



Appeal Decision

Site visit made on 29 October 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/C3105/W/24/3340834

Birdhouse, 43 Lapsley Drive, Banbury, Oxfordshire OX16 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Neil Copping against Cherwell District Council.
 - The application Ref is 23/02346/F.
 - The development proposed is described as 'Demolish conservatory. Single storey rear extension on footprint of existing conservatory. New door to existing side elevation'.
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Decision

1. The appeal is allowed and planning permission is granted to demolish conservatory, single storey rear extension on footprint of existing conservatory, new door to existing side elevation at Birdhouse, 43 Lapsley Drive, Banbury, Oxfordshire OX16 1EN in accordance with the terms of the application, Ref 23/02346/F, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan dwg. No. WG1277 – 001, Proposed floor plans dwg. no. WG1277-005C and Proposed elevations dwg. No. WG1277-006C.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.

Preliminary Matters

2. The Council failed to determine the application within the prescribed period. However, following the submission of the appeal, the Council has submitted an officer's delegated report which sets out that had the Council determined the application, planning permission would have been refused, including a putative reason for refusal, and an appeal statement. Based on the Council's evidence, the main issue is that set out below.
3. The description of development in the banner heading omits the text that refers to the proposal as the resubmission of a previous planning application, as this does not describe acts of development.

4. The appellant specifically requests that the appeal is determined based on the amended plans¹ which were submitted to the Council during its consideration of the application. While it is unclear whether these drawings were subject to public consultation, given that they show a scheme of a similar design, with smaller dimensions than that originally submitted, I am satisfied that no injustice would occur should I consider the amended plans. For the avoidance of doubt, I have determined the appeal on the basis of the revised scheme.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of 45 Lapsley Drive (No 45) having particular regard to light and outlook.

Reasons

6. The appeal site comprises a 2 storey dwelling which lies at the end of a short row of terraced properties. The surrounding area is predominantly residential in character. The appeal would see the demolition of the existing conservatory to the rear of the property and the erection of a single storey extension, with a pitched tiled roof, in its place.
7. The proposed extension would be set back a short distance from the shared boundary with the adjoining property at No 45. While No 45 and its garden are modest in width, the extension would extend along only part of the boundary between the properties. Moreover, due to the combination of its projection beyond the rear wall of the main dwelling, height and roof design, which slopes away from the side boundary, the extension would not give rise to a significant loss of light or unacceptably dominate the outlook from the ground floor windows in the rear elevation of No 45, or its rear garden.
8. The Council's putative refusal reason refers to its Home Extensions and Alterations Design Guide, dated March 2007. However, it is not clear from the Council's evidence as to how the proposal would give rise to conflict with advice contained in the guidance.
9. Consequently, I find that the proposal would not harm the living conditions of the occupiers of No 45 in terms of light or outlook. As such, it would accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, adopted July 2015 and saved Policy C30 of the Cherwell Local Plan 1996 in so far as they require new development to provide acceptable standards of amenity, and the National Planning Policy Framework which provides that, amongst other things, developments should create places with a high standard of amenity for existing and future users.

Conditions

10. I have imposed conditions relating to the time limit for the commencement of the development, and also to require compliance with the plans, in the interest of clarity. A condition is necessary to require the external materials to match those used on the host dwelling, to integrate the appearance of the proposed extension.

¹ Drawing numbers WG1277-005C and WG1277-006C

Conclusion

11. For the reasons given above I conclude that the appeal should be allowed.

E Worley

INSPECTOR