



Appeal Decision

Site visit made on 23 October 2023

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

APP/D3125/D/23/3324037

High Ridge, 46 High Street, Milton-Under-Wychwood, OX7 6LE

- 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 & Mrs O Earley against the decision of West Oxfordshire District Council.
 - The application Ref 23/00598/HHD, dated 28 February 2023, was refused by notice dated 8 June 2023.
 - The development proposed is renovation of existing garden building.
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Decision

1. The appeal is allowed and planning permission is granted for renovation of existing garden building at High Ridge, 46 High Street, Milton-Under-Wychwood, OX7 6LE in accordance with the terms of the application, Ref 23/00598/HHD, dated 28 February 2023, and the plans submitted with it, 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: CBC051 04 Amended Proposed Floor Plans; CBC051 06 Amended Side Elevations Plans; CBC051 05A Proposed Front and Rear Elevations; CBC051 07 Site Plan & Site Location Plan.
 - 3) The development shall be constructed with the materials specified in the application.
 - 4) The outbuilding hereby permitted shall be used as accommodation ancillary to the existing dwelling on the site and shall not be occupied as a separate dwelling.
 - 5) The building hereby permitted shall not be occupied until the windows on the rear and front elevation have been fitted with obscured glazing and the existing window on the northeastern side elevation has been removed and made good in matching limestone colour render in accordance with the details submitted with the application. Once installed the obscured glazing shall be retained thereafter.
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of occupiers of neighbouring houses, with particular regard to privacy.

Reasons

3. The appeal property is the central house in a small terrace of three houses. The appeal proposal relates to a single storey outbuilding and attached shed at the rear of the appellant's garden. It is accessed from the garden and from a track which runs along the side of the neighbouring house, No 48, and swings around the back of the terrace. The track leads to rear parking for the appeal property and a neighbouring house and also provides access for the residential property, No 50a, known as Wych Yard. There are existing windows on the northeast elevation of the building that faces towards the parking area and the back of No 44, and on the elevation facing Wych Yard which also has a wooden door providing access to the building.
4. The proposed development is an amendment to a scheme I dealt with at appeal previously¹. It includes replacing the window facing Wych Yard with a fixed and obscure glazed window preventing overlooking into that property and replacing the door to the side of it. A new window would be installed facing towards the rear of the appellant's and the neighbour's house and garden but would be obscure glazed thus preventing mutual loss of privacy. Above it a long narrow upper window would be positioned below the roof and, at over 2 metres above floor height, would ensure there would also be no overlooking into neighbouring gardens and windows.
5. The attached shed would be replaced with a lean to with a log store and steps up to the main building. It would have double doors facing the rear of the neighbour's garden and No 44, as is currently the case with the existing shed, although they would be glazed rather than wooden. However, as I noted in the previous appeal, overlooking into neighbouring properties would be limited to people entering and leaving the building and therefore not significantly greater than is currently the case.
6. Although I do not have the details of the previous scheme that I dealt with before me, I understand that the key difference is that there would be no side window facing No 44 under the current proposal. As such, there would be no potential for overlooking between the building and the side windows of No 44 which was the reason I dismissed the previous appeal. Therefore, I do not consider that the proposed development would cause overlooking to either the house or gardens of neighbouring properties, other than when people enter or leave the building, and there would be no significant loss of privacy to neighbouring residents. The proposed development would therefore accord with Policy OS4 of the West Oxfordshire Local Plan (2018) and Paragraph 130 of the National Planning Policy Framework (2021) which require that development should not harm the living conditions of occupiers of neighbouring properties.

Other Matters

7. I have had regard to representations raising concerns over increased noise and disturbance, limited car parking provision and increased traffic generation.

¹ Appeal Ref: APP/D3125/D/22/3308195

However, my assessment in the previous appeal which accords with that of the Council's Officers in their Report to the Uplands Area Planning Sub-Committee and of the Inspector in another appeal² at the site remains, that the modest increase in activity associated with the proposed use would not lead to a detrimental impact on neighbours' living conditions. Land ownership issues also raised remain a civil matter rather than a planning matter.

Conclusion and conditions

8. I have considered the conditions suggested by the Council. In addition to the standard condition which limits the lifespan of the planning permission, a condition specifying the approved plans is necessary in the interests of clarity. A condition regarding materials is necessary to safeguard the character and appearance of the area. The Council's suggested condition preventing additional windows being inserted into the proposed building is necessary to protect the privacy of neighbouring occupiers and I have added a requirement for the proposed obscured glass windows to be retained. I also accept the Council's concerns that the proposal contains facilities that could enable it to be used as a separate unit of accommodation. If that were to be the case, the lack of privacy from shared use of the garden and the increased traffic generation would be unacceptable. It is therefore necessary to impose a condition requiring the annex to be used only as accommodation ancillary to the main house.
9. For the reasons given above I conclude that the appeal should be allowed.

P D Sedgwick

INSPECTOR

² APP/D3125/W/20/3259565