



Appeal Decisions

Site visit made on 15 May 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2024

Appeal A Ref: APP/D3125/W/23/3325890

Rosehill, Green Lane, North Leigh, Oxfordshire OX29 6TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Kane Kahn against the decision of West Oxfordshire District Council.
 - The application Ref is 23/00609/FUL.
 - The development proposed is the erection of a replacement dwelling and associated works.
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Appeal B Ref: APP/D3125/W/23/3325578

Rosehill, Green Lane, North Leigh, Oxfordshire OX29 6TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Kane Kahn against the decision of West Oxfordshire District Council.
 - The application Ref is 23/00604/HHD.
 - The development proposed is single-storey rear extension, new raised oversailing roof with roof accommodation and associated works.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Since the determination of the applications the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to these appeals have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
4. These decisions address two separate appeals (Appeal A and Appeal B) for different proposals on the same site. Appeal A concerns proposals for a replacement dwelling, while Appeal B proposes extensions to an existing dwelling. I have considered each proposal on its individual merits. However, to reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.

5. An appeal¹ for extensions at the appeal site was dismissed in February 2024. Whilst I have born in mind the findings of the previous Inspector, the appeal schemes now before me are materially different and have been determined on the basis of their individual merits and the evidence before me.

Main Issues

6. The main issues for Appeal A are:
- the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposals on the living conditions of the occupiers of the neighbouring property, Badgers Mount, with regard to outlook, sunlight and daylight; and
 - the effect of the development on biodiversity.
7. The main issues for Appeal B are:
- the effect of the proposed development on the character and appearance of the area and the host dwelling; and
 - the effect of the proposals on the living conditions of the occupiers of the neighbouring property, Badgers Mount, with regard to outlook, sunlight, daylight and privacy.

Reasons

Character and appearance (Appeal A)

8. The appeal site is located within a residential area on the outskirts of North Leigh. The wider area is characterised by a variety of house types. However, the appeal site is located within a group of relatively evenly spaced bungalows on the same side of Green Lane of a similar scale and form, set back a consistent depth from the road. The ridgelines of these bungalows step down in sequence in response to the topography of Green Lane which slopes down to the west.
9. Several of the nearby properties have been extended through the provision of dormer windows and extensions at the rear and sides. However, where dormers exist on the front elevations of other properties nearby, they are set well within the roof slope allowing the original shape of the main roof to be appreciated. Therefore, a degree of consistency in built form remains, when viewed from the road and this gives the area a regular, ordered character which is a positive feature of the area.
10. The appeal site comprises an existing bungalow with accommodation in the roof, served by dormer windows and roof lights. It is similar in scale, form and positioning within its plot to other dwellings within the immediate context. Consequently, the appeal site contributes positively to the character and appearance of the area.
11. The replacement dwelling proposed under Appeal A would result in a dwelling with a ridge height exceeding that of both neighbouring properties. This would interrupt the characteristic stepped roof line in the area. Furthermore, the

¹ APP/D3125/D/23/3334535

eaves of the proposed dwelling would be higher than both neighbouring properties. As a consequence, the proportions of the proposed replacement dwelling would appear at odds with that of neighbouring properties, which would therefore erode the consistency of the regular pattern of development within the vicinity of the appeal site.

12. Furthermore, the proposed provision of three projecting gabled elements, along with proposed full height windows and extent of glazing on the front elevation would contrast significantly with the relatively simple form of existing development near to the appeal site and the wider street scene. Whilst there are properties nearby which have more glazing within their front and rear elevations than the existing building, based on the evidence before me and my own observations, none are glazed to the extent proposed. Taken together with the substantially different roof form and projection of the first-floor accommodation towards the road, the proposed dwelling would have a 'top heavy' appearance and stand out as harmfully out of place. Consequently, the proposed replacement dwelling would fail to respond positively but be at odds with the prevailing character of the area.
13. Therefore I find that the proposed development under Appeal A would have a harmful effect on the character and appearance of the area and would fail to accord with Policies OS2, OS4 and H6 of the West Oxfordshire Local Plan 2031 (adopted September 2018) (LP) and the Framework insofar as they seek to ensure that development achieves a high standard of design, contributes to local distinctiveness, is of a proportionate and appropriate scale to its context and respects the character of the surrounding area.

