
Appeal Decision

Site visit made on 2 February 2023

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Reference: APP/C3105/D/22/3308311

83 Mold Crescent, Banbury, Oxfordshire, OX16 0ER

- 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 Mrs T Sharif against the decision of Cherwell District Council.
 - The application Reference 22/01401/F, dated 12 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is proposed single storey rear extension and part double storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for proposed single storey rear extension and part double storey rear extension at 83 Mold Crescent, Banbury, Oxfordshire, OX16 0ER in accordance with the terms of the application, Reference APP/C3105/D/22/3308311, dated 12 May 2022, 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:
 - (a) 00-ST-01 – C: Location Block & Site Plan
 - (b) 00-EX-FP-01 – A: Existing Ground Floor Plan
 - (c) 00-EX-FP-02 – A: Existing First Floor Plan
 - (d) 00-EX-RF-01 – A: Existing Roof Plan
 - (e) 00-EX-EL-01 – A: Existing Elevations
 - (f) 00-PR-FP-01 – C: Proposed Ground Floor Plan
 - (g) 00-PR-FP-02 – C: Proposed First Floor Plan
 - (h) 00-PR-RF-01 – C: Proposed Roof Plan
 - (i) 00-PR-EL-01 – C: Proposed Elevations
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. Following my site visit to the appeal property, I made a visit to no. 85 Mold Crescent on 9 February 2023 to view the proposal from the rear garden of the neighbouring house¹.

Main Issue

3. No. 83 Mold Crescent is located in the middle of a terrace of three dwellings. The main issue is the effect of the proposal on the neighbours at nos. 81 and 85 Mold Crescent and whether or not the proposal would appear imposing and overbearing resulting in loss of outlook and light.

Reasons

4. The appeal dwelling has an existing, almost full width, flat-roofed extension, projecting some 4.5 metres from the rear wall of the original house. The proposed single storey extension seeks to add a further 1.5 metres.
5. The Council's Home Extensions & Alterations Design Guide indicates, as a general guide, that single storey extensions on a common boundary up to 4 metres in length would normally be acceptable². In this regard, the proposal would run along the common boundary with no. 85 and would have pedestrian width separation from the boundary with no. 81.
6. Significantly, after an initial paved area at the rear of the houses, the gardens slope upwards away from the properties. The effect is that the tops of the existing boundary fences more-or-less coincide with the fascia of the existing single storey extension. To my mind, the further projection at ground floor, albeit with the entire length of the combined additions under a shallow hipped-type roof, would not appear imposing and overbearing, nor result in loss of light or outlook, from the rear rooms of the neighbouring properties.
7. In terms of the first floor extension, the design guide points to the acceptability of two storey extensions on the common boundary of up to 2.4 metres in length. Here the proposal is 3.0 metres, but set in from each boundary. In such circumstances an assessment of the effect on a neighbour's light and amenity is required based on an angle of 45 degrees taken horizontally from the mid-point of the nearest habitable room window.
8. In the case of no. 85 the criterion would be met. However, for no. 81 there would be a marginal encroachment of 645mm in relation to a first floor window. Given that the rear of the dwellings have an open south-easterly aspect, and good length gardens, I consider that the effect of the infringement would be marginal at the very worst and neither dwelling would experience a significant loss of amenity.
9. Overall, I conclude that the proposal, as a whole, would not appear imposing and overbearing, resulting in loss of outlook and light, and that there would be no adverse effect on the neighbours at nos. 81 and 85 Mold Crescent. As such, there would be no tangible conflict with the aims of the design guide based on the site specific circumstances that I have outlined.

¹ At my initial site visit it was possible to clearly see the relationship with no. 81 from the rear garden of the appeal property, but more difficult to ascertain the relationship with no. 85

² Subject to consideration of a number of other matters identified by bullet points to which I have had regard

10. Similarly, I find that the proposal would be in accordance with the development plan as a whole, having particular regard to saved Policies C28 and C30 of the Cherwell Local Plan (1996) and Policy ESD 15 of the Cherwell Local Plan (Part 1) (2015).
11. I have noted the appellant's personal circumstances, as briefly outlined in the grounds of appeal, and I have considered the stated accommodation needs in light of the Public Sector Equality Duty set out in section 149 of the Equality Act 2010. However, given my conclusions above, there is no need to consider this matter further.
12. With regard to the appellant's claimed fallback position, Part 1 of Schedule 2, Class A1(g), of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, permits the enlargement of a dwellinghouse in the form of a single storey rear extension not exceeding 6 metres³ in depth from the original rear wall of the dwellinghouse.
13. Classes A3 and A4 set out the conditions which apply to development permitted by Class A. Class A4 requires the householder to provide details of the intended development, and for the local planning authority to notify each adjoining owner or occupier of the proposal. Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority will be required as to the impact of the proposed development on the amenity of any adjoining premises.
14. Whilst I acknowledge that neither neighbour made representations on the appeal proposal, the claimed fallback position in relation to the proposed single storey addition is no more than a theoretical possibility and there is no basis to conclude that there would be a real prospect of implementation. In any event, the proposal before me includes a first floor extension. Accordingly, I do not attach any weight to the alleged fallback position.
15. In terms of planning conditions, the permission is subject to the standard time period within which the development is to commence. The approved plans are identified for certainty and matching materials will be required for visual reasons.
16. Having considered these and all other matters raised I conclude that the appeal should be allowed.

David MH Rose

Inspector

³ 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse