

Appendix 1

241 Banbury Road (12/00876/FUL)



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Not Set
Department	Not Set
Comments	
Date	29 May 2012
SLA Number	Not Set



Appeal Decision

Site visit made on 10 August 2011

by **Peter Bird BSc DipTP MRTPI MRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2011

Appeal Ref: APP/G3110/A/11/2151176
241 Banbury Road, Summertown, Oxford OX2 7HN

- 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 Shepherd and Woodward Ltd against the decision of Oxford City Council.
 - The application Ref 10/02512/FUL, dated 14 September 2010, was refused by notice dated 11 November 2010.
 - The development proposed is new first floor residential accommodation over the existing flat roof to the rear of No 241 Banbury Road.
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Decision

1. I dismiss the appeal.

Procedural Matters

2. The Oxford Core Strategy 2026 (OCS) was adopted in March 2011. Policies within the OCS have replaced a number of those that had been saved in the Oxford Local Plan 2001-2016 (LP). In relation to the Council's reasons for refusal, OCS Policy CS18 has now replaced LP Policy CP7 and I have taken this into account in reaching my decision.

Main Issues

3. The main issues are the effects of the proposal on firstly, the character and appearance of the area; and secondly, on the living conditions, particularly in relation to outlook and privacy, of the occupiers of the neighbouring residential property in Banbury Road and Stratfield Road.

Reasons

Character and appearance

4. The appeal property is on the western side of Banbury Road within the Summertown District Shopping Centre where it is part of a retail/commercial frontage between South Parade and Oakthorpe Road. Along this frontage, properties are mainly semi-detached and terraced and tend to range between two to two and a half storeys high. They are generally traditional in appearance, as distinct from the varied design and scale of the more modern buildings on the eastern side of the road. No 241 comprises two and a half
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storeys, with a ground floor shop and residential accommodation above and is at the end of a short terrace in this frontage. The plots in this part of Banbury Road are relatively long and back onto the rear gardens of adjacent dwellings that face Stratfield Road to the west, the plots of which appear to be a similar depth to those in Banbury Road. Where there are gaps between the buildings in the Banbury Road frontage, they tend to be narrow, with limited views of the land behind so that the space at the rear does not contribute to the public realm of the Banbury Road streetscene. Similarly along Stratfield Road, the combination of dwelling types and their arrangement provides a tight frontage separating the public realm of the street scene from that of the private gardens behind.

5. No 241 has been extended previously. At ground floor level a flat roofed single storey extension stretches almost to the property's rear boundary. To the residential accommodation above is a pitched roof extension of much shorter length at first floor level. The proposal would introduce an additional storey above the existing ground floor extension to contain a two bedroom flat. However, it would be clearly separate, physically and visually, from the existing first floor extension and would be positioned towards the end of the property so as to be set back some 3.7 metres from its rear boundary.
6. The overall length of the proposed extension would be some 14.0 metres, which appears to be slightly longer than the existing first floor projection. Whilst the pitch of the proposed roof seems steeper than that of the existing first floor projection, it would reflect that of the main roof of the frontage building. The proposal's eaves line would be slightly higher than that of the existing first floor extension and the overall height would just be in excess of the eaves to the main roof, but would be substantially below its ridge. Its width would be similar to that of the extension below, but not as wide as the plot as an existing passageway separates the present extension from the adjacent property at No 243.
7. In terms of the proposed detailing, the Council refers to the existing frontage building. Despite the variation in the height of properties in the Banbury Road frontage, overall they have a cohesive form, even though the frontage contains notable variations between the properties which, to my mind, enhance its visual interest. In particular the gabled features contribute to this cohesion and these are reflected in the proposal, albeit clad with timber boarding. The proposed window proportions tend to be more square than as seen in the existing building, including its previous extension at first floor level. Even so, I consider these aspects would not significantly detract from the coherence of the proposal's design and in themselves they would not be sufficient to justify withholding planning permission in this location behind Banbury Road.
8. The separation between the rows of buildings fronting Banbury Road and Stratfield Road contributes to the spaciousness at the rear of these properties. However, at ground floor level the character and appearance of the rear part of the Banbury Road properties, amongst which are long ground floor extensions and parking areas, is distinctly different to that of the gardens and established vegetation to the Stratfield Road dwellings. The erection of the proposed building would be clearly related to that space to the rear of the Banbury Road frontage, rather than the residential curtilages to Stratfield Road. Above ground floor level, building of significant scale has been permitted previously. Of these

latter developments, I understand that a particularly sizeable scheme on the corner of Banbury Road and South Parade has not been implemented. However, in recent years, a nearby property, No 233, has been enlarged with additional accommodation at first floor level, so as to be a distinctive feature at the rear of this frontage.

