



Appeal Decisions

Site visit made on 11 August 2020

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2020

Appeal A Ref: APP/G3110/C/20/3249208

Appeal B Ref: APP/G3110/C/20/3249209

3 Pattison Place, Oxford, Oxfordshire OX4 4UA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Moutaz Shareef and Appeal B is made by Mrs Hind Ghazi, both against an enforcement notice issued by Oxford City Council.
 - The enforcement notice was issued on 21 February 2019.
 - The breach of planning control as alleged in the notice is:
Without planning permission the erection of a rear conservatory ("the Conservatory") on the eastern elevation of the property on the Land.
 - The requirements of the notice are:
Demolish or remove the Conservatory from the Land together with all debris and materials arising therefrom.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a rear conservatory on the eastern elevation of the property on land at 3 Pattison Place, Oxford, Oxfordshire OX4 4UA referred to in the notice.

The appeals on ground (a) – that planning permission should be granted

Main Issue

2. The main issue is the effect of the conservatory on the living conditions of the occupiers of 5 Pattison Place, with particular regard to outlook and visual appearance.

Reasons

3. The appeal site is occupied by a modern mid-terrace two-storey dwelling, with a modest sized rear garden. The conservatory subject of the notice has been erected at the rear of the dwelling. Permitted development rights for the erection of structures and additions under Classes A,B,C,D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) have been withdrawn by a condition on the planning permission for the erection of the dwelling. The reason for withdrawing those rights was given

as to safeguard the appearance of the area, rather than protecting neighbours' living conditions. The Council has not objected to the conservatory on the grounds of appearance.

4. The conservatory is of a typical modern design, with glazed UPVC panels above a small brick base, and a shallow pitched translucent polycarbonate roof. The Council has no concerns about the effect of the conservatory in relation to 1 Pattison Place. The extension abuts the boundary of 5 Pattison Place, which is angled away from the rear elevation, so that where the conservatory joins the rear wall of the dwelling, it is over 1m away from the boundary, but at the rear of the conservatory, it almost touches the boundary.
5. The boundary is between the two properties is marked by a close-boarded fence, which is about 1.8m high at the rear wall of the house, but falls in height slightly towards the rear. The eaves of the conservatory are not much higher than the fence at about 2.2m, and the highest point of the shallow roof is about 2.8m high. The garden level of No 5 is somewhat below that of the appeal site, and I have taken that into account in my assessment.
6. Policy H14 of the recently adopted Oxford Local Plan provides that, amongst other things, development which has an overbearing effect on existing homes will not be permitted. I consider that the conservatory has a very limited impact on the outlook of the occupiers of 5 Pattison Place. It does not project greatly above the existing boundary fence, and its composition of clear and translucent glazing means that it has an insubstantial massing. The rearmost third of the conservatory is angled away from the boundary, reducing its impact further. Moreover, as the boundary fence is angled away from the rear elevation of No 5, a good open aspect is enjoyed from the rear facing windows of that property. Two large satellite dishes within the curtilage of No 5 also mask the impact of the conservatory. I therefore find that it is not overbearing.
7. In this case, rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 to construct conservatories have been withdrawn. However, I am mindful that in ordinary circumstances, a solid walled and roofed extension of a similar depth, but materially higher could have been built without planning permission, and that similar relationships between extensions and neighbouring properties are commonplace across the country. Although the existence of permitted development rights in other cases is not a reason on its own to allow the development, which I have considered on its own merits, it is nevertheless a material consideration which adds to my findings.
8. The occupier of 5 Pattison Place has written to say that she has no objection to the conservatory. This is not a conclusive point, as there may be many reasons why neighbours may not object, and I have to consider the living conditions of future occupiers as well those of current ones, but the lack of objection reinforces my conclusion that the conservatory does not result in material harm to the living conditions of the occupiers of No 5, with particular regard to outlook and visual appearance. Nor does it conflict with Policy H14.
9. Accordingly, the appeals on ground (a) succeed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act. The Council has suggested conditions relating to implementation and

compliance with drawings, but as the development has already been carried out, I consider that these are unnecessary.

Other matters

10. I note that the landlord is said to be supportive of the Council's enforcement action, and may take their own action to seek the removal of the conservatory. However, this is a private matter, and does not alter my findings.

Conclusion

11. For the reasons given above, I conclude that the appeals on ground (a) succeed, the enforcement notice is quashed and planning permission is granted on the deemed application made under s.177 of the Act.

JP Roberts

INSPECTOR