Character and appearance (Appeal B)

14. Appeal B proposes extensions to the existing building. However, the overall extent of the extended dwelling would have a markedly similar impact as the proposed dwelling under Appeal A. Indeed, the overall ridge and eaves height would similarly reach above those of neighbouring properties; so too would there be an extensive amount of glazing and gable projections accentuating the front elevation. For similar reasons, therefore, I consider that the proposed extensions would have a harmful impact on the character and appearance of the area.
15. Moreover, the size and scale of the proposed extensions would dominate and overwhelm the relatively modest form of the existing dwelling and would obscure the original features of the dwelling, including its roof. Therefore, the extensions proposed under Appeal B would fail to respect but rather cause harm to the original form and character of the host dwelling.
16. I conclude that the proposals the subject of Appeal B would have a harmful effect on the character and appearance of the area and the host dwelling. In these respects, the proposals would similarly be contrary to Policies OS2, OS4 and H6 of the LP and Framework, as well as advice contained in the West Oxfordshire Design Guide 2016 insofar as these seek to ensure development is of an appropriate scale to its context, contributes to local distinctiveness and that extensions respect the character of the surrounding area.

Living conditions (Appeal A)

17. Due to the topography of the area, Badgers Mount, an existing chalet bungalow to the west of the appeal site is on lower ground than Rosehill. Appeal A would introduce a new building of greater height and depth adjacent to the western boundary of the site.
18. The proposed cat-slide roof would result in relatively low eaves to the western edge of the proposed building. However, because of its elevated position it would be a prominent feature when viewed from the garden of Badgers Mount. Mature vegetation exists at present which would partially screen the proposal from these views, however given the overall height of the building its presence would be obvious. Because of the overall depth of the proposals alongside the garden of Badgers Mount, it would result in an overbearing impact on the outlook from this area.
19. The appeal site is to the east of Badgers Mount and due to the overall depth of the proposed new dwelling, combined with the elevated position, it would cause a loss of direct sunlight to parts of the rear elevation of Badgers Mount in the morning. However, because of its north-facing rear aspect, the proposal would be unlikely to result in a significant effect upon overall levels of daylight received by occupants of Badgers Mount.
20. Therefore, while I do not consider that the proposed development would lead to a harmful loss of daylight for the occupiers of Badgers Mount, there would be harm to the living conditions of the occupiers of this property as a consequence of loss of sunlight and outlook. I consider the proposed replacement dwelling would fail to accord with Policies OS2, OS4 and H6 of the LP and the Framework insofar as they seek to ensure that development does not result in a harmful impact on the amenity of existing occupants.

Living conditions (Appeal B)

21. Reason for refusal 2 in relation to Appeal B included reference to the dormer window on the western elevation, which was not included as a reason for refusal in Appeal A, although the replacement dwelling would include a dormer in the same location. The dormer window would serve a bathroom and were I to allow the appeal I could attach a condition requiring the window to be obscurely glazed. Subject to such a condition I am satisfied that the dormer window would not result in a loss of privacy to the occupiers of Badgers Mount.
22. The proposals the subject of Appeal B would have an acceptable effect on the living conditions of the occupiers of Badgers Mount in respect of daylight and privacy. Nonetheless, it would have a harmful effect on the living conditions of the occupiers of Badgers Mount, with regard to outlook and sunlight. Consequently, the proposed extensions would also fail to accord with Policies OS2, OS4 and H6 of the LP and the Framework which seek to ensure that proposals do not harm the living conditions of existing occupants.

Biodiversity – Appeal A

23. Appeal A would result in the demolition of an existing building. The building has the potential to provide roosting opportunities for bats. The appeal site is also within an 'Amber Impact Zone' for great crested newts, indicating that the species is likely to be present in the wider landscape.

24. I note the appellant's contention that they were given insufficient time to prepare a Preliminary Ecological Appraisal (PEA). They contend that there are limited opportunities for ecology within the house or the garden and that it is inappropriate to require a report to be prepared. I also note their enthusiasm for wildlife.
25. Nevertheless, based on the evidence before me, including the comments of the Council's Ecology advisor, I am satisfied that the proposal might adversely affect biodiversity. In the absence of a PEA I am not satisfied that detailed surveys are not required.
26. Consequently, I find that the proposal the subject of Appeal A could result in a harmful effect on biodiversity. The proposal would therefore conflict with Policy EH3 of the LP which requires that all applications that might adversely affect biodiversity are accompanied by adequate ecological survey information. It would also conflict with paragraphs 180 and 186 of the Framework which seek to ensure that development does not result in harm to biodiversity.

Other Matters

27. I acknowledge that the proposals would result in an enhancement in energy efficiency compared with the existing building. However, I am not convinced that these aims could not be achieved in ways which would be less harmful to the character and appearance of the area. Whilst other bungalows in the area may seek to modernise in the future, I have determined the appeal on the current circumstances and the evidence before me.
28. References have been made to revised submissions, however I must determine these appeals on the basis of the applications which were refused by the Council.

Conclusions – both appeals

29. The proposals in Appeal A and Appeal B conflict with the development plan and the material considerations do not indicate that the appeals should be decided other than in accordance with it. Therefore, Appeal A and Appeal B are both dismissed.

E Pickernell

INSPECTOR