



Appeal Decision

Site visit made on 8 November 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2023

Appeal Ref: APP/C3105/W/22/3300935

41 Fernhill Road, Begbroke, Kidlington, OX5 1RR

- 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 Lee Molyneux against the decision of Cherwell District Council.
 - The application Ref 21/03445/F, dated 18 October 2021, was refused by notice dated 14 December 2021.
 - The development proposed is described as 'extension to dwelling and subdivision in to two flats.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Some amended plans propose to remove the cycle store and replace it with additional bin storage and alter the layout of the rear gardens. The changes respond to the Council's reasons for refusal.
3. Whilst they appear to have been sent to the Council, the plans are referred to as being for discussion only and not for consideration. On their face, the changes are not extensive but they nevertheless represent a noticeable departure from the scheme that the Council considered and that on which the views of third parties were sought. I have some concerns therefore that accepting the amended plans would result in some prejudice to third parties wishing to comment. Having regard to the procedure guide¹, planning appeals should not be used to amend a scheme and any plans submitted should be those that the Council considered at the time they determined the planning application. With this and the above in mind, I have not taken the amended plans into account in making my decision.

Main Issues

4. The main issues are;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the proposed development would provide acceptable living conditions for future residents, with specific regard to light and outlook.

¹ The Planning Inspectorate Procedural Guide – Planning Appeals – England (March 2021)

Reasons

Character and Appearance

5. The appeal site is in a predominantly residential area characterised by dwellings set back from the road with gardens/parking to the front. Although properties in the vicinity are of different design styles and construction ages, the area comprises detached and semi-detached two storey and bungalow dwellings with long rear gardens. The set back of dwellings and established building line, in particular, are noticeable features that make an important positive contribution to the character of the area. Additionally, the set back from the highway behind front gardens and parking areas, combined with the hedgerows and planting, create a pleasant sense of spaciousness and support a verdant character.
6. The proposal would introduce cycle and bin stores forward of the established building line. The stores, being closer to the highway than the existing built development, would diminish the spacious characteristic of the area. The proposal would be discordant with the character of the area in that it would introduce built form in front of the established building line. It would be visible from the surrounding roads and pavements and would be a prominent feature harming the area's character and appearance.
7. I note the reference by the appellant to general clutter to the front of dwellings and bins being stored in front gardens, however these can be moved to less prominent places. The proposal would see the construction of permanent stores in front of the building line.
8. The subdivision of the garden to facilitate the proposal would create two plots. A number of properties nearby have been subdivided and other properties are semi-detached. These have resulted in long narrow plots, comparable to the surrounding area. The resulting plot widths would be comparable to plots opposite the appeal site and within the wider area.
9. Whilst I have not found harm with regards to the plot sizes, the proposed cycle and bin stores would harm the character and appearance of the area in the above terms. This would be contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 (2015) (LP) and Policies CS28 and CS30 of the Cherwell Local Plan 1996 (1996) (Local Plan) which seek, amongst other things, that developments contribute positively to an area's character and identity. The proposal would also be contrary with paragraph 130 of the National Planning Policy Framework (Framework) which seeks good design sympathetic to local character.

Living Conditions

10. The proposed development would extend and subdivide an existing dwelling which would result in the remaining amenity space being shared between two dwellings.
11. Flat 1 would comprise a reception room, lounge, bathroom, dining room and kitchen at ground floor with a bedroom at first floor. Most rooms would benefit from adequate daylight however the proposed dining room would be located between a solid wall and the kitchen with only a small window for daylight. Given the minimal gap between this window and projecting rear extension, the height and depth of that elevation of the extension would have a significant

- enclosing effect on the outlook from this window and would also significantly restrict levels of light which would result in the room it serves being unduly gloomy to the detriment of its usability and the future occupants of Flat 1.
12. The window on the rear elevation that would serve the kitchen of Flat 1 would look directly over the rear garden of Flat 2. As the window would serve the kitchen and rear door for Flat 1, its location would result in significant overlooking of the private amenity space of Flat 2.
 13. Flat 2 would comprise a reception room, large hallway/study, office, bathroom, utility room and kitchen/dining room at ground floor and two ensuite bedrooms at the first floor. The ground floor accommodation would be long and narrow. A window, door and French doors would provide daylight to the kitchen/dining room with a bay window providing daylight into the reception room. A series of six roof lights would provide daylight and ventilation for the remaining ground floor rooms.
 14. The combination of windows, doors and roof lights would ensure that the proposed development and the internal rooms of Flat 2 would not be unduly gloomy to the detriment of their usability. The windows, roof lights and doors would also ensure that the proposal would be adequately ventilated. Whilst there would be limited outlook, a sufficient standard would be provided via the windows and doors at the front and rear of the proposal which would look over the parking area to the front and the rear garden accordingly.
 15. Whilst Flat 2 would extend along much of the rear garden of Flat 1, its single storey nature and its location behind a 1.8-metre-tall fence would ensure that the proposed development would not have an overbearing impact on the rear garden of Flat 1.
 16. The proposed extensions benefit from planning permission². During my site visit there was no evidence that work had commenced. In any event, whilst the permission may provide a fall back to the proposed extension, the subdivision of the property and ensuing living conditions matters were not considered at that time.
 17. I find that the proposed development would not provide acceptable living conditions for future residents, with reference to privacy, outlook, and light. Conflict would therefore arise with LP Policy ESD15 and Local Plan Policies CS28 and CS30 which seek, amongst other things, to ensure that developments consider the amenity of future development including matters of privacy, outlook, and natural lighting. The appeal scheme would also be contrary to paragraph 130 of the Framework that seeks high standards of amenity for existing and future users.

Other Matters

18. The appellant suggests that the proposed development would increase housing supply in an area that is suffering from limited house building. I do not however have any firm data pertaining to the Council's demonstrable housing supply.
19. That said, and as the subdivision of an existing dwelling in to two flats, the proposal would make a very limited contribution to any housing supply. The

² Council Reference 21/01183/F

scale of the scheme would accordingly limit its associated socio-economic benefits. Paragraph 130 of the Framework requires that developments have a high standard of amenity for existing and future users. I have found that the proposal would cause unacceptable harm on the living conditions of future occupiers and on the character of the area in the manner I have described above. I ascribe significant weight to these harms which would be long lasting. Therefore, and regarding the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

20. For the above reasons, there are no relevant material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR