



Appeal Decision

Site visit made on 26 June 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/D3125/W/24/3339455

141 Queen Emmas Dyke, Witney, Oxfordshire OX28 4DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr GuoSong Zhong against the decision of West Oxfordshire District Council.
 - The application Ref is 23/03096/S73.
 - The application sought planning permission for new dwelling and associated works without complying with a condition attached to planning permission Ref 20/03068/FUL, dated 10 November 2020.
 - The condition in dispute is No 2 which states that: The development be carried out in accordance with the approved plans listed below.
 - The reason given for the condition is: For the avoidance of doubt as to what is permitted.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The plans referenced in the disputed condition were set out as an informative and are QED003.1 (Proposed) - Location Plan; QED003.1 (Proposed) - Site plans; QED004.1 - Floor Plans – Proposed; QED005.1 Elevations – Proposed; and QED006.1 – Streetscape.
3. The appellant has submitted a revised scheme and included it as an appendix to their appeal statement. However, the appeal process should not be used to evolve a scheme and it is important that what was formally considered by the Council when they made their decision, and which interested parties' views were sought is the same in the appeal. As a result, in the interest of natural justice it would not be appropriate for me to determine the appeal on the basis of the amended plans. Accordingly, I have determined the appeal on the basis of the plans on which the Council made its decision.

Background and Main Issue

4. The development involving the erection of a new dwelling has commenced. In summary, the proposal would involve a material change to the approved scheme to add a single storey extension that would wrap around the side and rear of the approved scheme.
5. The main issue is the effect of the proposed revisions to the approved scheme on the character and appearance of the area.

Reasons

6. The appeal site is on a corner plot in an established residential area comprising a mix of bungalows, detached, semi-detached and terraced houses of predominantly the same period. Like other properties on corner plots on Queen Emmas Dyke, the original house has a generous side garden which creates a sense of openness and a strong sense of spaciousness at this prominent corner site. This feature is an important positive attribute of the character and appearance of the locality, and it complements the open character of Queen Emmas Dyke.
7. The approved scheme ensures that the proposed side elevation is set back some distance from the boundary to the side which once completed would successfully preserve the sense of openness.
8. The proposed development would result in the area to the side of the existing house being occupied by a single storey extension with a significant footprint and mass. This would harmfully erode the sense of spaciousness in this prominent location. Although the existing hedge is to be retained, which would help to screen the proposed extension, nevertheless the mass and scale of the proposed building would still be apparent and so the existing hedge would not adequately ameliorate the harm.
9. As a result, the proposed revision to the approved scheme to introduce an extension would not comply with Policies OS2, OS4 and H2 of the West Oxfordshire Local Plan 2031 adopted September 2018 (WOLP) which among other things seek to ensure development is of a proportionate and appropriate scale to its context, that respects the character of the locality.
10. Moreover, the proposed extension would not comply with the West Oxfordshire Design Guide 2016 (WODG) which among other things seeks to ensure extensions are of an appropriate scale and sets out that extensions that fill a garden area are unlikely to be supported. The proposal would also not accord with the National Planning Policy Framework (the Framework) which seeks to ensure that development is sympathetic to local character and that the quality of approved development is not materially diminished as a result of changes being made to a permitted scheme.
11. I therefore conclude that the proposal to not comply with the relevant existing condition and to amend the proposal to introduce the extension would have an unacceptable impact on the character and appearance of the area and as previously explained would conflict with Policies OS2, OS4 and H2 of the WOLP, the guidance contained within the WODG and with the relevant policies of the Framework.

Other Matters

12. I note that the appellant considers that the Council did not cooperate or work proactively to achieve an acceptable scheme during the application stage. However, the actions of the Council do not alter my view on the harm the proposal would have on the character and appearance of the area.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

S Rawle

INSPECTOR

