



Appeal Decision

Site visit made on 2 January 2025

by **B J Sims BSc (Hons) CEng MICE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/V3120/D/24/3355551

19 Harwell Road, Sutton Courtenay, Abingdon, Oxfordshire, OX14 4BN.

- 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 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Page against the decision of Vale of White Horse District Council.
 - The application Ref is P24/V1836/S73.
 - The application sought planning permission for erection of extension to ancillary building to form a granny annexe and carers room without complying with conditions attached to planning permission Ref P17/V1770/FUL, dated 15 August 2017.
 - The conditions in dispute are Nos 2 and 3 which state:
 - 2. That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, ABCU-001, except as controlled or modified by conditions of this permission.
 - 3. The development shall be built using only the external materials specified on the forms and/or shown on the approved drawings the subject of this planning permission, unless otherwise agreed in writing by the Local Planning Authority.
 - The reasons given for the conditions are:
 - 2. To secure the proper planning of the area in accordance with Development Plan policies.
 - 3. In the interest of visual amenity (Policy CP37 of the adopted Local Plan 2031, Part 1).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr David Page against the Vale of White Horse District Council. This is the subject of a separate Decision.

Procedural Matters

3. The site inspection was set down as an unaccompanied site visit, assuming that the appeal building could be seen sufficiently clearly from public viewpoints. In practice, I considered it necessary to enter the site to inspect the building and did so under the access-required-site-visit procedure, with the agreement of the resident Appellant, Mr D Page. It was subsequently confirmed in writing by his Agent that this was acceptable.
4. The appeal is retrospective but this has no effect on the manner in which the planning issues arising are assessed.

Main Issues

5. The main issues are: the character and appearance of the subject ancillary building; its effects on the site and surroundings; its relationships to the main dwelling at No19 and to the neighbouring property, No17 Harwell Road; and ultimately whether the conditions disputed in the appeal remain necessary, relevant, reasonable and enforceable, in terms of the tests set by national policy.

Reasons

Character and Appearance

6. The retrospective application simply sought to regularise a new square dormer window and a change to the ridge height of an ancillary outbuilding originally erected under approval Ref P10/V0788. The application form¹ and refusal notice refer to subsequent permission Ref P17/V1770/FUL in 2017, wherein the building was approved for extension and conversion to form a granny annexe and carers room, with a pitch-roofed dormer to the full height of the hipped roof.
7. However, there was an intervening later approval in 2018, under Ref P18/V00056/FUL, for alterations to the roof and roof pitch of the building from the form permitted under Ref P17/V1770/FUL. The revised design created a cropped gable roof profile.
8. This appeal must accordingly turn on the difference between the building in its present completed form and as it was approved in 2018, as the proper baseline for comparison.
9. The current appeal scheme includes variations to the ground floor fenestration pattern which are of little consequence to the overall appearance of the building. It also includes an increase in the overall height of the roof and the replacement of the previously approved pitch-roofed dormer by a larger, square, flat-roofed dormer, rising almost to the full height of the raised main, cropped-gable roof.
10. It is maintained for the Appellant that these further changes amount to a minor alteration of the dormer and a marginal raising of the roof. I strongly disagree. I have not been favoured with properly dimensioned elevations but it is obvious from the submitted and previously approved plans, and from inspection, that the roof has been substantially increased in height, compared with the 2018 approval, and now exceeds the overall height of the ground floor, and that the square dormer is disproportionate and visually over-dominant. The overall impression is of a building which, in its character and appearance, looks top-heavy and lacks inherent visual harmony and, as a result, has an unacceptably adverse impact also on the character and appearance of the site and its immediate surroundings. I agree with the Council that the previous approval represented the maximum limit of acceptable change to the building.
11. I recognise that rear outbuildings are common in the area and that, in this case, the building would not be readily visible publicly from the street and would be seen only at some distance from viewpoints to the rear. However, mere unobtrusiveness is no compensation for unacceptable design.

¹ The original Householder application form was replaced by the Section 73A form at the request of the Council

12. I therefore find that, in its present form, the appeal building is visually unattractive in scale, height and massing and thus contrary to criterion (viii) of Core Policy 37 (CP37) of the adopted Vale of White Horse Local Plan (VWHLP), as supported by paragraph 5.2 of the adopted Joint Design Guide Supplementary Planning Document.

Relationship to No19 Harwell Road

13. Policy DP04 of the VWHLP sets a range of criteria for residential annexes. These include: (i) demonstrated strong functional relationship with the host dwelling; (iii) subordinate size, scale and design; and (vii) reasonable integration with the function of the main dwelling.
14. In its relationship to the host dwelling at No19 Harwell Road, the appeal building now appears more as a separate house than a secondary, ancillary outbuilding, as originally approved and with the subsequent modifications allowed up to the 2018 approval. I therefore find that the subordinate functional relationship between the annexe and the main house has been eroded by the scale and design of the annexe, and that the annexe visibly fails to integrate with the function of the original dwelling. That is despite a claimed measure of interdependence in such as laundry facilities, refuse collection and service connections.
15. I am alert to the fact that the annexe and the main dwelling share common access and parking and, as a unit of occupation, share the same curtilage, as defined in much case law and as discussed in the judgments in the cases cited by the Appellant.²
16. Nevertheless, for the reasons I explain above, I consider that the building subject this appeal, in its present completed form, fails to comply with criteria (i), (iii), and (vii) of Policy DP04 of the VWHLP.

Relationship to No17 Harwell Road

17. As regards No17 Harwell Road, in my view the appeal building at No 19 is sufficiently far distant to avoid any undue adverse impact upon its character, appearance or amenity.

Disputed Conditions

18. Conditions 2 and 3 of the 2017 permission have, in effect been, superseded by the later modifications approved in 2018. However, I am limited in deciding this appeal to assessing whether the conditions formally in dispute should remain in place. Both the 2017 and the 2018 permissions stand alone.
19. Accordingly, non-compliance of the building as now completed with the approved 2018 modifications is a separate matter not for this appeal.
20. Otherwise, it is still appropriate to continue to prevent unacceptable modifications in design or materials to the subject building. The disputed conditions 2 and 3 of permission Ref P17/V1770/FUL, the subject of this appeal, remain the effective means of doing so.

² Burdle v SSE [1972] 3 All E.R. 240; Gravesham BC v SSE & O'Brien [1983] JPL 306; Stone & Stone v SSCLG & Cornwall Council [2014] EWHC 1456 (Admin)

Conclusions

21. The policies cited above are essentially consistent with the National Planning Policy Framework and I consider that the ancillary building in its present form is contrary to the development plan as whole.
22. I have considered every matter raised and note the absence of other substantive objections.
23. However, there is nothing to divert me from my overall conclusions that conditions 2 and 3 of planning permission Ref P17/V1770/FUL remain relevant, reasonable enforceable and necessary to that approval and that, therefore, this appeal should be dismissed.

B J Sims

INSPECTOR