
Appeal Decision

Site visit made on 6 February 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 3 March 2017

Appeal Ref: APP/G3110/W/16/3160598
10 Coleridge Close, Oxford OX4 3JG

- 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 Tariq Khuja, Asset Max Ltd against the decision of Oxford City Council.
 - The application Ref 15/01571/FUL, dated 12 June 2016, was refused by notice dated 13 September 2016.
 - The development proposed is construction of an extension to number 10 Coleridge Close, to increase the accommodation to 3 no one bedroom flats.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
 3. A single reason for refusal was given in the Decision Notice (DN), that being that the proposal would provide insufficient outdoor amenity space for flat 3. This refusal reason is numbered 2. However, the Council has indicated in its written evidence that there were two reasons for refusal, the second relating to the amount of internal floor space that would be available for the occupants of flat 2. This concern was raised in both the officer report as well as email correspondence between the parties. It was also brought to the attention of the appellant at an early stage in the appeal process.
 4. While it is often unreasonable for a Council to seek to introduce an additional reason for refusal following the lodging of an appeal, whether the Council has acted unreasonably will be addressed as part of the Application for Costs referred to below. However, in determining this appeal, I must have regard to the policies set out in the Development Plan and not merely those set out in the DN itself. In having their attention drawn to this matter at an early stage in the process, the appellants have been given a reasonable opportunity to address those additional concerns and on balance, I am satisfied that their interests would not be prejudiced by my consideration of this additional objection in my reasoning below.
-

Application for Costs

5. An application for costs was made by Mr Tariq Khuja, Asset Max Ltd against Oxford City Council. This application is the subject of a separate Decision.

Main Issue

6. The main issues are the effect of the proposed development on the living conditions of future occupiers with particular regard to outdoor amenity space and internal living space.

Reasons

Outdoor amenity space

7. The appeal property forms one of a pair of 2 storey semidetached dwellings. The property has already been sub-divided into 2 x 1 bed flats, one on the ground floor and one above at first floor level. The proposal would involve the erection of a 2 storey extension to the existing building to form an additional self-contained one bedroom flat configured over two floors.
8. Policy CP10 of the Oxford Local Plan 2001-2016¹ (LP) restricts planning permission to developments that are sited to ensure that, amongst other things, the outdoor needs of future residents are properly accommodated, including private amenity space. Furthermore, Policy HP13 of the Sites and Housing Plan 2011-2026 (SHP)² requires new dwellings to have direct and convenient access to an area of private open space. In the case of one or two bedroom flats, this can be in the form of either a private balcony or terrace or by providing direct access to a private or shared garden. When assessing whether adequate space has been provided, Policy HP13 sets out a number of factors that will be taken into account. These include the overall shape, access to and usability of the space.
9. The Council accepts that the proposed outdoor amenity space for flats 1 and 2 would be acceptable, providing both sufficient space and direct access from the dwellings themselves. However, while it accepts that the provision made for flat 3 would meet the space standard, it raises concerns regarding its location and access. These concerns are well founded. No terrace or balcony would be provided for this dwelling and the outdoor space proposed would be accessed via a gateway alongside flat 2. Furthermore, this access would also provide an alternative access to the private outdoor space for flats 1 and 2. The appellant has indicated that this is intended for the manoeuvring of bicycles and bins from the rear of these dwellings. This would, in my view, significantly reduce the convenience of the users of this access and would fail to provide the direct and convenient access which is required by SHP Policy HP13.
10. While I note that there may be other examples in Oxford and elsewhere where occupants of flats do not have direct access to their dedicated amenity space, that does not provide sufficient reason to depart from the requirements of adopted policy. Furthermore, while I note that the proposal would satisfy other aspects of those policies, that does not overcome the harm identified above.
11. Accordingly, I find that the proposal would fail to provide direct and convenient access to a private garden area for the occupiers of Flat 3. In doing so, the

¹ Adopted 11 November 2005

² Adopted February 2013

proposal would fail to properly accommodate the needs of future occupiers and, as such, would be contrary to LP Policy CP10 and SHP Policy HP13.

Internal living space

12. Policy HP12 of the Sites and Housing Plan (2013) sets out minimum levels of internal floor space for new dwellings. From 1 October 2015, government policy³ is for existing local plan policies relating to internal space to be interpreted by reference to the Nationally Described Space Standard⁴ (NDSS).
13. The Council accepts that the internal floor area provided for flats 1 and 3 would comply with the required standards, However, the same cannot be said for flat 2, which, at around 40.5 m² would fall considerably short of the 58m² required by the NDSS for a 1 bedroom 2 person 2 storey dwelling.
14. Accordingly, in failing to provide the requisite area of internal floor space, I find that the proposal would fail to comply with Policy HP12 of the Local Plan as interpreted by reference to the NDSS.

Other matters

15. The appellant has asserted that the Council is unable to demonstrate a five year supply of deliverable housing sites ("the Housing Land Supply (HLS)"). The National Planning Policy Framework ("the Framework") states that in such circumstances, relevant policies for the supply of housing should not be considered up to date. That is not to say that they should be disregarded but rather that the forth bullet point in paragraph 14 of the Framework is engaged. This indicates that where the development plan is absent, silent or relevant policies are out of date, permission should be granted for sustainable development proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
16. The Council has provided an extract from its annual monitoring report which indicates that the HLS figure at March 2016 was 6.3 years. No robust evidence has been submitted as part of this appeal which would demonstrate that the Council's figures are incorrect. Nonetheless, even if I were to accept that there was a shortfall in HLS, I regard the adverse impact on the living conditions of future occupiers to be such that it would significantly and demonstrably outweigh the benefit that an additional unit of residential accommodation would provide.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

³ Written Ministerial Statement dated 25 March 2015; DCLG

⁴ Technical housing standards – nationally described space standard. DCLG March 2015