



Appeal Decision

Site visit made on 7 February 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Appeal Ref: APP/G3110/D/23/3330833

34 Downside Road, Oxford, OX3 8HP

- 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 Ermir Hidri against the decision of Oxford City Council.
 - The application Ref 23/00746/FUL, dated 29 March 2023, was refused by notice dated 28 September 2023.
 - The development proposed is demolition of existing rear extension and garage. Erection of a single storey side extension and a two storey rear extension. Insertion of 1no. window to rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing rear extension and garage. Erection of a single storey side extension and a two storey rear extension. Insertion of 1no. window to rear elevation in accordance with the terms of the application Ref 23/00746/FUL, dated 29 March 2023, and subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be undertaken in accordance with the following approved plans and drawings: Location Plan: ALU213-000-Rev A; Proposed Block Plan: ALU213-105-Rev C; Proposed Ground Floor Plan: ALU213-101-Rev F; Proposed First Floor Plan: ALU213-102-F; Proposed Roof Plan: ALU213 104 Rev E; Proposed Side Elevation: ALU213 123 Rev F; Proposed Garden Elevation: ALU213 122 Rev E; Proposed Street Elevation: ALU213 121 Rev E; 45 Degree Rule Sections: ALU213 115 Rev B; Proposed Section DD: ALU213 114 Rev C; Proposed Section CC: ALU213 113 Rev C; Proposed Section BB: ALU213 112 Rev D; and Proposed Section AA: ALU213 111 Rev D.
 - 3) The materials to be used in the development hereby permitted shall be those as specified within the application submissions.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or enacting that Order), no additional windows, doors or openings shall be placed in the side elevation(s) of the extensions hereby permitted without the prior written consent of the local planning authority.

Preliminary Matters

2. Notwithstanding the description of the proposal provided on the planning application form, the submitted scheme was amended during the planning application stage. To reflect this and for the purposes of my Decision, I have used the description of the development as shown on the Council's decision.
3. As part of the appeal, revised drawing '45 Degree Rule Sections: ALU213 115 Rev B' which supersedes drawing number ALU213 115 Rev A, has been submitted. On the revised drawing, the point where the 45 degree line is taken from has been moved to correlate with that specified by the Council. As this revised drawing is for consistency purposes and does not change the appellant's case, I have accepted this in determining this appeal and do not consider that the interests of any party have been prejudiced by my having done so.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of 44 Collinwood Road ('No. 44').

Reasons

5. The host property is a two storey, semi-detached dwelling, located near the junction of Downside Road and Collinwood Road. The proposal seeks planning permission for the demolition of the existing rear extension and garage and for the erection of a single storey side extension and a two storey rear extension.
6. To the east of the host property is No. 44. This property sits perpendicular to the appeal site with its rear elevation backing onto the side of the appeal site. To the rear, No. 44 is served by a patio door and a window at ground floor level and a high-level window and a normal window at first floor level.
7. The patio doors serve a dining room and the ground floor window serves an office/study. For the purpose of its assessment, the Council has identified these as habitable rooms. Therefore, in accordance with LP Policy H14 of the Oxford Local Plan 2036 ('LP'), reasonable privacy, daylight and sunlight is to be retained for these rooms.
8. In terms of outlook, there is an existing boundary fence which is about 1.9m in height and located close to the existing patio doors and ground floor window at No. 44. Therefore, this boundary fence encloses large parts of the patio doors and window at No.44 and thereby already significantly limits the outlook from the rooms they serve.
9. The proposed single storey extension would be located adjacent to the shared boundary. Even so, this extension would be approximately 0.8m from the shared boundary and is to incorporate a relatively shallow roof which is designed to slope away from the shared boundary. The proposed two storey extension would be located further away from the shared boundary than the single storey extension. As such, the siting and scale of the proposed extensions, would not unacceptably impact on the outlook from the patio doors and window at No.44, over and above the extant situation.
10. To assess the effects of the proposal on access to sunlight and daylight and given the layout and orientation of No. 44 relative to the host property, the

main parties have used the 45° rule. This assessment relies on a line drawn at an angle of 45° in the vertical plane from the cill level of a window and the same level from the patio doors. If this line is breached by the proposed development, then this implies some impact on that door or window.

11. Based on the Council's assessment, the proposed single storey extension would breach the 45° line. However, the appellant's submissions identify some inconsistencies in the Council's assessment. Moreover, the appellant's assessment is based on measurements taken on site and therefore likely to be more accurate. Therefore, I attach greater weight to the appellant's assessment.
12. The appellant's assessment shows that the 45° line in the vertical plane in respect of both the patio doors and the ground floor window at No. 44, would not be breached by the proposed extensions.
13. Therefore, and notwithstanding that the existing patio doors and window would be east of the proposed extensions, these would not be unacceptably affected with regard to reduction in sunlight and daylight received.
14. For the above reasons, the proposal would not have an unacceptable effect on the living conditions of the occupiers of No. 44. Accordingly, I find no conflict with LP policies H14 and RE7, which seek to safeguard living conditions.

Other Matters

15. The occupiers of No. 44 have expressed concern about the proposal impacting their plans to develop a sustainable and eco-friendly dwelling in the near future. The details of such proposals are not before me and I have assessed the proposed scheme on the basis of No.44 at present. Also, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
16. In reaching my decision, I have considered the revised version of the National Planning Policy Framework ('the Framework') that was published in December 2023 but this does not alter my findings on the main issue.

Conditions

17. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance and the Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved plans in the interests of certainty.
18. I have imposed a condition requiring that the development is undertaken in accordance with the materials specified within the application submissions.
19. To safeguard the living conditions of neighbours, a condition removing permitted development rights for any side facing windows, doors or openings is also necessary and justified given the arrangement of the proposed extensions, relative to neighbouring dwellings.
20. The proposal is for extensions to an existing dwelling which already incorporates a drainage system. Also, the proposal includes the demolition of existing extensions and a building. As such, and in taking a proportionate approach, I am not persuaded that a requirement for Sustainable Drainage

measures is necessary. Therefore, I have not imposed the Council's suggested condition requesting this.

Conclusion

21. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR