



Appeal Decision

Site visit made on 7 February 2025

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/C3105/D/24/3353772

133 Warwick Road, Banbury, Cherwell, OX16 2AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tejza against the decision of Cherwell District Council.
 - The application Ref is 24/01476/F.
 - The development proposed is a retrospective single storey rear extension and outbuilding.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development the subject of this appeal has taken place.
3. The appellant, in his statement, refers to Permitted Development Rights but notes that the rear extension infringes “the 45-degree right to light rule.” Notwithstanding this, I confirm that this appeal relates to the refusal of the planning application referenced above.
4. A previous application¹ for development at the appeal site was approved. The appellant states that the rear extension size was incorrectly shown on this previous application and that the size of the outbuilding has changed from this previous application. Both the rear extension and the outbuilding have been constructed such that they are larger than the approved plans relating to this previous application.
5. In its decision notice, the Council refers to the development harming the Banbury Conservation Area through change to its setting. However, during my site visit, I noted that the appeal site is not only located a considerable distance outside the Banbury Conservation Area, but that it is visually separated from it by substantial forms of intervening development.
6. Given this, the development the subject of this appeal has no discernible impact on the setting of the Banbury Conservation Area and I note that the Council provides no substantive evidence to support its contention in this regard.

¹ Reference: 23/01466/F.

Main Issues

7. The main issues in this case are the effect of the development on the character and appearance of the area; and its effect on the living conditions of neighbouring occupiers, with regards to outlook and daylight.

Reasons

Character and appearance

8. The appeal property comprises a three-storey mid-terrace brick-built dwelling located in a residential area. The dwelling is set back a short distance from the road, behind a low wall and a small front patio area.
9. The appeal property is situated in an area characterised by the presence of two and three storey brick-built dwellings, mainly in terraces, but also in semi-detached form. Many dwellings retain some period features. Whilst subject to various changes over the years, the similarity of dwellings within terraces and the presence of period features combine to present a sense of uniformity and heritage.
10. Like other dwellings in the terrace, the appeal property has a long garden to the rear. Together, these gardens provide for a notable degree of spaciousness and greenery. However, during my site visit, I noted that these attributes are severely diminished by the presence of the appeal dwelling's rear extension and by what appears as an unduly large and prominent outbuilding towards the end of its rear garden.
11. Land rises to the rear of the appeal dwelling and this factor combined with the height and depth of the outbuilding results in the outbuilding appearing overly large within its garden setting. The outbuilding fills the majority of the width of the appeal property and its depth is such that it extends well towards the rear extension – which itself projects considerably into the rear garden.
12. As a result of all of the above, the outbuilding dominates the rear garden. Rather than appear as an ancillary garden structure, such as a small shed or greenhouse – the presence of which in nearby gardens I noted during my site visit – the outbuilding appears as an obtrusive structure, out of keeping with its garden setting and detrimental to the area's green and spacious attributes.
13. Taking the above into account, I find that the development harms the character and appearance of the area contrary to the National Planning Policy Framework; to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (2015); and to saved Policies C28 and C30 of Cherwell Local Plan (1996), which together amongst other things, seek to protect local character.

Living conditions

14. The rear extension projects some considerable distance to the rear of the appeal dwelling. It does so adjacent to the shared rear boundary with Number 135 Warwick Road. I find that the combination of height, length of projection and immediate proximity results in an extension that looms above the rear of No 135, dominating the outlook from the rear of this neighbouring dwelling to an overbearing degree.

15. I also find that the size and proximity of the development results in an inevitable reduction in the amount of daylight received by Number 135 and this is a factor that exacerbates the above-mentioned harm.
16. Taking all of this into account, I find that the proposed development would harm the living conditions of neighbouring occupiers with regards to outlook and daylight, contrary to the National Planning Policy Framework; to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (2015); and to saved Policy C30 of Cherwell Local Plan (1996), which together amongst other things, seek to protect residential amenity.

Conclusion

17. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR