
Appeal Decision

Site visit made on 30 January 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 3 March 2017

Appeal Ref: APP/G3110/W/16/3162190

Hawkswell Land, Hawkswell Gardens, Oxford, Oxfordshire, OX2 7EX

- 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 & Mrs Racy against the decision of Oxford City Council.
 - The application Ref 15/02352/FUL, dated 31 July 2015, was refused by notice dated 16 August 2016.
 - The development proposed is the construction of 3 detached houses with associated private gardens, access drive and off street parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 3 detached houses with associated private gardens, access drive and off street parking spaces at Hawkswell Land, Hawkswell Gardens, Oxford, Oxfordshire, OX2 7EX, in accordance with the terms of the application, Ref 15/02352/FUL, dated 31 July 2015, subject to the conditions in the schedule at the end of this decision.

Preliminary Matter

2. The application form notes the site address as 18 Hawkswell Gardens. However, the appeal site is an entirely separate piece of land to No 18. The address given on the appeal form is more accurate referring simply to Hawkswell Land at Hawkswell Gardens. I have therefore used this in the banner heading and in my decision above.

Main Issues

3. The main issues are (i) whether the development should make a contribution towards affordable housing, and (ii) whether the development makes efficient use of land.

Reasons

4. The appeal site comprises two plots of open, undeveloped land which are located to the rear of No 18. The site is accessed off of Hawkswell Gardens which is a residential cul-de-sac and is formed of a variety of dwellings which include single and two storey detached houses, and flats. Immediately to the north of the site are detached dwellings which, like the appeal site, are bound to the east by the River Cherwell. Part of the appeal site has a planning history which includes permission 08/02140/FUL for the erection of two three storey dwellings.
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Affordable Housing

5. Policies HP3 of the Sites and Housing Plan 2011-2026 (2013) (SHP) and CS24 of the Oxford Local Plan 2001-2016 (2005) (OLP) set out that on sites with a capacity for 10 or more dwellings, or which have an area of 0.25 hectares or greater, a minimum of 50% of dwellings on the site should be provided as affordable homes. The proposal before me is for only three new dwellings. However, in total, the appeal site is over 0.25 hectares. On this basis the Council argue that the proposal should contribute towards the provision of affordable housing.
6. Both parties refer to the threshold beneath which affordable housing contributions should not be sought which follows the order of the Court of Appeal dated 13 May 2016 which gave legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014. New and updated paragraphs have been added to the Planning Practice Guidance (PPG) section on planning obligations to reflect this. These clearly state that contributions for affordable housing should not be sought for sites of 10-units or less, regardless of the overall size of the site.
7. Nevertheless, the Council state that the appeal site falls within the most unaffordable area of the Country and that this, coupled with higher dependence upon smaller sites, justifies a departure from government policy, and consequently Policies HP3 and CS24 should continue to be applied. There is, however, no substantive evidence before me to support the Council's position in this respect.
8. This appeal must be determined in accordance with the development plan, unless material considerations indicate otherwise. The policies in the WMS are Government Policy and are a material consideration to which I attach significant weight. In the absence of any substantive evidence in respect of the local circumstances of the appeal site I consider that the WMS as a material consideration justifies a departure from policies HP3 of the SHP and CS24 of the OLP, and as such a contribution towards affordable housing is not necessary. I note the Inspector in appeal decisions APP/G3110/W/15/3139468 and 3139945, which relate to a site in Oxford, came to a similar conclusion in this respect.

Efficient Use of Land

9. Policy CP6 of the OLP sets out that new development must make the best use of site capacity having regard to, amongst other things, the density of development. The Council consider that the proposal provides a very low density of development. This is due, in part, to the fact that a not insignificant proportion of the site falls within floodplain, and the Council acknowledge this. Nevertheless, the Council still consider that there is capacity for a development of more than three large dwellings on the land.
10. Policy CP6 sets out that in making the best use of site capacity regard must be had to the scale of development in the surrounding area. The proposed development would comprise three large detached dwellings which would back onto the River Cherwell. It would loosely follow a line of detached properties to the north on Lucerne Road which are of a similar size and layout to that proposed, and which occupy similar sized plots. Consequently I consider the density of the proposed development to be appropriate given the pattern of

surrounding development and the constraints of the site. With these points in mind the proposal would make efficient use of the land and as such would not conflict with Policy CP6 of the OLP.

Other Matters

11. Occupiers of neighbouring properties have raised a number of concerns. Although accessed off of Hawkswell Gardens the site is behind these properties and as such has a secluded nature. It is therefore not necessary for the materials used in the development to match those used on properties in Hawkswell Gardens. Although relatively big, the proposed dwellings would not be unduly large given other detached dwellings in the vicinity of the site. The proposed dwellings would be located on lower ground and sufficient distance from Hawkswell House and the nearest properties on Hawkswell Gardens to ensure no material loss of light or overlooking would occur.
12. In light of existing development in the area it would not be unusual to see dwellings from the river garden which is located to the south of the site and is used by occupants of both Hawkswell House and residents of Hawkswell Gardens. There would also be space to retain and enhance the planting on the site's boundaries. Any overlooking of the river garden from House 3 would be limited to the western end of the garden where it is accessed, and, in any event, would not be harmful given that this is a communal garden. Furthermore, the development would have no impact on the open vista to the river currently enjoyed by this garden.
13. The access to the site is over an existing private access. Whilst narrow, it is not unworkable. The proposed development would result in a relatively small number of vehicle movements overall and as such would not cause material harm in terms of noise and disturbance, or danger to pedestrians. There is no substantive evidence before me to indicate that the level of parking proposed is so inadequate so as to cause harm.
14. I acknowledge that the proposal would result in the loss of a large number of trees. I note, however, that the Council have sought amendments to retain vegetation along the boundaries of the site and a dove/handkerchief tree, and in this respect found the development to be acceptable. Despite neighbours' concerns to the contrary, and subject to a suitable condition, I find no reason to conclude otherwise in this respect. On the evidence before me, which includes an Extended Phase 1 and Preliminary Bat Survey, I also find no harm in terms of ecology.
15. Any damage to buildings, private property or services and drains would be a matter between the parties involved, as would any issues relating to the presence of Japanese Knotweed on site, and, in any event, are not issues which would affect the outcome of this appeal. Any noise during construction would be temporary and could be mitigated by a suitable condition.
16. Finally, whilst I accept that the current verdant aspect created by the appeal site is appreciated by local residents, a change of view is not normally regarded as a planning consideration, and in this case, I find no reason to conclude otherwise.

Conditions

17. I have attached the standard time limit condition and included a plans condition as this provides certainty. To ensure a satisfactory appearance I have also included a condition regarding the materials to be used in the construction of the development. Also for reasons of appearance, I have attached a condition requiring the submission of a suitable landscaping scheme, to include details relating to the trees and hedgerows on the land to be retained.
18. To protect local biodiversity I have include conditions requiring compliance with the submitted Extended Phase 1 and Preliminary Bat Survey Report. There is no justification before me, however, for any further enhancement measures. The site has potential for archaeological interest therefore I have attached a condition requiring archaeological investigation. To ensure the satisfactory dispersal of surface water I have also included a condition requiring the submission of detailed plans for a scheme of surface water drainage to be submitted to and approved by the local planning authority.
19. Although not suggested by the Council, given the narrow entrance to the site and proximity of residential properties along this, I have included a condition requiring a construction method statement, to include delivery and construction working hours, as suggested by local residents, in order to protect their living conditions.
20. The Council have commented that the roof lights in the north-west roof slope of House 1 should be obscure glazed but have not suggested a condition to this effect. Nevertheless, in my opinion, roof lights by their angled nature do not allow for either direct or prolonged overlooking, therefore I do not consider such a condition is required.
21. The pre-commencement conditions I have included are necessary as they relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

22. For the reasons set out above I have found that the proposed development does not need to make a contribution towards affordable housing and makes efficient use of land. Subject to the above conditions, and having had regard to all other matters raised, the appeal is allowed.

Hayley Butcher

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1365-PR-001 Revision A, 1365_PR_108 Revision C, 1365_PR_105, 1365_PR_106.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified on the application form and as shown on approved plans: 1365_PR_105, 1365_PR_106.
- 4) No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details relating to the trees and hedges on the land to be retained and removed, and set out measures for the protection of the retained trees and hedges throughout the course of development. It shall also include information about the type and species of new planting proposed. The approved landscaping scheme shall be completed within twelve months of the substantial completion of the approved development.
- 5) The development shall be implemented in accordance with the measures outlined in chapter 7 (7.1-7.6, 7.8-7.14) of the Extended Phase 1 and Preliminary Bat Survey (4Acre Ecology, July 2015).
- 6) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved programme.
- 7) Prior to the commencement of development detailed plans relating to a scheme of surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved drainage plans shall be completed prior to the first occupation of the approved development.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.