

Appeal Decision

Site visit undertaken on 30 December 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision Date: 5th February 2025

Appeal A Ref: APP/C3105/D/24/3348011

141 Bismore Road, Banbury OX16 1JN

- 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 Andrew Wilde against the decision by Cherwell District Council.
 - The application reference is 24/00362/F.
 - The development proposed is described on the Application form as the 'Erection of a single-storey garage with covered seating area at end of driveway into rear garden. Care taken to match front elevation of pre-existing single garages on street.'
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Appeal B Ref: APP/C3105/D/24/3348282

141 Bismore Road, Banbury OX16 1JN

- 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 Andrew Wilde against the decision by Cherwell District Council.
 - The application reference is 24/01225/F.
 - The development proposed is described on the Application form as the 'single-storey flat roof garage at end of driveway into rear garden.'
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Appeal A:

1. The appeal is dismissed.

Appeal B:

2. The appeal is dismissed.

Procedural Matters

3. This decision deals with two planning appeals under s78 of the Town and Country Planning Act 1990. Whilst each of the appeals are to be considered individually under these processes, as the cases are for the same site, and are similar in their nature and considerations; to avoid repetition and for the avoidance of doubt, I have dealt with each of the appeals within this single letter.
4. With regards to Appeal A, there have been a number of amendments made to the length and height of the garage. Appendix D as submitted with this appeal appears to have been the last change whereby dimensions of the garage are an overall length of 6.8 metres, and a flat roof with an overall height of 2.6metres – 2.65 metres. For clarity this letter will only assess these last amended plans shown in Appendix D of the appeal documents.

Application for Costs

5. Appeal B contains an application for costs which is made by the Appellant against Cherwell District Council. This application is the subject of a separate decision.

Main issue – Appeals A and B

6. The main issue for each of the appeals is the effect of the proposal upon the living conditions of No.89 Watts Road, with particular regard given to access to light and sense of enclosure.

Reasons – Appeals A and B

Legal and Policy Context

7. In assessing impact to living conditions as a result of development, the Cherwell Local Plan 2011-2031 (LP) Policy ESD15 seeks consideration around the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. This policy is supported by the House Extensions and Alterations Design Guide Supplementary Planning Document (SPD) which contains further explanations and guidance with regards to outbuildings and their placement with considerations around living conditions of current, future and surrounding occupiers.
8. I note that the Reason for Refusal in the Council's Decision Notice for both Appeals A and B refers to Saved Policy C30 of the Cherwell Local Plan 1996. This policy appears to relate only to the assessment of living conditions as a result of an extension to a dwelling or for a new housing development or a conversion of a building for housing, as opposed to the development of an outbuilding which is detached and located within the garden of a dwelling. As such, I do not consider that this policy is relevant to the determination of either appeal.
9. As per the Council's Statement of Case (SoC), the Council have noted that given the density of development/size of gardens within this particular housing estate; that permitted development rights under the provisions of the General Permitted Development Order (GPDO) 1995 for outbuildings have been removed by condition through the planning permission given as part of the original housing estate¹.

Site Description

10. The appeal building and site was constructed relatively recently as part of a greater housing estate. Typically with these types of estates, dwellings are arranged around a series of estate roads and cul-de-sacs with pedestrian walkways traversing through the estate. Dwellings are two storeys tall, with some dwellings clad in iron stone whereas others are clad in brick with a mix of small terraces, detached and semi-detached dwellings. There are visual gaps between dwellings and the is close-knit in terms of how the properties are arranged, their setback from neighbouring dwellings, with the dwellings having relatively small front and rear gardens. Some of the dwellings have driveways without a garage, whereas others appear to have been designed with a garage.
11. The appeal site fronts Bismore Road and is a semi-detached dwelling that has a driveway to the north of the dwelling. The northern side boundary also forms the rear boundary of No.s 89 and 91 Watts Road. No.s 89 and 91 Wells Road have a garage that is located between the properties to the rear and which forms

¹ Planning Application Ref: 15/01589/REM, Condition 9

much of the side boundary to the rear gardens of these properties. To the rear of the appeal site is a public accessway that provides pedestrian accessibility through the housing estate.

Effect upon the living conditions of No.89 Watts Road

Appeal A

12. This proposal seeks to construct a single storey garage with flat roof along the northern boundary, which would commence past the end of the dwelling and project 6.8 metres along the northern boundary. The garage would be constructed in brick with an eave height between 2.6-2.65 metres.
13. The proposed garage would be positioned along the northern side boundary and would project for much of the length of the garden of the appeal site, which would also be erected along much of the rear boundary of No.89 Wells Road. Given that the side boundary of No.89 Wells Road is taken up by the built form of their garage, the only outlook without development is to the south over the appeal site and to the east over the public accessway. Whilst the reduction in depth has allowed a greater amount of openness and outlook from the rear garden of No.89, the combined height and depth of the proposed garage against the boundary would mean that there would be an increased sense of enclosure of the rear garden of No.89 due to the development on 2 of the three sides of the garden. This would present a detrimental impact towards the living conditions of the neighbouring occupiers at No.89 Watts Road and the enjoyment of their garden space due to the amount of development in close proximity causing a poor outlook and detrimental sense of enclosure. I can also appreciate attempts by the applicant to reduce the massing and bulk by lowering the roof height from earlier proposals, however the current plans would still cause adverse detriment to the living conditions of surrounding occupiers.
14. Turning to access to light, given the position of the garage, a shadow would be cast to much of the rear garden, reducing towards the afternoon as the sun traverses to the west. Given the very small area of garden space, the small increases and decreases in height and length of structures can have noticeable differences in terms of the exposure and access to light. Given the combined height and depth of the proposed garage when assessed against the direction of the sun and likely access to light, the proposal would cause a detrimental loss of light which would cause harm to the enjoyment of the garden space of the occupiers of No.89.
15. I can appreciate that the appellant has attempted to mimic other garages found in the estate², however these appear to have been planned as part of the estate and do not present the same locational aspects given that this current proposal would present as two boundaries of built form, which is not present on the examples given in the Appellant's SoC. As such the presence of other garages in the estate does not demonstrate that a similar garage would be appropriate in this circumstance.
16. Taking the above into account, the proposal's combined height and depth along the northern boundary would cause detriment to the living conditions to the rear

² No.155 Bismore Road.

garden of No.89 from sense of enclosure and access to light. Consequently, the proposal would be contrary to LP Policy ESD15.

Appeal B

17. This proposal would have the same depth as Appeal A, however would decrease the overall roof height from 2.6 metres to 2.4 metres. This appeal was refused for the same reason as Appeal A.
18. Many of the elements of the assessment under Appeal A are also relevant to Appeal B with concerns such as the depth and overall height of the proposed garage. As previously discussed, small changes in this type of dense and close-knitted environment can have large impacts in terms of living conditions. Whilst the reduction in height would reduce the amount of harm caused to the rear garden of No.89 compared to Appeal A; the changes would not be enough to make the scheme acceptable and in accordance with LP Policy ESD15.
19. Whilst I can appreciate that the Appellant was asked to look at the SPD by the Case Officer with regards to impacts to living conditions, this will have been around the general nature of extensions and how they can impact upon gardens of surrounding occupiers and how to modify the scheme accordingly. Whilst the guidance highlights that in typical cases the GPDO states that a height of 2.5 metres within 2 metres of a boundary would be acceptable, the appeal site is not a typical case. In this instance there are no permitted development rights and this has been undertaken deliberately because the planned estate is much more dense than typical developments which are more relevant to the GPDO. As such comparisons with the GPDO are not relevant considerations to this appeal and carry limited weight in this determination which needs a more specific and tailored approach to proposed development.
20. Taking the above into account, the proposal would still result in detrimental effects towards the living conditions of No.89 Watts Road as a result of sense of enclosure and loss of light. Consequently, the proposal would be contrary to LP Policy ESD15.

Other Matters

21. I note submissions from interested parties with regards to the proposal and the loss of property value, the ability to sell a neighbouring property and implications of drainage runoff from the proposed building to the neighbouring properties. The loss of property value or the saleability of a property is not a planning consideration and has not been considered as part of these appeals. Given the detriment caused by harm to living conditions, it has not been necessary to explore the matter with regards to potential drainage impacts from the proposed development.

Overall Conclusion – Appeals A and B

22. For the reasons given above, and having considered all other matters raised, Appeals A and B are dismissed.

J Somers

INSPECTOR