



Appeal Decision

Site visit made on 10 November 2025

by D Marley BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/G3110/W/25/3371909

34 - 36 York Road, Oxford OX3 8NW

- 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 Joan Frazer against the decision of Oxford City Council.
 - The application Ref is 25/00652/FUL.
 - The development proposed is described in the application form as “Conversion of two existing outbuildings to create an ancillary annexe. Insertion of 1no. door to west elevation & installation of solar panels to roof (retrospective)”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the development as retrospective. At my site visit I noted that, whilst development had commenced, it was not complete. The work undertaken therefore did not fully accord with that shown on the proposed plans. As such, I have determined the appeal based on the plans before me.
3. That said, I observed that certain aspects of the proposed development had been undertaken including, specifically, the physical joining of the two previously separate outbuildings. Where applicable, I have made reference to the existence of certain aspects of retrospective development in my decision.
4. Additional information in the form of revised plans showing updated existing elevations and a Community Infrastructure Levy Form 1 were submitted with the appeal. These were not with the Council at the time it determined the planning application. The Council has however had an opportunity through the appeal process to comment on the submissions and they do not fundamentally change the proposed development. No injustice would be caused by having regard to the appellant's documents in my assessment. Nevertheless, given that commentary has been raised by both parties which relates to matters of detail set out in the original existing elevations showing two separate outbuildings, I have also had regard to the originally submitted information in my decision.
5. I have had regard to the comments made in respect of inaccuracies within the submitted drawings. However, I consider the plans before me to be sufficiently accurate to assess the proposal without being prejudicial to interested parties. I am assessing the scheme as indicated on the submitted plans as that is the scheme for which permission is sought.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- whether the proposed development would result in the creation of a separate dwellinghouse;
- whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to the provision of external amenity space; and
- the effect of the proposed development upon the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and odour.

Reasons

Character and Appearance

7. The appeal site comprises the existing detached dwelling, and includes its large rear garden with the annexe under construction. The dwelling at 34-36 York Road is constructed in a broadly symmetrical fashion, arising from the combination of two historically semi-detached dwellings that broadly mirrored each other in design approach. Adjoining semi-detached properties on York Road and Binswood Avenue are typically constructed in a similar fashion.
8. The proposed annexe arises from the joining of two previously separate outbuildings. The combined structure is highly asymmetrical in nature, resulting from combining the part flat and part asymmetrical roof features of the original buildings. It is visible from Binswood Avenue to the rear and from a number of nearby private vantage points. The proposed annexe would be clad in larch cladding with grey metal fascia trim, and be fitted with solar panels on part of the asymmetrical roof.
9. Given the different design approach taken in the original outbuildings, their previously separate nature is clearly apparent. The resulting structure lacks the symmetry typical of surrounding residential development. Whilst the provision of solar panels may improve the appearance of the roof, the fitting of them to the asymmetrical roof alone would further emphasise the formerly separate nature of the outbuildings, particularly when viewed from nearby private vantage points. The structure would be prominent in views from Binswood Avenue, with the overall height and angular roof features acting to underscore its dominance when viewed from the street.
10. The proposed annexe would therefore appear contrived in its design approach, and discordant with both the host dwelling and surrounding development. This, when coupled with the overall height of the structure, would result in built form that appears out of context within the street scene. Whilst the appellant has proposed the application of a metal trim fascia to 'tie' the shorter element of the building with the taller part, this would be insufficient to overcome the effect identified.

11. I acknowledge the appellant's argument that the application of larch cladding would result in an enhancement to external materials when compared to the current blockwork. This matter would not outweigh the harm I have identified.
12. In addition, whilst I acknowledge the appellant's argument that, given the large size of the rear garden and the size of the main dwelling, the overall scale of the annexe would not be disproportionate in terms of built footprint, this does not act to justify a development that I have found would be harmful to local character.
13. Overall, I conclude the proposed development would harm the character and appearance of the area. The proposal would therefore conflict with the relevant provisions of Policy DH1 of the Oxford Local Plan 2036. Amongst other matters, this policy requires development proposals to demonstrate high quality design that creates or enhances local distinctiveness.

Whether or not a separate dwellinghouse

14. The proposed annexe would comprise a bedroom, bathroom and living/kitchen area. The outbuilding is situated at the end of the rear garden of No 34-36, and would share both an access and a rear garden. A number of external openings would face towards the main house. The appellant has set out that the annexe would be occupied by an elderly family member, and would share a degree of facilities with the main house.
15. All parties agree that the annexe would provide sufficient facilities for independent living, and I see no reason to disagree with this conclusion. My attention has been drawn to relevant case law on the matter¹, which identifies that, even if the accommodation would provide facilities for independent day to day living, whether or not it would become a separate planning unit from the main dwelling is ultimately a matter of fact and degree.
16. In this instance, there would be a strong degree of shared facilities with the main house, including garden space, access and parking. The appellant's statement that there would be a familial relationship between the main house and the annexe occupier has not been substantively challenged, and given the proposed layout, there is a likelihood that the occupier of the annexe would use the main house for certain tasks, such as washing clothes. Both of these matters would lead to a degree of comings and goings between the main household and the annexe.
17. Whilst the annexe would be sited at the end of the rear garden, it would be sufficiently orientated towards the main dwelling to allow for a relationship between the two. The annexe would be smaller than the host dwelling in terms of scale and would not, as a result, compete with it. In addition, the proposed plans show no subdivision of the garden, nor provision of a separate access route to the annexe.
18. As a result of these matters, I conclude that there would be a physical and functional connection between the annexe and the main dwellinghouse. I am satisfied that the annexe would be used as ordinary living accommodation that is an integral part of the ordinary residential use of the site as a dwellinghouse, and not as a separate dwelling. That the annexe would not directly adjoin the main dwelling does not alter my conclusions on this matter.

¹ Uttlesford DC v SSE & White [1992] JPL 171

19. I acknowledge that the Council and other parties have raised concerns that there could be the potential for the annexe to become a separate planning unit in the future. Had I been minded to allow the appeal, such a matter could have been adequately managed by condition.
20. I therefore conclude that the proposed development would not result in the creation of a new dwellinghouse. The proposed development would not be contrary to the relevant provisions of Policy DH1 of the Oxford Local Plan 2036, insofar as it relates to features relevant to the creation of new residential dwellings.
21. Whilst the Council has raised concerns with regards a perceived conflict with Policy H15 of the Oxford Local Plan 2036, this policy relates to the provision of internal amenity space for new dwellings. Given my conclusion above this policy is therefore non-determinative in the case of this appeal.

Living conditions – future occupiers

22. The proposed development would result in a rear garden annexe. The annexe would share private external amenity space with the host dwelling.
23. Given my findings that the proposed development would not result in the creation of a new dwellinghouse, there would be no requirement to provide separate private external amenity space. I have not been directed towards any specific harm that would arise from the introduction of an additional occupier at No 34-36 upon the rear garden space. Given the size of the proposed annexe and size of the existing rear garden at No 34-36, there is no evidence before me to suggest that any such harm would arise.
24. I therefore conclude that the proposed development would not result in an adverse impact upon the living conditions of future occupiers, with particular regard to the provision of external amenity space. The proposed development would comply with the relevant provisions of Policies RE7 and DH1 of the Oxford Local Plan 2036, insofar as these relate to development protecting the amenity of occupiers. Equally, the proposed development would not be contrary to Policy H16 of the Oxford Local Plan 2036, insofar as it relates to ensuring the provision of direct and convenient access to private open space.

Living conditions – neighbouring occupiers

25. The proposed development would introduce an annexe in proximity to the rear gardens of adjoining dwellings on York Road and adjacent residential dwellings along Binswood Avenue. The appeal site is located in an established residential area. Adjacent to the rear garden of No 34-36 is a passageway allowing for pedestrian access between Binswood Avenue and York Road. Binswood Avenue is lit by streetlights. At my site visit, whilst representing only a snapshot in time, I observed a regular pattern of comings and goings to existing properties, alongside pedestrian usage of the passageway, consistent with the residential nature of the area.
26. The Council identify in their statement they consider that the effect of the development with regards living conditions would be perceived mostly by 1 Binswood Avenue. Whilst the annexe would be located in proximity to No 1, there are a number of other existing residential uses in close proximity, which would be likely to generate a level of noise commensurate with residential occupation. In

addition, whilst the annexe would be located to the rear of the garden of No 34-36, it would also be accessed through that rear garden. Future users of the annexe would be more likely to access it primarily either through the side elevation or that facing the host dwellinghouse, rather than walking round the annexe to use the proposed door to the rear. When combined with the regular pedestrian use of the passageway alongside the established residential nature of the area, use of the annexe would not be likely to result in a material intensification of the established pattern of comings and goings when perceived either by the occupiers of No 1 or other nearby properties, and would not therefore result in an adverse impact to living conditions due to noise.

