



Appeal Decision

Site visit made on 1 December 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2022

Appeal Ref: APP/C3105/W/22/3299326

5 Milton Street, Banbury OX16 9PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Colin Smith against Cherwell District Council.
 - The application Ref 21/04211/F, is dated 20 December 2021.
 - The development proposed is double-storey extension.
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Decision

1. The appeal is dismissed and planning permission for a double-storey extension is refused.

Preliminary Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's appeal statement, which provides clarity in terms of the reasons why the Council would have refused planning permission for the proposed development, had it been able to do so. These have formed the main issues below.
3. The Council refers to the draft list of buildings of local historic interest which includes the appeal property. However, this is not at an advanced stage, and I have not been provided details of its progression; I have therefore afforded this minimal weight.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the Banbury Conservation Area (CA); and
 - the effect of the proposed development upon the living conditions of the occupiers of No 4 and No 6 Milton Street with particular regard to outlook, daylight and sunlight.

Reasons

5. The appeal site is located within the CA. As such, I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance. The significance of this part of the CA lies in its buildings of architectural interest and layout, namely 19th century terrace buildings, many of which have retained their original features in a short back-

to-back relationship. The appeal property retains many of the features typical of the street and wider area, and it currently contributes positively to the significance of the CA.

6. The appeal property is a two-storey mid-terraced dwelling with a simple traditional appearance incorporating brick detailing with flat stone lintels set back from the road, which runs down to New Road. I observed how properties on Milton Street had very short yards to the rear, backing onto the narrow gardens of dwellings on Crouch Street. Whilst a small number of rear alterations to nearby properties could be seen, many remained unaltered, which provides a pleasant character and uniformity to the area.
7. The host dwelling shares a short two-storey outrigger with No 6, with the appeal property benefiting from a single-storey extension to the rear. The proposal would replace this extension with a two-storey outrigger with a part-pitched part-flat roof extension extending from the existing outrigger.
8. The proposal would, despite the use of in-keeping materials, introduce an unsympathetic bulky, two-storey extension which would further erode the limited space in the small yard. This limited space, combined with the two-storey extension arrangement of two different roof styles, would create an unbalanced design which emphasises the dominant built form of the extension.
9. Furthermore, whilst public views of the rear of the terrace are limited given the back-to-back pattern of development, the proposed scheme would be highly visible from surrounding properties and gardens, whereby it would appear as an incongruous addition that harms the appearance and character of the existing dwelling and surrounding area.
10. For the purposes of the National Planning Policy Framework (the Framework), the CA is a designated heritage asset. The proposal would lead to less than substantial harm to the significance of the CA. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.
11. No evidence has been submitted to show any public benefits. The appellant is seeking to create a larger home and even if this were a public benefit, given the scale of the scheme the benefit would be small and as such, the public benefits do not outweigh the identified harm in this case.
12. The development would therefore be contrary to Policy ESD15 of the Cherwell Local Plan Part 1 2015 and Policies C28 and C30 of the Cherwell Local Plan 1996. Amongst other things, these policies seek to ensure, development in conservation areas is of a high standard which protects local distinctiveness and reinforces the traditional pattern of development. The proposal would also conflict with the provisions of the Framework in regard to conserving and enhancing the historic environment.

Living conditions

13. The proposed extension of the existing outrigger, including the flat roof section would be located at a short distance from the boundaries of No 4 and No 6. I observed habitable room windows at ground and first-floor level at No 4 and given the close proximity of the proposed development to these windows, the development would appear imposing and overbearing to occupiers of this property and would harm outlook from these windows.

14. There are also habitable windows on the rear elevation of No 6. However, when taking into consideration the existing outrigger and single-storey extension, the additional built form would be located away from and above these windows to avoid any significant harm to the outlook of the occupiers of No 6.
15. The existing layout of the properties in a short back-to-back arrangement and sloping topography results in an intimate relationship which currently inhibits existing sunlight and daylight from fully reaching the rear of properties on Milton Street. Nevertheless, by virtue of its height, orientation and relationship to adjacent properties, the proposed development gives rise to a significant degree of overshadowing with consequent further loss of daylight and sunlight to the windows on the rear elevations of both No 4 and No 6. As a result, there would be unacceptable harm to the occupiers of No 4 and No 6 through loss of sunlight and daylight.
16. For the above reasons, the proposal would result in harm to the living conditions of the neighbouring occupiers with regard to outlook, sunlight and daylight. It would fail to accord with Policy ESD15 of the Cherwell Local Plan 2011- 2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and the Framework. Together these seek, amongst other things, for new development to protect the amenity of existing residents.

Other Matters

17. I acknowledge that following the submission of the appeal, subsequent consent has been granted for a part two-storey rear extension, and this constitutes a fallback position. However, the evidence before me shows a significantly reduced roof section set in from the rear elevation. Consequently, given the considerable differences, I give the fallback position limited weight.
18. My attention has been drawn to other rear extensions in the area. While those schemes similarly have two-storey rear outriggers and are located within small rear yards, I do not have full details of these schemes. Even if the details had been provided, it would unlikely justify the harm that would arise from the appeal proposal, which has been considered on its own merits and with regard to its effect on neighbouring occupiers and on the character and appearance of the host dwelling and CA.

Conclusion

19. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
20. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR