

West Area Planning Committee

15th August 2012

Application Number: 12/01390/FUL

Decision Due by: 2nd August 2012

Proposal: First floor rear extension (Amended plans)

Site Address: 38 Linkside Avenue. **Appendix 1**

Ward: Wolvercote Ward

Agent: N/A

Applicant: Mr Colin Sherry

Application Called in – by Councillors - Goddard, Armitage, McCready, Campbell, Gotch and Wilkinson;
for the following reasons - its the fifth attempt: previous rejections have been based on the overbearing impact on the neighbours in particular the neighbour to the north at 40 Linkside.

Recommendation: West Area Planning Committee is recommended to grant planning permission.

Reasons for Approval:

- 1 The proposal is considered to form an appropriate visual relationship with the dwelling and its surroundings and does not impact on the immediate neighbours in a detrimental way. As such the proposal complies with policies CP1, CP6, CP8, CP10, and HS19 of the Oxford Local Plan 2001-2016 and CS18 of the Core Strategy.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.
- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

Conditions.

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials - matching
- 4 Amenity no additional windows side,
- 5 Obscure glass – stair window

Main Planning Policies:

Oxford Local Plan 2001-2016 (OLP)

CP1 - Development Proposals

CP6 - Efficient Use of Land & Density

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

HS19 - Privacy & Amenity

HS20 - Local Residential Environment

HS21 - Private Open Space

Core Strategy (OCS)

CS18 - Urban design, town character, historic environment

Other Material Considerations:

National Planning Policy Framework

Relevant Site History:

11/02602/FUL - Proposed first floor rear extension. Refused on grounds of being overbearing on 06.12.2011. Dismissed at Appeal.

11/01860/FUL – Rear first floor extension. Refused on grounds of 05.09.2011

11/01250/FUL - First floor extension to front. Approved 04.07.2011.

11/00611/FUL - Two storey rear extension and first floor front extension. (Amended plans). Refused on grounds of loss of light and overbearing on 19.04.2011.

10/03344/PDC - Proposed garage conversion. Permission not required.

Public Consultation:

Third Parties:

36, 40 Linkside Avenue & School House South Newington Banbury, all object to the proposal and the comments summarised below:

- The proposal would still loom over 40 Linkside and would cause a loss of light and loss of visible sky.
- There are inaccuracies of the size of the extension and position of windows in the drawings.

Statutory and Internal Consultees:

Highway Authority – No objections.

Officers Assessment:

Site Description

1. The application site comprises a two-storey detached dwelling located on the eastern side of Linkside Avenue which is a residential area of North Oxford. Linkside Avenue is characterised by mainly detached and some semi-detached properties of different sizes and styles and varying plot sizes.

Proposal

2. A previous planning application for a first floor rear extension (application 11/02602/FUL) was refused due to the impact of the extension being overbearing to the neighbouring properties and the appeal dismissed. A copy of the appeal decision is attached as Appendix 2. This latest application represents a revised design of a first floor rear extension.

Issues:

3. Officers consider the principal determining issues in this case to be:
 - Design
 - Residential amenity

Design

4. Policy CS18 of the Core Strategy (CS) states that planning permission will only be granted for development that demonstrates high quality urban design. This is reiterated in policies CP1 and CP8 of the Oxford Local Plan (OLP). Policy CP1 states that planning permission will only be granted for development that respects the character and appearance of the area and which uses materials of a quality appropriate to the nature of the development, the site and its surroundings.
5. Policy CP8 of the Oxford Local Plan 2001-2016 suggests the siting, massing and design of the proposed development creates an appropriate visual relationship with the form, grain, scale, materials and details of the surrounding area. It also stated building design is specific to the site and its context and should respect, without necessarily replicating, local characteristics, and should not rule out innovative design.
6. The revised first floor rear extension has been reduced in width by 2.0m from the dismissed appeal, so that the proposed extension is now set further away from 40 Linkside Avenue. It still remains the same depth as the previous application at 2.75m whilst the height has also decreased since the previous scheme by approximately 0.35m. The first floor extension would be built over the existing substantially complete single storey extension.
7. The first floor extension is subservient to the existing dwelling and is considered to form an appropriate visual relationship with the use of matching materials. It would sit within a run of varied, modern rear elevations and would not appear out of character within that context.

Residential Amenity

8. Policies HS19 and CP10 of the OLP require the correct siting of new development to protect the privacy of the proposed or existing neighbouring, residential properties. The proposal does not give rise to any issues of overlooking or loss of privacy.
9. Policy HS19 of the OLP sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to reach the habitable rooms of neighbouring dwellings. This policy refers to the 45/25-degree code of practice, detailed in Appendix 6 of the OLP. The proposal does not breach the 45 degree line from 40 Linkside's side kitchen window and is therefore considered acceptable in this regard.
10. Appendix 6 also states that the amount of visible sky and the impact on outlook should be considered and that proposals should not create conditions which are oppressive. The inspector found that the previous extension "*would be so close to the kitchen window that it would loom over it oppressively, causing a substantial loss of sunlight and views of the sky*". This application has set the extension back from 40 Linkside by a further 2.0m and whilst the Inspector also stated that most other properties had only been extended at single storey only, there was no reason why this should rule out reasonably designed 2 storey extensions.
11. Officers consider the proposed extension would no longer loom over 40 Linkside and whilst there would still be to a lesser extent some loss of visible sky, officers consider that the proposal has addressed the overbearing issue by setting the extension back away from 40 Linkside Avenue.
12. Concerns were raised over inaccuracies in the drawings. These have been addressed by the admission of amended plans received on 16th July 2012. The consultation period was extended to allow for further comments on the amended plans, though in the event no further comments were received.

Conclusion

Officers have concluded that this latest application has successfully overcome the reasons for refusal and dismissal on appeal of the earlier planning application for a first floor extension, and can be supported accordingly.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant permission officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 12/01390/FUL

Contact Officer: Davina Sarac

Extension: 2152

Date: 2nd August 2012

The first part of the document is a letter from the author to the editor, in which the author explains the reasons for writing the book and the scope of the work. The author states that the book is intended for a general audience and that it is written in a simple and straightforward manner.

The second part of the document is a preface, in which the author discusses the history of the subject and the importance of the work. The author also mentions the assistance of several people in the preparation of the book.

The third part of the document is a list of contents, which provides a detailed outline of the book's structure. The list includes the titles of the chapters and the page numbers at which they begin.

12/01390/FUL- APPENDIX 1

38 Linkside Avenue



Scale : 1:1250



Organisation	Oxford City Council
Department	Planning
Comments	
Date	01 August 2012
SLA Number	100019348

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Appeal Decision

Site visit made on 22 March 2012

by Les Greenwood BA(Hons) DipTP MRTPI

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

Decision date: 28 March 2012

Appeal Ref: APP/G3110/D/12/2169302

38 Linkside Avenue, Oxford OX2 8JB

- 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 Colin Sherry against the decision of Oxford City Council.
 - The application Ref 11/02602/FUL was refused by notice dated 6 December 2011.
 - The development proposed is a first floor rear extension.
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Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect of the proposal on living conditions at the neighbouring properties 36 and 40 Linkside Avenue.

Reasons

3. 38 Linkside Avenue is a detached house with a large, recently built flat roof single storey extension at the back. The proposal is to build a first floor over most of this existing extension.
 4. No 38 sits within a run of houses built in a staggered row, so that the southern side walls of most extend well beyond the back of the next house to the south. As a result, many of these houses gain some of their light and outlook from southern side windows. This helps to balance out their more restricted outlook to the north.
 5. The existing single storey extension at No 38 stops at a side facing kitchen window to No 40, crowding it but still allowing for satisfactory light and outlook. Although there is also a glazed door to the rear of that kitchen, the side window is clearly important to the quality of that room, in large part due to the staggered layout of the houses.
 6. Appendix 6 of the Oxford Local Plan 2001-2016 (LP) advises that development will not normally be allowed to intrude over a line drawn at an angle of 45° in the vertical plane from the cill of a main side facing window to a habitable room, including a kitchen. The proposed first floor extension would be set back slightly from the end of the ground floor extension, so that the proposal would
-

- not cross the 45 degree line if drawn directly in front of the window. However, the extension would intrude well beyond the 45 degree line (in the vertical plane) if drawn towards it at a comparatively shallow angle (in the horizontal plane). From my observations at the site visit, I find that the extension would be so close to the kitchen window that it would loom over it oppressively, causing a substantial loss of sunlight and views of the sky.
7. There would also be some effect on several other side windows at No 40, but these serve bathrooms and other non-habitable rooms and I find no objection in this respect. On the other side of No 38, No 36 has a long 2 storey section projecting to the rear, with windows at the end. The proposed extension would sit behind a 45 degree line (in the horizontal plane) drawn from the middle of those windows, in compliance with the advice in LP Appendix 6. In any case, the main views from the back of No 36 are more to the south and I find that occupiers would retain more than adequate outlook and light. The rear gardens of both neighbouring properties would still have open sunny outlooks, and would be overlooked no more than is normal where rows of houses are set close together.
 8. Notwithstanding these favourable findings, I conclude that the proposal would unacceptably harm living conditions at No 40 due to the effect on outlook and light. It therefore conflicts with LP Policies CP.1, CP.10 and HS.19, which aim to ensure that development safeguards the amenity of other properties, including in relation to the matters of sunlight, daylight and overbearing development.
 9. The Council has also referred to LP Policies CP.6 and CP.8. However these relate mainly to the character and appearance of the development rather than to neighbours' living conditions. The proposed extension would be little seen from the street, and from the adjoining public recreation ground it would be seen in filtered views through trees. It would sit within a run of varied, modern rear elevations and would not appear out of character within that context. I note that some other nearby houses have been extended at single storey only, but find no reason why this should rule out reasonably designed 2 storey extensions.
 10. I have taken into account the policies of the recently published National Planning Policy Framework (NPPF), including the presumption in favour of sustainable development, but find nothing to override my conclusion on the main issue.
 11. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR