



Appeal Decision

Site visit made on 20 August 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2ND September 2024

Appeal Ref: APP/C3105/D/24/3344807

5 Cobb Cottage, Mill Lane, Adderbury, Oxfordshire OX17 3LP

- 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 Chris & Penny Stylianou against the decision of Cherwell District Council.
 - The application reference is 23/03376/F.
 - The development proposed is natural ironstone extension to rear of property with natural slate roof incorporating 1 no conservation rooflight, internal alterations and removal of timber shed and replacement with timber garden studio (revised scheme of 16/00978/F).
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Decision

1. The appeal is allowed, and planning permission is granted for natural ironstone extension to rear of property with natural slate roof incorporating 1 no conservation rooflight, internal alterations and removal of timber shed and replacement with timber garden studio (revised scheme of 16/00978/F) at 5 Cobb Cottage, Mill Lane, Adderbury, Oxfordshire OX17 3LP in accordance with the terms of the application ref 23/03376/F subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan (serial number 224005 project name 10581), proposed site plan, proposed elevations A, B and C, proposed first floor plan, proposed ground floor plan, proposed roof layout, proposed section and studio floor plans and elevations;
 - 3) The external finishes of the development hereby permitted shall match those within the existing dwelling or as set out within the submitted application form. Any variations must be agreed, in writing, by the Local Planning Authority prior to installation or use on site.

Main Issue

2. The main issue is the impact of the proposal upon the living conditions of neighbouring occupiers (Mair's House) with regard to outlook, light, and overbearingness.

Reasons

3. There are two main elements to the appeal proposal, the first being the extension to the rear of the property and the second being the removal of a timber shed and replacement with a timber garden studio. Based upon the

Council's delegated report it is evident that the refusal reason is based upon the rear extension only and that the replacement timber garden studio is acceptable in all regards. I have no reason to conclude differently on the garden studio element so for the avoidance of doubt, this appeal will focus upon the rear extension in the context of the main issue outlined above.

4. The appeal site is a traditional terraced dwelling constructed from natural stone with a natural slate roof and rendered two storey gabled extension to the rear located on Mill Lane. The site is within the Adderbury Conservation Area as well as being in close proximity to listed buildings, however, the Council's delegated report and refusal reasoning confirms that the refusal reason is specific to residential amenity with design, impact on the character of the area and Conservation Area being confirmed as acceptable. Based upon the evidence before me, and my site visit, I have no reason to conclude differently.
5. The appeal site benefits from relevant planning history¹ which includes revisions of differing schemes for a rear extension and removal of a timber shed and replacement with a timber garden studio. The Council acknowledge that similar developments have been approved previously on the site but note that these permissions have now expired as works have not been implemented within three years following their approval. The weight which can be attributed to them is as fallback position, therefore, limited insofar as they could not be implemented beyond the control of the Council at this point. Despite this it is of direct relevance that later applications on this site were assessed and approved against the same Local Plan documents, and guidance, which is applicable at the point of the determination of this appeal.
6. Based upon the evidence before me I find that the proposals which are the subject of this appeal would be, compared to previous proposals, of increased depth adjacent to the common boundary with Mair's House. The proposal would not accord with the 45-degree rule as measured from the centre point of the neighbours ground floor window. The current scheme does, therefore, have potential to result in an impact on residential amenity of neighbouring occupiers. I do not, however, find that the revisions within this current proposal, compared to that previously considered acceptable (in terms of residential amenity), are significant enough to warrant a differing outcome. Based upon comparison of the schemes, I do not find that the amendments to scale would cause demonstrably greater harm in terms of loss of outlook, light, or overbearingness in relation to neighbouring residential amenity.
7. The proposal would be located to the southeast of Mair's House, and I note that the adjacent property has a single storey kitchen/living area closest to the proposal which benefits from dual aspect windows and doors which would maintain an appropriate level of outlook for the rooms in question. Again, taking into account the overall modest increase in size I do not find that the proposal would result in a loss of amenity which would warrant refusal. Overall, taking into account the extensive site history and previous assessment of the site, I find that the Council's assessment as to the impact of the proposal upon the neighbouring amenity of Mairs House to be limited. It is likely, based upon the evidence before me, that the previous proposals would not have accorded with the 45-degree angle yet this was still considered, by case officers, to be appropriate in terms of potential impact as a result of the

¹ 15/0060/F, 16/00978/F, 16/01819/F and 21/00192/F

- orientation of Mair's House to the south of the proposed extension along with a number of doors, windows, and roof lights serving the kitchen/living room which was stated to be the nearest room on the ground floor of Mair's House.
8. The measurements for distances from the patio doors and nearest windows may differ, marginally, but I do not find that they would differ so significantly to warrant an entirely different, or unacceptable, impact to the neighbouring property. Whilst each case must be considered on its own merits, consistency in approach and decision making is key to maintaining confidence in the planning system. The basis of assessment for the proposal is the same as that against which previous schemes were considered. By reason of scale and siting, height and depth I find that the proposal would not adversely affect the living conditions of the neighbouring occupier, Mair's House, as a result of outlook, loss of light or being an imposing and overbearing form of development.
 9. The proposal would be consistent with Cherwell Local Plan 2011 to 2031 (adopted 2015) Policy ESD15 which outlines that new development proposals should consider the amenity of both existing and future development including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space and Cherwell Local Plan 1996 saved Policy C30 which requires that proposals for the extension of an existing dwelling provide standards of amenity and privacy acceptable to the Local Planning Authority.
 10. The proposal would also be consistent with Cherwell District Council's Home Extensions and Alterations Supplementary Planning Guidance 2007 which, within its overarching guidance, aims to protect daylight to and amenity from neighbours living area windows considering matters listed within that guidance. The proposal would also be consistent with paragraph 135 f) of the National Planning Policy Framework 2023 which seeks to create places with a high standard of amenity for existing and future users.

Conditions

11. The Council's questionnaire, submitted as part of this appeal, appears to suggest that no conditions are required in the event that this appeal is allowed. I assume, however, that this is an error in completion of the questionnaire. A time condition is attached to the permission to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A Condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A condition relating to materials is required to ensure an appropriate finish.

Conclusion

12. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR