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## Appeal Decision

Site visit made on 6 January 2026

by **P Brennan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

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### Appeal Ref: APP/C3105/W/25/3374499

#### 2 Church View, Banbury OX16 9ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Timothy Beckett against the decision of Cherwell District Council.
- The application Ref 25/00752/F was approved on 18 July 2025 and planning permission was granted subject to conditions.
- The development permitted is the conversion of the existing dwelling to form two dwellings.
- The conditions in dispute are:
  - 4) *The development hereby permitted shall not be occupied unless and until full details of a scheme for acoustically insulating all habitable rooms within the one bedroom dwelling such that internal noise levels do not exceed the 'Sound Insulation and Noise Reduction for buildings' have been submitted to and approved in writing by the local planning authority. The dwellings shall be insulated in accordance with the approved details prior to their first occupation and shall be maintained as such thereafter.*
  - 5) *Prior to the first use or occupation of the development hereby permitted, details of the cycle parking areas (in accordance with OCC's parking standards guidance), including dimensions, means of enclosure and access, shall be submitted to, and approved in writing by the local planning authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.*
  - 6) *Notwithstanding the provisions of Classes A to E (inc.) of Part 1 of the Town and Country Planning (General Permitted Development) 2015 and its subsequent amendments, the approved new dwelling shall not be extended nor shall any structures be erected within the curtilage of the said dwelling without the grant of further specific planning permission from the local planning authority.*
- The reasons given for the conditions are:
  - 4) *To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*
  - 5) *To encourage the use of sustainable modes of transport in line with OCC's Parking Standards for New Developments, to ensure that the completed development is in keeping with the character and appearance of the area and to comply with saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.*
  - 6) *To safeguard the character and appearance of the area and the amenity of neighbouring properties and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*

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### Decision

1. The appeal is allowed, and the planning permission granted for the conversion of the existing dwelling to form two dwellings at 2 Church View, Banbury OX16 9ND on 18 July 2025 by Cherwell District Council is varied by deleting conditions 4, 5 and 6 and substituting condition 6 with the following condition:

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class A and Class E of Part 1 of Schedule 2 to the Order shall be undertaken to either of the two dwellings hereby approved.

### **Preliminary Matters**

2. The application form states that the development was undertaken in March 2025. I saw during my visit that the bungalow had been subdivided into two dwellings, both of which appear to be occupied, in accordance with the plans before me. I have therefore considered the appeal on the basis that the development has already taken place.
3. Section 79(1) of the Town and Country Planning Act 1990 enables me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the proposal as if it had been made to me in the first instance. This means that if I determine that a condition should be changed or amended in some way, the appeal is allowed regardless of whether this reflects all the amendments sought by the appellant.

### **Background and Main Issues**

4. Planning permission has been granted for the conversion of an existing dwelling to two dwellings. The appellant wishes to delete three conditions relating to the submission of details of sound insulation and cycle storage; and the removal of permitted development rights.
5. The main issues are:
  - Whether condition 4 relating to the requirement for acoustic insulation to habitable rooms within the new dwelling is reasonable and necessary having regard to the living conditions of future occupiers;
  - The effect that removing condition 5 for details and provision of cycle parking and storage areas would have on encouraging the use of sustainable modes of transport and the provision of adequate cycle parking; and
  - The effect that removing condition 6 relating to the removal of permitted development rights for a range of extensions and garden structures for the new dwelling would have on the living conditions of neighbouring occupiers and the character and appearance of the area.

### **Reasons**

#### *Condition 4*

6. Condition 4 seeks the submission of details of sound insulation to all habitable rooms within the newly created dwelling, such that internal noise levels do not exceed the 'Sound Insulation and Noise Reduction for Buildings (BS 8233)'. Part E of the Building Regulations provides a minimum legal standard for residential sound insulation whereas BS 8233 seeks a greater comfort level than the minimum required by law.

7. The approved development included the creation of two residential units with a new party boundary where suitable sound insulation would be required to prevent an adverse noise effect. A Building Regulations Compliance Certificate has been issued for the development indicating that the minimum legal requirement for sound insulation has been met. The internal site layout plan (8/5/2025) shows that both new properties have internal layouts that generally mirror each other. At first floor, the bedrooms are next to each other, either side of the party wall. At ground floor, the party wall separates a kitchen diner and a lounge to the rear and a lounge and entrance to the front. Based on the internal layout, the potential conflict from noise transference between the two dwellings would be minimal and I am satisfied that the higher specification of sound insulation, as required by BS 8233, is not necessary.
8. Conditions should not be used to control matters that are subject to other primary legislation. As I have concluded that based on the circumstances of this case, the Building Regulations requirement for sound insulation is sufficient, it is not necessary to seek a higher level of noise insulation to ensure the creation of a satisfactory environment free from intrusive levels of noise to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 (LP). Accordingly, condition 4 is neither reasonable nor necessary having regard to the living conditions of future occupiers.

#### *Condition 5*

9. Condition 5 seeks the submission of details relating to cycle parking areas including dimensions, means of enclosure and access for both 2 Church View (No 2) and No 2A Church View (No 2A). The appellant seeks the deletion of this condition.
10. Saved Policy C28 of the LP and Policy ESD15 of the Cherwell Local Plan 2011-2031 (CLP) seek new development that is sympathetic to the character of the area and is of high-quality design. Oxfordshire County Council's parking standards indicate that new one-bedroom dwellings should provide 2 cycle parking spaces.
11. Cycle parking for the dwellings is not indicated on the submitted plans. However, both plots have sufficient space within the rear and front gardens to accommodate cycle parking. The policies and reason referred to by the Council for the imposition of the condition relate to the character and appearance of the area rather than any policies relating to sustainable modes of transport and this fails to provide a clear reason for the condition. The provision of a cycle store to either the front or rear would have minimal effect on the character and appearance of the area.
12. The County Council's guidance sets numerical requirements for cycling provision. However, 2 cycle spaces could be accommodated at each dwelling should the occupiers wish to own a bicycle, and I note that the appellant has provided a store for this purpose in both rear gardens. Given the nature and scale of the development, the condition is neither reasonable nor necessary. Accordingly, the removal of condition 5 would not discourage the use of sustainable modes of transport or the provision of adequate cycle parking.

### *Condition 6*

13. The appeal property is a single storey building, in residential use with a hard landscaped front garden that is used for car parking. The property has been converted into 2 dwellings, namely No 2 and No 2A. The appeal property is in a residential area. The neighbouring properties are also single storey dwellings with number 4 Church View located at a higher level and 15 Queensway at a lower level. The appeal property accords with the general characteristics of the area and makes a neutral contribution to the character and appearance of the area.
14. The two dwellings are of comparable size to each other, with the corresponding rear garden space being generally equally shared. As No 2 would also benefit from the existing side passage and extra approximate 1m width for the length of the garden, the plot is slightly larger than that at No 2A. The appeal property benefits from a previous extension to the rear and has a large dormer to the rear roof slope that accommodates bedrooms for each of the two dwellings. The site layout and floor plan (8/5/2025) indicates that the rear garden space for each dwelling would be approximately 12m in length and around 6m in width.
15. Condition 6 currently removes permitted development rights relating to Schedule 2, Part 1, Class A through to E of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended) for the approved new dwelling (No 2A). Paragraph 55 of the National Planning Policy Framework (the Framework) determines that there should be clear justification for the removal of such rights.
16. As identified above, the two dwellings already have a dormer window in the rear roof slope that occupies most of the available roof space. On this basis, a larger dormer window is unlikely to be able to be accommodated under Class B or further alterations to the roof under Class C. In any event, a replacement dormer window or further roof alterations provided under permitted development would be unlikely to have a negative effect on the living conditions of neighbouring occupiers or the character and appearance of the area.
17. With regards to the removal of Class D for the construction of a porch, sufficient space is available at the rear of the property, and a permitted development porch would have a minimal effect on neighbouring occupiers living conditions. To the front, the Council considers that there would be limited space available for a porch to No 2A due to the bin storage placement. However, despite the bin storage location and car parking, a porch could be accommodated within the available hard landscaped space to the front of both dwellings.
18. Class A and E relate to extensions and curtilage buildings. Both No 2 and No 2A have a rear garden area of a size that can provide a high level of amenity in accordance with the Framework to the occupiers of the dwellings. However, an outbuilding under Class E could cover up to 50% of the total area of the curtilage, resulting in a considerable proportion of the site being occupied by further development. Due to the site's layout, typography and its close proximity to neighbours, further development could lead to potential conflict to the living conditions of occupiers of 15 and 15A Queensway.
19. The side elevation and rear garden of No 2 is highly visible from Church View due to the site's typography and visual gap between the dwellings on Queensway. Furthermore, glimpses of the rear garden are possible between the dwellings on

Queensway. Consequently, any further extensions or structures could have a detrimental effect on the character and appearance of the area and may compromise the available external space. Accordingly, as far as it relates to Classes A and E, the removal of permitted development rights is reasonable and necessary to make the development acceptable in planning terms.

20. A modified condition, removing references to Classes B, C and D of Part 1 but enabling the Council to retain control over development within Classes A and E to both No 2 and No 2A, would be reasonable and necessary in the interests of the character and appearance of the area and the living conditions of neighbouring occupiers. The development, with the modified condition, would comply with the provisions of the Framework, Policy ESD15 of the CLP and saved Policies C28 and C30 of the LP.

### **Other Matters**

21. Disputes between the parties regarding the handling and approach to both the application and appeal process have been raised in the evidence before me. Whilst these have been noted, these matters have had no material bearing on my consideration of the proposal which has been assessed on its own merits based on the specific evidence before me.

### **Conclusion**

22. For the reasons given above, the appeal is allowed and the planning permission is varied by deleting the disputed conditions numbered 4, 5 and 6 and substituting a new condition which removes permitted development rights on a narrower range of development as set out above.

*P Brennan*

INSPECTOR