



Appeal Decision

Site visit made on 11 October 2022

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/D3125/W/22/3299642

13 Willowbank, Witney OX28 4DQ

- 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 H Frodsham against the decision of West Oxford District Council.
 - The application Ref 21/03031/FUL, dated 6 September 2021, was refused by notice dated 8 April 2022.
 - The development is for "Use of land in association with garden to No 13, erection of decking".
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Decision

1. The appeal is allowed and planning permission is granted for use of land in association with garden to No 13, erection of decking at 13 Willowbank, Witney OX28 4DQ in accordance with the terms of the application, Ref 21/03031/FUL, dated 6 September 2021, and the plans submitted with it.

Preliminary Matters

2. The description of development used in the heading above is taken from the planning application form. However, for clarity, I have omitted the phrase "(retrospective)" as this is not a description of development.
3. At the time of my site visit, I saw that the construction of the decking was substantially complete. I also note that the application has been submitted retrospectively. I have dealt with the appeal on that basis.
4. The proposed plan also shows outbuildings which are annotated to be subject to a separate application. Therefore, I have not had regard to the outbuildings in determining the appeal.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The change of use of land, decking area and fencing is at the back of the rear garden to a modern house. The house is part of an estate of houses which back on to an area of greenspace containing a waterway and public footpath, which the rear boundaries of the appeal house and neighbouring houses approximately follow. These houses, although of similar materials, vary in design and height and are built offset to one another.

7. The development can only be seen from the area to the rear of the houses along the public footpath. The footpath transitions from being secluded with planting either side to a more open area next to a shared car park and commercial property where the decking can be seen from.
8. Between the footpath and houses is established planting which is within an area covered by a Tree Preservation Order and has a narrow waterway running through it. At both the appeal property and the neighbouring property the line of planting is partly broken due to recent development at both properties. New rear boundary treatment has been erected at the neighbouring house and at the site visit it was evident that some clearing had taken place to facilitate this which would be the case for any works along these rear boundaries. The footpath is seen in the context of existing residential development and that relationship forms part of the character of the area.
9. The decking has a grey/blue finish, which I found to be no more prominent than the adjacent fence panel finish witnessed during my site visit. Moreover, it is seen against a backdrop of houses, which ensures that the decking does not appear incongruous.
10. I note the Council's comments regarding the established boundary of residential properties and recognise that the decking extends beyond the original rear garden boundary of the house. When considering the relationship between houses here, their existing pattern of development is not linear, and although the rear boundaries appear to be when viewed on a plan, in the main, this relationship is not visible from the footpath due to existing planting. The development is visible from the public green space, as are some other boundaries and the houses themselves. However, there is still planting between the decking and the footpath and its projection beyond the established boundary of residential properties is not significant. Therefore, I do not find the projection of the decking to be visually intrusive.
11. I note the Council's comments regarding whether the development protects or enhances the public green space or results in loss of landscape value. In the context of the existing character, the development being sited on an inaccessible part of the green space and having limited if any impact on the functionality of the green space, I find that the development protects the green space.
12. Taking the above matters into consideration, I conclude that the development does not adversely affect the character and appearance of the area. It therefore accords with policies OS2, OS4 and EH4 of the West Oxfordshire Local Plan 2031¹, and relevant policies in the National Planning Policy Framework. These policies seek, amongst other things, new development to provide good design that is appropriate to its location, scale and function and to protect existing areas of public space and green infrastructure.

Other Matters

13. I note the Parish Council's concern about setting a precedent for this type of development. However, for the reasons set out above, I find the development to be acceptable and as such, I am satisfied that my approval of it would not

¹ West Oxfordshire District Council, West Oxfordshire Local Plan 2031, Adopted September 2018

set an undesirable precedent. Any future proposal for similar development would not to be assessed on their own merits.

14. I note the representation received from the Environment Agency advising that a permit is required so that an assessment can be made as to any potential negative impacts from the development on nearby watercourses. However, whilst an environment permit may be required for the development, this is not a legitimate reason to withhold planning permission.

Conditions

15. I have had regard to the conditions suggested by the Council. I have not imposed the suggested condition requiring the development to be carried out in accordance with the plans because the development has been completed and so this is not necessary. Additionally, I have not imposed a condition requiring details of the staining or painting of the fence to be submitted and agreed by the Council as it is already painted an acceptable colour, so a condition is not necessary.

Conclusion

16. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

S Crossen

INSPECTOR