9. The appellant's intention is for the building to have a "converted warehouse" look. Whilst such a building style would not necessarily be characteristic of the location, nevertheless, the proposal would reflect features in the surrounding area. It seems to me that the scheme involves an innovative approach to realise the scope for additional built form to accommodate further development at this property. Although the rearmost part of the proposed building would be further from the Banbury Road frontage than the first floor extension at No 233, the separation of the proposal from the existing extension at first floor level to No 241 would enable the frontage building, as previously enlarged at first floor level, to retain its scale and character. Furthermore, it would not intrude upon the public realm of the Banbury Road street scene. I consider that the proposal would not have a harmful effect on the area's character and appearance and in this regard it would not conflict with the aims and objectives of OCS Policy CS18 and LP Policies CP1, CP6, CP8, CP9 and CP10.

Living conditions

Stratfield Road dwellings

10. The accompanying text to LP Policy HS19 (*Privacy and Amenity*) states that it is difficult to set standards for privacy and amenity for all dwellings as each development site and building has its own circumstances. Nevertheless, it goes on to say that the Council will use its 45 degree code as set out in LP Appendix 6 (App 6) to assess the impact of development on daylight, sunlight and outlook. However, App 6 states that this guidance is mainly concerned with the effect of proposed extensions to the rear and side of houses. On the information before me, it is not clear therefore if App 6 is applicable in the present circumstances, particularly to an extension above commercial premises, although adjacent to residential property.
11. The appellant has drawn attention to the Council's *Private Open Space – An Explanatory Practice Note* (EPN). However, the document clearly states that it is an informal explanatory advice practice note and it has not been the subject of public consultation. In these circumstances, whilst the EPN is a material consideration, I can only attach limited weight to it. Nevertheless, the EPN indicates the preceding text to LP Policy HS21 (*Private Open Space*) states that the length for a private garden for a family house will generally be 10 metres. This reflects what is seen as a well established rule of thumb for the minimum "back to back" distance of 20 metres between the rear faces of dwellings, especially in built-up areas.
12. The proposed extension would be set back some 3.7 metres from the rear boundary so that the separation from the dwelling at No 34 Stratfield Road would be a distance of some 37 metres (according to the appellant, and this distance has not been disputed by the Council) and clearly in excess of the above measure of 20 metres. With the low profile of flat roofs to the ground floor rear extensions to Banbury Road, the introduction of the proposed

development at this point would be a notable feature against the backdrop of the Banbury Road frontage in relation to the outlook from the rear of nearby dwellings in Stratfield Road and also from their back gardens. However, I do not consider the size and massing of this single building, including angled views of it, at this distance would result in an overwhelming sense of enclosure that would be harmful to the living conditions of the occupiers of these dwellings. Furthermore, even when viewed from the end of the adjacent gardens closest to No 241, the set back of the proposed building from the rear boundary in combination with the substantial length of the back gardens to the Stratfield Road properties would off-set any contribution the proposal would make to the sense of enclosure at that point. In these circumstances, from what I saw at my visit, the effect of the proposal's bulk would not merit refusal.

13. At the time of year of my visit, there was a significant amount of established vegetation that was particularly noticeable in the vicinity of the site. However, the above assessment of the spatial relationship of the proposal to adjacent dwellings is made without reliance on vegetation, the health and future management of which would be uncertain to contribute to any screening effect.
14. The proposal contains a window facing west towards the rear of the Stratfield Road properties. Whilst residents of adjacent dwellings may find this disconcerting, the separation between these buildings is sufficient for the window not to detract from the privacy of the dwellings' internal accommodation in this built-up location. However, although this window would be set back from the rear boundary, it would overlook the adjacent part of nearby gardens. Nevertheless, a planning condition could be used to secure suitable glazing to overcome this effect. Furthermore, another window is shown in the side elevation, apart from that in the roof, to this proposed bedroom so as not to harm the living conditions of its future occupiers. The flat roof in front of this west facing window would be planted and access to it would be for maintenance only. The private terrace to the proposed unit would be next to that of the existing first floor flat at No 241 and thereby would not affect the privacy of the adjacent gardens in Stratfield Road.

Banbury Road accommodation

15. The existing flat at the rear of No 241 is relatively modest in size and its main area of private amenity space would be immediately next to that of the proposed unit. Although I was not able to enter this flat, the submitted drawings indicate that whilst the living room has a window in its north facing elevation, this room also appears to receive "borrowed" light from the opening in the flat's west facing elevation.
16. The effect of the proposal on light to this existing flat has not been clearly demonstrated. Nevertheless, whatever the effect, the proposal would introduce a substantial bulk of building, together with a new means of enclosure around the private amenity space for the proposed unit, a relatively short distance away from the western end of the existing flat and its adjacent terrace. This would significantly change the quality of the west facing outlook from the rear of this flat and its adjacent private amenity space. The appellant argues that the Council's guidance does not require private amenity space to have an open outlook, nor does LP Policy HS19. However, even though the existing private amenity space would be retained, its spatial quality would be

markedly changed. Although the proposal would be an additional storey above the ground floor extension, the pitch of the proposed roof, whilst reflecting others nearby, would be far from shallow, and would result in the proposal having substantial bulk in its roof. The separation from the existing flat and its private amenity space would be insufficient to overcome the proposal being overbearing and causing a sense of enclosure which, for this modest unit of accommodation and its limited private outdoor space, would be, to my mind, somewhat claustrophobic for its present and future occupiers.

17. Planning Policy Statement 3: *Housing* (PPS3) states that private outdoor space, such as balconies, is one of the matters to be considered when assessing design quality in relation to proposed development. I find the proposal would be harmful to the living conditions of the residential occupation of the first floor flat at No 241 Banbury Road. In this regard it would conflict with LP Policies CP1, CP10 and HS19 in terms of an unacceptable sense of enclosure and overbearing development and in so doing lack the standard of development expected by national and local planning policy, particularly in relation to its siting and the failure to safeguard the use and amenity of the flat at No 241.

Other matters

18. The *Draft National Planning Policy Framework* (DNPPF) sets out that at the heart of the planning system is a presumption in favour of sustainable development. However, whilst the DNPPF is a material consideration, at this stage in its emergence, I attach limited weight to it. Nevertheless, Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) states that sustainable development is the core principle underpinning planning. Moreover, it goes on to say that at the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations. However, despite the sustainability of this location in terms of shops, facilities and the availability of transport other than the private car, it seems to me that the proposal is not a sustainable development in that it would not ensure a better quality of life for everyone, particularly the occupiers of adjacent property in the Banbury Road frontage.
19. The issue of precedents has been raised by third parties. Had I been minded to allow this appeal, it seems to me this proposal would be likely to be a significant influence on the consideration of future schemes, particularly as designed here, for the alteration and enlargement of other properties in this frontage. The development at No 233 is presently such an influence. However, any such proposal would need to consider the relationship with adjoining property. In this case the windows in the north and south facing elevations of the proposed building in particular, would seem to be such a consideration for the future development of adjacent property, and as such maybe a possible constraint in the formulation of such proposals. Consequently, whilst each proposal is dealt with on its merits, as I have done here, to my mind the appeal proposal could well constrain the effective and efficient use of adjacent land and this adds to my concern.

Conclusion

20. Whilst the proposal would not have a harmful effect on the character and appearance of the area or the living conditions of the residents of nearby

property in Stratfield Road, this would not overcome the harm to the living conditions, particularly in relation to outlook, of the occupiers of the adjacent first floor flat at No 241 Banbury Road. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Peter Bird

INSPECTOR

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