



---

## Appeal Decision

Site visit made on 5 December 2023

**by R Gee BA (Hons) Dip TP PGCert UD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> January 2024**

---

**Appeal Ref: APP/C3105/W/23/3323035**

**1 School Paddock, Bucknell, Oxfordshire OX27 7LR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Richard Johnson against the decision of Cherwell District Council.
  - The application Ref: 23/00176/F, dated 17 January 2023, was refused by notice dated 21 March 2023.
  - The application sought planning permission for erection of a new single garage without complying with conditions attached to planning permission Ref: 21/03977/F, dated 24 January 2022.
  - The condition in dispute is No 2 which states that:  
Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the information contained within the application form and the following approved plans: drawing numbers 01 (Location/ Block Plan), 03 (Proposed Site Plan), 04 (Site Plan – Ground Floor as Proposed) and 05 (Proposed Garage Plans and Elevations).
  - The reason given for the condition is:  
For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.
- 

### Decision

1. The appeal is allowed and planning permission is granted for erection of a new single garage at 1 School Paddock, Bucknell, Oxfordshire OX27 7LR in accordance with the application Ref:23/00176/F dated 17 January 2023, without compliance with condition no. 2 previously imposed on planning permission Ref: 21/03977/F dated 24 January 2022 and subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The application seeks a revised design to the approved garage. This type of application is possible as a condition was imposed on the original permission specifying the approved plans. The appeal seeks removal of the condition and replacement with conditions specifying the plans that reflect the amended design. The description of development remains unchanged.
3. My attention has been drawn to a previous dismissed appeal<sup>1</sup> for a garage/store with car port at the appeal property. From the evidence before me I am satisfied that the design and positioning of the previous scheme,

---

<sup>1</sup> APP/C3105/A/07/2039695

albeit a similar general location within the plot, is materially different such that it is not directly comparable to the appeal before me. In any event, whilst I have taken that decision into account, I have determined the appeal on its own merits.

4. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

## **Main Issues**

5. The main issues are:

- i) the effect of the proposed development on the character and appearance of the area; and
- ii) the effect of the proposed development upon the living conditions of the occupiers of Ivanhoe, with particular regard to outlook.

## **Reasons**

### *Character and appearance*

6. The appeal site comprises a detached two-storey dwelling within a substantial irregular shaped plot. This is positioned at a sharp bend of a short private residential cul-de-sac. Along School Paddock dwellings are two-storey within sizeable plots, many with garages. The proposed garage would be positioned to a side of the front garden of the dwelling and would be visible within the streetscene.
7. The appeal site is the first property as you enter the private road, however, the proposed garage would be nestled into a corner of the front garden and would not dominate the site frontage. The footprint of the garage would be similar to the approved garage and would be located in similar position within the plot, albeit marginally further away from the eastern corner of the shared boundary with the neighbouring property, Ivanhoe. Whilst the proposal would be in a similar general location within the plot to the dismissed appeal, I am satisfied that due to its reduced scale and simpler form and design the current scheme is materially different.
8. The proposal would be of a simple traditional design and appearance. The eaves height would remain similar to the approved scheme, although the overall height of the garage would be increased and would include a steep gable roof. The height of the proposed garage would, however, be comparable to the height of other garages within School Paddock. Furthermore, given the positioning of the garage within a corner of the appeal site, set back from the road, the proposal would not be dominant when viewed from western and southern approaches within the streetscene or from long range views from the public highway, Middleton Road. Accordingly, whilst the proposal would be of an increased scale, mass and volume than the approved scheme the proposal would not be an incongruous addition to the streetscene.

9. The proposed garage would be seen against the backdrop of built development when viewed from south and western approaches, including a high brick wall and the roof of the adjacent single storey dwelling. Existing and proposed planting would have a visually softening effect. I have no substantive evidence before me that the existing trees or proposed planting would be detrimentally affected by the proposals. Landscaping can rarely be relied upon in the long term with regards to its maintenance, retention and survival. Nevertheless, in any event I find the proposal would be acceptable within the streetscene.
10. Consequently, the proposed development would not harm the character and appearance of the area. In that regard it would comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (CLP Part 1) and saved Policies C28 and C30 of the Cherwell Local Plan 1996 (LP) which requires development to be compatible with the scale of the existing dwelling, its curtilage and the character of the streetscene. Furthermore, it would accord with the Framework which seeks to ensure that development achieves good design and is sympathetic to local character.

#### *Living conditions*

11. Adjacent to the appeal site is Ivanhoe, a single storey dwelling. A high brick wall forms the boundary between Ivanhoe and the appeal site. The rear elevation of Ivanhoe is set away from the shared boundary. I observed there to be tall landscaping within the garden of Ivanhoe, close to the boundary, at a height exceeding that of the brick wall.
12. Although the proposed garage would be visible from the rear of Ivanhoe the main garden area to this property is positioned away from the proposed garage. In addition, the proposed garage would be off set from the alignment of the rear projection and windows of Ivanhoe and would therefore not be within direct line of sight. Having regard to the height and orientation of the proposed development, the intervening space and the presence of a substantial boundary wall and existing landscaping, I am satisfied that the proposal would not have an overbearing presence on the neighbouring occupant's outlook. Furthermore, the existing trees already provide some degree of screening to the appeal site, and that both existing and proposed planting would be likely to further mitigate by way of a softening effect, albeit landscaping cannot be relied upon alone in terms of its longer maintenance and survival. The proposal materially differs from the dismissed appeal by reason of its siting and scale. The proposals revised position and reduced width along the boundary would therefore not have the same impact in terms of outlook as the dismissed scheme.
13. For the reasons stated above, I conclude that the proposed development would not have a harmful impact upon the living conditions of the occupiers of Ivanhoe. Accordingly, the proposal would comply with Policy ESD15 of the CLP Part 1 and saved Policy C30 of the LP in respect of this issue which collectively seek to consider the amenity of existing development, including matters of outlook. It would also accord with the Framework which seeks a high standard of living conditions for existing occupants of buildings.

#### **Other Matters**

14. Given the limited height of the proposal and its separation from Ivanhoe I am satisfied that the proposal would not result in a material loss of sunlight and

daylight for the occupiers of this neighbouring property. Whilst this would not affect any perception of loss of light, the proposal would not result in an unacceptable harmful effect on the living conditions of the occupiers of this house and their garden.

### **Conditions**

15. The Planning Practice Guide (PPG) states that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 (the Act) should also repeat the relevant conditions from the original planning permission where relevant.
16. Based on the information before me, work has not commenced on site. The PPG states that a grant of planning permission under section 73 of the Act should not extend the time period for implementation. Therefore, I shall vary the standard time condition in order to ensure the commencement of development is three years from the date the original permission was granted.
17. For certainty a condition is required to ensure the development is completed in accordance with the approved plans.

### **Conclusion**

18. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

*R. Gee*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin within 3 years from 24 January 2022.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Block Plan 01a, Site Plan – As proposed 03a, Site Plan – Ground Floor as Proposed Option 1 04a, Proposed Garage Plans and Elevations No. 05a.

**\*\*\*End of Schedule\*\*\***