fence. As such, only the upper most part of the extension would be seen at ground floor level from No 28. The Council advise that the extension would breach the 25° uplift and 45° codes referred to in the Oxford City Council Sites and Housing Plan 2013. However, the existing fence is close-boarded and runs from the rear wall of the houses, projecting well in excess of 5 m along the whole of the common boundary. Given this context, the proposed extension would cause no significant loss of light or outlook in respect of No 28. Also, it would not lead to any greater sense of overbearing enclosure compared to the effects of the existing fence.
7. The extension would be far enough away from site boundaries to avoid an impact on the amenity of other properties. There is no evidence before me to demonstrate that the extension would result in an increase in unsociable behaviour or noise being generated from the site. The concerns in respect of access and breach of covenants do not affect my assessment which is limited to considering the impact on the amenity of any adjoining premises.

Conclusion

8. For these reasons, I find the proposal would not cause an unacceptable impact on the amenity of any adjoining premises. Consequently, I conclude that the appeal should be allowed and prior approval should be granted.

Conditions

9. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the condition that the development must be carried out in accordance with the approved details. As there is inconsistency in the submitted details, it is necessary for reasons of certainty to impose a condition that requires the proposed extension to be constructed 500 mm away from the boundary as shown on the floor plan provided and in accordance with the height limits as set out in the description of development.

Jonathan Edwards

INSPECTOR

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7)