



Appeal Decision

Site visit made on 1 September 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/G3110/D/20/3253140

88 Cornwallis Road, Oxford OX4 3NL

- 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 Nazrul Islam against the decision of Oxford City Council.
 - The application Ref 20/00095/FUL, dated 10 January 2020, was refused by notice dated 10 March 2020.
 - The development proposed is the demolition of the ground floor rear extension and construction of larger ground floor rear extension, first floor rear extension and construction of entrance porch on south elevation.
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Decision

1. The appeal is dismissed insofar as it relates to the demolition of the ground floor rear extension and construction of larger ground floor rear extension and first floor rear extension. The appeal is allowed insofar as it relates to the construction of an entrance porch on the south elevation and planning permission is granted for an entrance porch on the south elevation at 88 Cornwallis Road, Oxford OX4 3NL in accordance with the terms of the application, Ref 20/00095/FUL, dated 10 January 2020, and the plans submitted with it so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location & Existing Block Plan, drawing number A100; Proposed Block Plan, drawing number P106; Proposed Plans Sheet 1, drawing number P101; Proposed Elevations Sheet 1, drawing number P103 and Proposed Elevations Sheet 2, drawing number P104.

Procedural Matters

2. Since the Council made its decision the Oxford Local Plan 2036, June 2020 (LP) has been adopted. Accordingly, policies CP1, CP6, CP8 and CP10 of the Oxford Local Plan 2001-2016, November 2005; policy CS18 of the Oxford Core Strategy 2026, March 2011 and policies HP9 and HP14 of the Oxford City Council Sites and Housing Plan 2011-2026, February 2013 as cited on the decision notice no longer form part of the development plan. However, the decision notice refers to the then emerging policies DH1 and H14 of the LP. These refer to high quality design and placemaking and privacy, daylight and

sunlight respectively. They cover broadly similar territory to the superseded policies and, so far as is relevant to the appeal proposal, are not fundamentally different. Moreover, the appellant has referred to the policies of the LP as part of their appeal statement. Therefore, I am satisfied that neither party would be prejudiced by my consideration of the proposal against the LP.

Main Issues

3. The main issues are the effect of the proposal on (i) the living conditions of neighbouring residents at 86 and 90 Cornwallis Road having particular regard to outlook and light, and (ii) the character and appearance of the area.

Reasons

Living conditions

4. Both parties agree¹ that the porch on the southern elevation would not be harmful to the living conditions of the residents of the properties either side of 88 Cornwallis Road. Given the modest scale of the proposal I have no basis to disagree. Therefore, the parties disagree on the impact of the proposed extension to the rear of the dwelling.
5. 90 Cornwallis Road adjoins the appeal property and its rear elevation and garden face northwards. There are two ground floor windows and a glazed door in the rear elevation which the information provided suggests serve a habitable room, and I have not seen evidence to the contrary. The combination of the proximity, height and considerable depth of the proposed rear extension relative to No.90 would unacceptably reduce levels of natural light to these ground floor windows.
6. Furthermore, it appears from my observations and drawing number P101, that the proposal would fail to meet the guidelines outlined in Appendix 3 of the LP. This states that in normal circumstances, no development should intrude over a line drawn at an angle of 45° in the horizontal plane from the midpoint of the nearest window of a habitable room and rising at an angle of 25° in the vertical plane from the sill. This reinforces my concerns regarding the impact on the windows at No.90.
7. In addition, 86 Cornwallis Road has a ground floor rear facing window close to the boundary with the appeal site². The information provided does not include the internal layout of No.86 and therefore, I am not assured that it does not serve a habitable room. The north facing window is currently sandwiched between two single storey extensions. As such, the light levels to it are already likely to be compromised to a degree. Nevertheless, the presence of an upper storey and elongated depth of the rear extension would further reduce the available light thereby exacerbating the harm.
8. Moreover, there would be a substantial increase in the depth of the rear extension close to the respective boundaries with Nos.86 and 90. Cumulatively, this would extend a considerable way down the length of their rear gardens³. Notwithstanding that the two storey element does not extend as far as the ground floor part, the height of the single storey element would extend above

¹ Page 4, Council's Delegated Report – Impact on neighbouring amenity.

² Photograph, Page 22 Appellant's Statement of Case

³ Proposed Block Plan, drawing number P106

- the height of the side boundary fences. As such, it would be visible from the ground floor fenestration and gardens at Nos.86 and 90.
9. When combined with existing development at 92 Cornwallis Road, significant projecting built form would be present both sides of No.90. This would result in a tunnelling effect that would dominate the outlook from the ground floor windows and door as well as the area of garden closest to the dwelling, which is likely to be used more intensively. This would have an oppressive effect on the occupants of No.90. Additionally, the proximity and scale of the rear extension would have an enclosing effect on the outlook from the ground floor windows and patio area of No.86, making it feel unreasonably confined for the occupants.
 10. Taken together the factors outlined above would unacceptably diminish the quality of the living conditions for the occupants of Nos. 86 and 90.
 11. The appellant considers the boundary fence and tree within the garden of No.90 already reduce light to the windows. Be that as it may, I observed the tree to be deciduous and not particularly large. When not in leaf it would be unlikely to block light notably. Even when in full leaf it would not block light to the same extent as a solid structure of the scale proposed. Furthermore, unlike the proposed rear extension, the occupants could choose to reduce or remove it. The presence of the boundary fence would not justify a development that would be seen above it, thereby having a greater impact.
 12. With regards to the relationship of the proposal with No.90, the appellant does not dispute that the proposal would fail to meet the 45 degree guidance. He considers that compliance with it would require modifications to the proposal that would restrict the extent and usability of ground floor accommodation⁴. Be that as it may, this would not address or overcome the harm to the living conditions of the occupants of No.90.
 13. My attention is drawn to paragraph 123 c) of the National Planning Policy Framework (the Framework). This refers to achieving appropriate densities where there is an existing or anticipated shortage of land for meeting identified housing needs. In this context, when considering applications for housing, a flexible approach in applying policies or guidance relating to daylight and sunlight is supported, as long as the resulting scheme would provide acceptable living standards. It is not shown that this context is applicable to the scheme before me, as it concerns an extension to an existing dwelling rather than an application for housing that would affect overall density. Neither, for the reasons outlined, would it provide acceptable living standards for the existing adjacent residents.
 14. Accordingly, paragraph 127 f) of the Framework has greater relevance. This stipulates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. For the reasons outlined, the proposal would fail to do this.
 15. Reference is made to the extension at 92 Cornwallis Road as well as many other residential alterations in the neighbourhood⁵, which the appellant considers sets a precedent for the proposal. Based on the information provided,

⁴ Page 19, Appellant's Statement of Case

⁵ Appendix E, Appellant's Statement of Case

the extension at No.92 was granted approximately 30 years ago⁶ and local and national planning policies have changed in the intervening period. Moreover, unlike the appeal proposal, No.92 is an end of terrace dwelling which allows for a greater degree of separation from one adjacent property. Nevertheless, I accept that the proximity and bulk of the extension does impact on the outlook from No.90⁷ as asserted. However, this does not represent a sound basis to justify additional similar development that would augment the harm to the occupants of No.90. The other examples referred to generally indicate that extensions are relatively commonplace in the neighbourhood but, in relation to the impact on light and outlook, none are shown to be directly comparable to the configuration in the scheme before me. As such, they attract limited weight. In any event, I have determined the proposal on its own merits.

16. Accordingly, I find that the proposal would cause unacceptable harm to the living conditions of the adjacent occupiers at 86 and 90 Cornwallis Road due to the detrimental impact on their light levels and outlook. This would be contrary to policy H14 of the LP that, amongst other matters, states that planning permission will only be granted for new development that provides reasonable daylight and sunlight for occupants of existing homes. It further states that permission will not be granted for any development that has an overbearing effect on existing homes.

