



Appeal Decision

Site visit made on 19 November 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/C3105/D/20/3257960

101 Cromwell Road, Banbury, OX16 0HF

- 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 Jon Drown against the decision of Cherwell District Council.
 - The application Ref 20/00962/F dated 7 April 2020, was refused by notice dated 3 June 2020.
 - The development proposed is proposed single rear extension with associated internal and external works (re-submission of 19/02295/F).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the impact of the proposal upon the living conditions of no. 99 and no. 103 Cromwell Road in relation to overbearingness, overshadowing, loss of light and loss of outlook.

Reasons

3. The appeal site is a semi-detached dwelling of brick and slate construction. The appeal seeks consent for a single-storey rear extension which would be 6m in depth, with a pitched roof with a ridge height of 3.6m and an eaves height of 2.4m. It would be constructed in materials to match the existing dwelling following demolition of the existing conservatory extension. The site is noted to stand within a good-sized garden. Whilst the site context is noted this does not change the assessment as to impact upon residential amenity for the immediate neighbours as outlined below.
4. The adjoining property, no. 99, is not extended. The proposal, being only slightly inside the boundary, would extend for 6m at a height of 2.4m along the shared boundary. Given that no. 99 is to the South of the appeal proposal I find that the impact upon light and overshadowing would likely not be sufficient to warrant refusal. Despite this, the roof would slope up to an overall ridge height of 3.6m. I find that this would have a harmful effect on the residents outlook from the kitchen window (the nearest window) as a result of the massing which would be readily visible.
5. No. 103 is unattached with some separation from the appeal site host dwelling however, the existing rear elevation of the appeal site is already forward of the rear elevation of no. 103. No. 103 also sits slightly lower in terms of site levels. Whilst the appeal proposal would be just over a metre from the Northern boundary the position of the rear elevations, and the site levels

combined, I find would increase the perceived impact of the appeal proposal, in terms of both height and depth, for occupiers of no. 103 with the result appearing overbearing.

6. In addition to the basic massing the proposal is located to the South of no. 103 which, in the absence of evidence before me to justify otherwise (from either party), I find is likely to impact upon natural light to no. 103. The large garden to no. 103 is acknowledged but the impacts would extend to the equivalent of at least 8m of garden, from the rear elevation, which is often the most used and social space closest to residential dwellings. I find this would cause unacceptable impact in terms of light, overshadowing and loss of outlook.
7. The starting point for the determination of this appeal is the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, this is not outweighed by the presumption in favour of sustainable development given the Local Plan policies which are attributed full weight. A lack of significant adverse environmental impacts, and objection from neighbouring residents, is a neutral consideration.
8. The proposal would be contrary to The Cherwell Local Plan 2011 – 2031 Part 1 (2015) Policy ESD15 which requires development to consider the amenity of both existing and future development including matters of outlook and natural lighting and Cherwell Local Plan (1996) saved Policy C30 which requires proposals for extensions to provide standards of amenity acceptable to the local planning authority.
9. The proposal would also be contrary to paragraph 127 f) of the National Planning Policy Framework 2019 which requires that decisions ensure a high standard of amenity for existing and future users. Whilst the Framework is acknowledged to support adapting living accommodation this should not be to the detriment of neighbouring occupier's amenity as I have found.

Other Matters

10. The site benefits from a fallback position in that it could construct a 6m deep extension as a result of a householder prior approval¹. This is a material consideration within this appeal. I have no doubt that, should this appeal fail, the appellant will seek to implement the fallback position in order to provide additional accommodation to the host dwelling. As a result of this many of the impacts to neighbouring occupiers, identified above, would occur as a result of the prior approval scheme.
11. The fallback scheme, whilst it is the same depth, is 0.2m lower at the eaves and 0.6m lower at the ridge. The fallback also extends from the rear elevation, straight out, whereas the appeal proposal extends slightly to the side taking the proposed built form closer to the boundary with no. 103. The increased height, both adjacent to the boundary and overall, as proposed within this appeal I find would result in a worse impact for neighbouring residents than that of the fallback.
12. An additional 0.6m in ridge height, albeit sloping away from the boundary, would have an even more harmful effect on the residents of no. 99's outlook from the kitchen window as a result of the increased massing. The site characteristics in relation to no. 103, discussed above, means that additional

¹ 20/00526/HPA – Prior Approval Not Required 6 April 2020

height which is closer to the boundary than that within the fallback scheme would, I find, result in worse impacts in relation to loss of light and overshadowing and would be overbearing.

13. Overall, the fallback position is acknowledged and given strong weight in relation to the appellant's ability to construct the same depth extension. It does not support an increase in height and movement closer to the boundary with no. 103. I find that the appeal proposal would have a worse impact on neighbouring occupiers and result in additional harm in terms of loss of outlook, loss of light and overshadowing. The fallback does not, I find, provide sufficient justification to overcome or justify the concerns I have found with the appeal proposal.
14. I note that the Town Council have objected to this proposal, however, I have already dealt with the matters which they raise within this decision.
15. Concerns regarding engagement within the application process are not issues that I can assess as part of this appeal and does not affect the planning merits or effects of the proposal before me.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR