



Appeal Decision

Site visit made on 3 February 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th April 2020

Appeal Ref: APP/G3110/D/19/3243190

31 Charlbury Road, Oxford OX2 6UU

- 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 A Crean against the decision of Oxford City Council.
 - The application Ref 19/02089/FUL, dated 31 July 2019, was refused by notice dated 21 November 2019.
 - The development proposed is construction of detached masonry outbuilding to serve as ancillary accommodation to the existing house.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Anthony Crean against Oxford City Council. On 18 March 2020 this application was withdrawn.

Preliminary Matter

3. The description of the development has been simplified on the Decision Notice and Appeal Form to, "erection of outbuilding for use as ancillary accommodation" but I have used the full description as set out on the application form in the header.
4. The decision on the planning application was based on revised plans which would result in the outbuilding being moved a further 0.5m away (1.5m in total) from the boundary and some reduction in the height of the main ridgeline. The revised proposal was the subject of further public consultation. I have considered the appeal on the basis of the revised scheme.
5. As part of the appeal I was requested to observe the proposed development from No 31A Charlbury Road as well as from the appeal site itself.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 31A Charlbury Road in respect of light pollution and loss of privacy.

Reasons

7. The proposed outbuilding is located in the south-eastern corner of the appeal site adjoining the boundary with No 31A. The garden is generous in size and

the outbuilding would replace an existing, smaller wooden building. Charlbury Road is on a gentle slope so the ground level of the proposed out-building is slightly lower than that of the house.

Living Conditions

8. Concerns were raised on a detailed aspect of the design of the proposed outbuilding, which would include glazing above eaves level in the gable end facing onto the neighbouring property at No 31A. The whole of the proposed window would be higher than the boundary fence/wall separating Nos 31 and 31A.
9. Although the proposed location of the building has been moved so that it would be around 1.5m from the common boundary, the proposed window in the gable would be visible from the rear garden and patio area of No 31A. Given the height of the proposed roof (4.2m at its highest point) and the extensive size of the proposed window, this feature would result in a significant new source of lighting appearing in an alien position, in close proximity to the patio and rear garden of No 31A. This represents a significant change to the existing position where the existing, smaller out-building is hidden by the boundary wall. As such the proposal would lead to unacceptable levels of light pollution which would be harmful to the enjoyment of the outdoor space for the occupiers of No 31A.
10. In addition, while the views from the glazed gable would be at an oblique angle, there would be a harmful effect on the occupiers of No 31A as the feature would enable views into the bedroom window. This would harmfully increase the degree of overlooking and loss of privacy for the occupants of No 31A arising from the proposal. The Planning and Access Statement accompanying the planning application suggests that the glazed gable is designed so as to provide natural light to achieve the required thermal values, but I do not consider this reason outweighs the harm.
11. Accordingly, I conclude that the inclusion of the glazed window in the gable of the proposed out-building would have a harmful impact on the living conditions of the occupiers of No 31A in terms of light pollution and loss of privacy through overlooking. As such, the proposal is contrary to the saved Policies CP1 and CP20 of the Oxford Local Plan 2001-16 (LP) and Policy HP14 of the Sites and Housing Plan 2011-2026. Policy CP1 expects new development to enhance the quality of the environment and, amongst other things safeguard the amenities of adjoining occupiers, and Policy CP20 requires that development proposals will not give rise to unacceptable levels of light pollution and light spillage. Policy HP14 seeks to ensure that new development provides for reasonable privacy and does not compromise the occupants of existing homes through overlooking.

Other Matters

Heritage

12. The appeal site is situated towards the northern boundary of the North Oxford Victorian Suburb Conservation Area and is a designated heritage asset.
13. The Conservation Area is a mainly residential area with the historic core of the centre of Oxford lying to the south. At the time Oxford needed to expand from that core the area was laid out as a planned suburb featuring high quality

residential buildings. There are 73 Listed Buildings as well as a further 21 buildings of local interest. These do not include the appeal site but No 29 is identified in the Conservation Area Appraisal as falling under the latter category.

14. The proposed out-building would be built using materials and design that would reflect and be sympathetic to its location within the Conservation Area. It would blend well with surrounding buildings, including a recently built garage block at No 29. In addition, since the proposal would be located in the rear corner of the appeal site, it would neither be easily visible from publicly accessible areas given the topography and extensive foliage, nor would it harm the setting of the Building of Local Interest (No 29). I note the Council reach a similar conclusion in this respect.
15. Accordingly, I conclude the proposal would preserve the character and appearance of the North Oxford Victorian Suburb Conservation Area and would not cause harm to its significance as a designated asset. I also conclude the proposal would not harm the setting of the Building of Local Interest at No 29 that forms part of the Conservation Area. As such, the appeal proposal would be consistent with LP Policy HE7 which seeks to preserve or enhance Oxford's Conservation Areas.

Permitted development

16. The appellant has made reference to permitted development. While there may be a fallback for a similar scheme through permitted development this would require the roof to be lowered (to 4m maximum) and for the building to be moved further from the boundary with No 31A (to 2m minimum). The effect of such a fallback would be to reduce the degree of harm to the occupants of No 31A compared to the appeal scheme. Notwithstanding this, the scheme before me would be considerably more harmful than the claimed fallback and would not be a justification for allowing the appeal proposal.

Planning Balance

17. I note the Council raised no objections to the appeal scheme in respect of its proposed mass, scale, design, materials, as well as the effects on protected trees but also in relation to some aspects of living conditions. The Council also concluded the proposal would not be overbearing, would not adversely affect daylighting or present issues of potential noise nuisance on the occupiers of neighbouring properties, the latter since the building was replacing an existing garden building. From my assessment I have no reason to disagree, but these are neutral matters rather than being benefits of the proposal. In addition, I have noted above that the proposal would not cause harm to designated heritage assets.
18. The appeal proposal would replace an existing wooden structure with a larger and more substantial out-building at No 31. However, this has to be balanced against the harm that would be caused to the living conditions of the occupiers of the neighbouring property (No 31A). In this appeal the harm outweighs the benefits, thus leading me to my overall conclusion to dismiss.

Conclusion

While I note that the scheme was revised following discussions with the Council and that the officer's report recommended approval, I nevertheless conclude, for the reasons given above, that the appeal should be dismissed.

David Carter

INSPECTOR