Character and appearance

17. Cornwallis Road comprises predominantly two storey dwellings arranged in short terraces, with longer rear gardens. Notwithstanding that many properties have been extended or altered to the rear, coherence is derived from the regularity of principal elevations, plot sizes and established planting. Overall, this results in a pleasant sub-urban character to the area.
18. 88 Cornwallis Road is a mid-terraced dwelling that reflects the characteristics of the surrounding built form and therefore, contributes positively towards its distinctive character.
19. The modest scale, use of brick and simple lean-to form of the porch proposed on the front elevation would be in-keeping with the host dwelling and would integrate with the wider street scene. This is acknowledged by the Council⁸. Nevertheless, there is disagreement regarding the effect of the larger rear extension.
20. The proposed rear extension would significantly increase the depth of the ground floor and comprise a combination of single and two storey elements utilising a fairly complex roof arrangement. Whilst this would be a sizeable addition relative to the original dwelling, it would be placed discretely to the rear of the terrace. As such, the coherence of the more public principal elevation would remain intact and it would not be easily visible in the street scene.
21. Furthermore, the rear elevations of the terraced houses in the vicinity of the appeal site have undergone considerable extension and alteration resulting in a greater variety in the form, materials and detailing at the rear of dwellings.

⁶ Reference 90/00349/NF dated 22.5.90

⁷ Pages 11 and 20, Image 2, Appellant's Statement of Case

⁸ Page 3, Council's Delegated Report - Design

This is illustrated in the photograph provided by the appellant⁹. Consequently, the rear elevation is less sensitive and could withstand a greater degree of change without impinging on the local distinctiveness of the area. The additional volume and detailing of the rear extension would be larger than most extensions in the immediate vicinity but would not be markedly different in scale by comparison to nearby rear extensions at 94, 102 and 106 Cornwallis Road.

22. It is within this context that the rear elevation of No.88 would be glimpsed from Florence Park. When account is also taken of the likely distance, presence of domestic outbuildings and degree of shielding from established trees along the boundary of the park, the proposal in matching materials would not appear overtly dominant in these views.
23. Moreover, the various extensions and conservatories in evidence display an assortment of fenestration arrangements. On this basis, the proportions and hierarchy of windows at the rear of the terraced row are not particularly regular and hence, do not make a strong contribution to the character and appearance of the area. On this basis, the proposed window arrangements and detailing are not so different from the surrounding context that they would cause harm.
24. Accordingly, I find that the proposal would reasonably integrate into the surrounding context and would not be harmful to the character and appearance of the area. Therefore, there would be no conflict with policy DH1 of the LP which seeks a high quality design that creates or enhances local distinctiveness.

Other matters

25. I acknowledge that the proposal would provide additional more versatile accommodation that would be beneficial to the appellant and his family, as well as future occupants of the dwelling. Even so, this would not address nor outweigh the harmful impact of the proposal on other existing residents.

Conclusion

26. Although I did not find harm would result to the character and appearance of the area, I have found that the proposed extension to the rear of the appeal property would be unacceptably harmful to the living conditions of the neighbouring residents. Therefore, this element of the proposal should not succeed. Nevertheless, the proposed porch on the front elevation would not result in harm and is clearly severable from the remainder of the proposals in physical and functional terms. Under section 79(1)(b) of the Town and Country Planning Act 1990 I have discretion to split the decision by allowing one part of a scheme and dismissing the rest. It would be appropriate to use the power in these circumstances to allow the porch but to dismiss the remainder of the proposal.
27. In relation to the porch, I have considered the conditions suggested by the Council. I have imposed conditions to reflect the three year period in which the planning permission may be implemented and have specified the relevant approved plans such that the porch shall be undertaken in accordance with these, as this provides certainty. The proposed south elevation plan annotates the materials to be used so this would be adequately covered by this condition.

⁹ Appendix E, Photograph entitled Sample Location 1

Therefore, there is no need for an additional condition to state this as suggested by the Council. Furthermore, given the minor nature and scale of the porch, it would be disproportionate, and therefore unreasonable to impose a condition to require sustainable drainage measures.

28. Therefore, for the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Helen O'Connor

Inspector