



Appeal Decision

Site visit made on 14 January 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/D3125/D/24/3347955

Chalfont, 3 Wroslyn Road, Freeland, Oxfordshire OX29 8HJ

- 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 Frank Creese against the decision of West Oxfordshire District Council.
 - The application Ref is 24/00216/S73.
 - The application sought planning permission for a proposed garage/store in the rear garden without complying with conditions 2 and 3 attached to planning permission Ref 23/00124/HHD, dated 14 March 2023.
 - The conditions in dispute are Nos 2 and 3 which state: *'That the development be carried out in accordance with the approved plans listed below'* and *'The development shall be constructed with the materials specified in the application'*.
 - The reasons given for the conditions are: *'For the avoidance of doubt as to what is permitted'* and *'To ensure that the development is in keeping with the locality and for the avoidance of doubt as to what is permitted'*.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed garage/store in the rear garden at Chalfont, 3 Wroslyn Road, Freeland, Oxfordshire OX29 8HJ in accordance with the application Ref 24/00216/S73, without compliance with condition numbers 2 and 3 previously imposed on planning permission Ref 23/00124/HHD dated 14 March 2023 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of planning permission Ref 23/00124/HHD, dated 14 March 2023.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 22012.07 Rev P5 - Proposed Site Plan & Location Plan and 22012.08 Rev P2 - Proposed Garage.

Preliminary Matter and Background

2. At the time of my site visit I observed that the garage/store was under construction but had not yet been completed. Therefore, for the avoidance of doubt I have determined the appeal based on the proposed plans before me.
3. Planning permission for the garage/store¹ includes conditions which require the development to be constructed in accordance with the approved plans listed on the Decision Notice and using the materials specified in the application. The appellant

¹ LPA Ref 23/00124/HHD

seeks to vary the conditions so as to erect the building to a different design, dimensions, materials, and position to that approved.

Main Issue

4. The main issue is the effect of the proposed development, as amended, on the living conditions of the occupiers of Pembroke House, having particular regard to outlook.

Reasons

5. The revised scheme includes a gable to the flank elevation of the building in lieu of the lean-to adjunct, the repositioning of the building, and an increase in the depth of the building of 600mm and ridge height by 200mm. The proposal also includes a brick plinth to the walls of the building and a slate roof in place of the approved shingle roof.
6. Adjoining the appeal site is Pembroke House, a detached dwelling with ground floor windows and a conservatory to the rear elevation which directly face the appeal site. The amended siting of the building means it would sit closer to the side boundary of the site, which forms the rear boundary of Pembroke House, than the approved development. Like the approved scheme, the building would comprise a gable to the side elevation facing the rear of Pembroke House.
7. The building would be visible from the rear of Pembroke House above the existing boundary fence. However, despite the increase in width of the side gable and ridge height of the building, as a result of the overall scale and massing of the building, together with the set back from the shared boundary between the properties, it would not appear unduly overbearing when viewed from Pembroke House. Consequently, it would not harm the outlook from the rear of Pembroke House or its garden.
8. The Council has not objected to the proposal on the grounds of harm to living conditions of the other nearby neighbouring properties having regard to outlook, or light. Given the overall scale, height, and siting of the building in relation to these properties, I have no reason to disagree. Moreover, as the building is single storey, and does not include any openings above eaves height, it would not result in any overlooking or loss of privacy to the occupiers of the neighbouring properties.
9. For the foregoing reasons I conclude that the revised proposal would not harm the living conditions of the occupiers of Pembroke House, having particular regard to outlook. Consequently, the proposal would not conflict with the combined aims of Policies OS4 and H6 of the West Oxfordshire Local Plan 2031, adopted September 2018, which seek to ensure development is of a high quality design, and does not harm the living conditions of nearby residential properties.

Other Matters

10. I acknowledge concerns regarding the future use of the building, including the potential of noise generation, in the event that it is occupied as residential accommodation. Nevertheless, there is no substantial evidence before me to suggest that the outbuilding will be used for habitable accommodation, or anything other than uses associated with the host dwelling. Should a material change of use occur, this would require a further planning permission.

11. Concern is also expressed by interested parties that the granting of permission for the appeal scheme would set a precedent for future similar development. However, no directly comparable sites to which this might apply have been put forward. In any case, each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
12. It is asserted that the development would result in the loss of views across the site towards the wider landscape from the neighbouring property. However, a change of view from a private window is not in itself regarded as a planning consideration. Furthermore, it is a long-established principle that the planning system does not serve to protect private interests such as the value of land and property.

Conditions

13. A condition is necessary to require the proposed development, as shown on the submitted plans, is begun within 3 years of the date of the original permission, as an application made under s73 of the Town and Country Planning Act 1990 (as amended) cannot be used to extend the time limit within which a development must be started. A condition specifying the revised drawing numbers is necessary in the interests of certainty. However, given that the approved drawings include sufficient details in respect of materials, a separate condition relating to the materials to be used is not required.

Conclusion

14. For the reasons given above the appeal is allowed.

E Worley

INSPECTOR