



Appeal Decision

Site visit made on 18 February 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 8th April 2020

Appeal Ref: APP/G3110/W/19/3241092

4 Templar Road, Oxford, Oxfordshire OX2 8LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Pauline Alvarez against the decision of Oxford City Council.
 - The application Ref 18/03131/FUL, dated 19 November 2018, was approved on 11 June 2019 and planning permission was granted subject to conditions.
 - The development permitted is erection of a front porch (part retrospective).
 - The condition in dispute is No 2 which states that: *Notwithstanding the approved plans and submitted application form, the external walls of the proposed porch shall hereby be rendered in a finish to match the existing dwelling within 6 months of the date of this decision.*
 - The reason given for the condition is: *To ensure the proposal is visually satisfactory as required by Policy CP1 of the Oxford Local Plan 2001-2016.*
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Decision

1. The appeal is allowed and the planning permission Ref 18/03131/FUL for erection of a front porch (part retrospective) at 4 Templar Road, Oxford, Oxfordshire OX2 8LT granted on 11 June 2019 by Oxford City Council, is varied by deleting condition 2 and substituting for it the following condition:
 - 1) The porch hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the materials, colour and finish of the exterior of the porch shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

2. I saw at my site visit that the porch had been constructed and appeared to conform to the submitted plans.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary having regard to the character and appearance of the area.

Reasons

4. Templar Road is a residential street consisting of pairs of 2-storey houses with bay windows on the front elevation. Most properties have painted pebble-dashed or rendered walls, while some have brick at ground floor or brick quoins and other detailing. Where brick is used it is consistently red/brown in colour. Although many properties have been extended or altered, the materials used are of similar or matching appearance to the relevant dwelling. As a result, the road has a consistent appearance and rhythm.
5. The host property is of similar appearance to the others in the road, with pebble-dashed elevations painted a cream colour. There is no brick visible other than that used for the porch. The porch is prominently visible from both Lovelace Road and Templar Road, with the front boundary hedge providing only limited screening. The brick used is a bright yellow which contrasts strongly with the colour of the existing dwelling and the muted palette of materials found throughout the road. Consequently, the porch appears as a discordant and incongruous feature which detracts from the consistent appearance of the street scene.
6. Accordingly, the porch significantly harms the character and appearance of the area. It therefore conflicts with Policy CP1 of the Oxford Local Plan 2001-2016 (LP) which seeks to achieve high quality design and materials of a quality appropriate to the nature of the development, the site and its surroundings.
7. The appearance of the porch could be made acceptable by altering the external materials, colour or finish. The disputed condition is therefore necessary in order to mitigate the harm to the character and appearance of the area I have identified above and for the development to comply with LP Policy CP1.
8. The requirements of the disputed condition are, however, narrowly drafted, requiring the porch to be rendered to match the existing dwelling. In the context of this road, there may be other materials, colours or finishes that would achieve an equally acceptable appearance. I am also mindful that the appellant does not want a rendered porch. Therefore, the disputed condition is not reasonable. It can however be varied to require a scheme for the external appearance of the porch to be submitted to and approved by the Local Planning Authority (LPA), and subsequently implemented. This will allow the appellant additional options while still mitigating the harm identified. I will therefore vary the condition accordingly.

9. The purpose of the substituted condition is to require the appellant to comply with a strict timetable for dealing with the external appearance of the porch, which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the LPA or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
10. Therefore, the appeal is allowed only insofar as I will vary the planning permission by deleting the disputed materials condition and substituting it with another.

L McKay

INSPECTOR