27. That No 1 is located at the end of a cul-de-sac, the precise location of the footpath when compared to the annexe, and that the annexe may have the potential to be occupied by more than one individual, does not change my conclusions in this regard.
28. Given the proposed use, it is likely that the annexe would be internally lit at night time. Such internal lighting would be likely to be similar to other surrounding street lighting and residential development, which would also be similarly lit. Light spill towards No 1 would also be located primarily to the front of No 1, which faces an opposing residential dwelling also likely to be lit at night. The residential nature of the area is such that the proposed development would not be likely to appear unduly bright to other existing occupiers when set against existing street and residential lighting. Therefore, whilst the proposed development would introduce additional lighting, the nature of existing lighting is such that I do not consider harm to living conditions would be caused as a result.
29. Whilst not expressly set out in the decision notice, the Council have also raised concerns relating to the effect of the proposed development upon living conditions with regards odour. Whilst the location of the development close to the rear boundary may result in odour from cooking being perceptible by the occupiers of nearby dwellings, this would be unlikely to be materially different to the existing extent of odour perceived in this location, given the presence of nearby residential development likely to generate a similar scale and pattern of odour emission. Given this, I am satisfied that the proposed development would be unlikely to result in harmful impacts upon neighbouring occupiers due to odour.
30. I acknowledge the Council's argument that an outbuilding used for purposes such as a home gym or home office would likely result in a more sporadic use, and a lower level of noise and activity, when compared to the proposed development. However, I have not found that harm would arise to living conditions as a result of the proposed development.
31. Whilst the decision notice identifies conflict with Policy H14 of the Local Plan, this policy relates specifically to ensuring new development does not result in an adverse impact on current or future occupiers as a result of adverse impacts to privacy, natural light, and outlook. The Council have raised no concerns with regards these matters, and on the evidence before me I see no reason to take a different view. Policy H14 has not therefore been determinative in my decision.
32. I therefore conclude that the proposed development would not result in an adverse impact upon the living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and odour. The proposed development would comply

with the relevant provisions of Policy RE7 of the Oxford Local Plan 2036. This policy, amongst other matters, requires development to protect the amenity of neighbours. Equally, whilst not a matter expressly set out in the Decision Notice, the proposed development would comply with Policy RE8 of the Oxford Local Plan 2036 which, amongst other matters, requires development proposals to manage noise to safeguard amenity.

Other Matters

33. The appellant has suggested a fallback position exists whereby they consider the previously separate outbuildings were constructed under permitted development rights, which could be reverted to in the event the appeal was dismissed. I acknowledge, given the previous history of outbuildings in this location, that there is a greater than theoretical possibility of such a fallback being pursued. However, the harm I have identified arises from the physical joining of the two outbuildings, specifically that resulting from the combination of the differing design approach taken. By contrast, the fallback position is of two separate outbuildings with a clear and separate design approach. I therefore consider the appeal scheme to be more harmful than the proposed fallback. As a result I do not consider that the proposed fallback is a material consideration of sufficient weight to outweigh the harm arising from the proposed development.
34. Reference has also been made to a previous appeal at the site and a previously issued certificate of lawfulness for a single outbuilding. Full details of these are not before me, however I am mindful that these relate either to a proposed new dwelling or an outbuilding of different scale and appearance to that proposed. I therefore afford these considerations limited weight.
35. Equally, whilst reference has been made to the annexe at 32 York Road, on the evidence before me this annexe is significantly different both in its design and planning history. I afford this matter limited weight in the determination of the appeal.
36. In determining this appeal, I have had due regard to the Public Sector Equality Duty in Section 149 of the Equality Act 2010. This requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's age. Whilst the development could provide the opportunity to advance its aims by meeting the needs of elderly persons, when set against the harm identified to character and appearance dismissing this appeal is a proportionate response in this case.
37. Whilst interested parties have raised the potential effect of the proposed development upon other living condition matters not considered as a main issue, the Council have not raised objections with regards these, and I see no reason to take a different view. I acknowledge that the proposed development would not result in harm to living conditions. However, the lack of harm in this respect is effectively neutral in my determination of the appeal.
38. Whilst the proposed development would include the provision of solar panels allowing for the generation of on-site renewable energy, this does not outweigh the wider harm I have identified.

Conclusion

39. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given above, the appeal should be dismissed.

D Marley

INSPECTOR