
Appeal Decision

Site visit made on 7 February 2017

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 14th March 2017

Appeal Ref: APP/G3110/W/16/3159780

17 Stapleton Road, Oxford, Oxfordshire OX3 7LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Neale Jackson against the decision of Oxford City Council.
 - The application Ref 15/03534/FUL, dated 4 December 2015, was approved on 12 April 2016 and planning permission was granted subject to conditions.
 - The development permitted is erection of part single, part two storey rear extension and roof extension including raising of ridge height to existing dwelling.
 - The condition in dispute is No 7 which states that: "The development hereby permitted shall not be occupied until the Order governing parking at Headington West (HB) has been varied by Oxfordshire County Council as highway authority to exclude the new dwellinghouse (identified as 17A Stapleton Road on the approved plan, Drawing No. 1468K-101), subject to this permission, from eligibility for resident's 'parking permits and residents' visitors' parking permits unless otherwise agreed in writing by the local planning authority".
 - The reason given for the condition is: "To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause parking stress in the immediate locality, in accordance with policies CP1, CP6, CP10 and TR13 of the Adopted Oxford Local Plan 2001-2016".
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Decision

1. The appeal is allowed and the planning permission Ref 15/03534/FUL for erection of part single, part two storey rear extension and roof extension including raising of ridge height to existing dwelling at 17 Stapleton Road, Oxford, Oxfordshire OX3 7LX granted on 12 April 2016 by Oxford City Council, is varied by deleting condition No.7.

Main Issue

2. This is whether the condition is reasonable in the interests of highway safety and the avoidance of parking stress in the area.

Reasons

3. Planning permission was granted for alterations and extension to the existing No17 and the creation of a new dwelling on land immediately adjacent to it. This necessitated the demolition of the existing garage and its redevelopment, along with a significant component of off street parking space in front of it.
4. Stapleton Road is a long linear avenue with relatively broad footways and a contrastingly narrow carriageway. Such are these proportions that parking

provision of residents permit holders is defined by painted bays bisecting both footway and carriageway. In order to allow for the free flow of traffic these sections of parking are interspersed with sections of double yellow lines. Sections of both demarcations are evident in close proximity to the appeal property.

5. Although there were a number of parking spaces available at the time of my visit at around 1400h, traffic in and around the roads in the environs of the site were very busy and congested, and I can readily accept that once homeward journeys of residents are completed competition for parking spaces must be brisk. These circumstances are reflected in the Council's officer report and the views expressed by the highway authority.
6. In this response Oxford County Council as highway authority suggest that the proposed dwelling be excluded from the Headington Central residents parking permit scheme but then go on to suggest a condition securing an amendment to the existing Traffic Regulations Order, made through a unilateral undertaking (presumably secured through the condition), facilitating the removal of a section of yellow lines at a cost to be borne by the appellant. Evidently the Council opted for the former approach and hence the application of condition No. 7 to the planning permission.
7. However, the reasonableness of this condition in the context of the appropriate consideration of conditions set out in paragraph 206 of the National Planning Policy Framework (the Framework) are challengeable in several key respects. In my view it cannot be reasonable for the local planning authority to prohibit the occupation of a dwelling until such time as the Traffic Regulation Order (the details of which are nowhere specified) by another regulatory authority under terms and procedures different to that applicable in the planning context. Moreover, in such terms, the Council would have no authority to ensure the amendments to the Order are carried through, or indeed amend it or change its purposes, as the last clause of the condition suggests it is able to do.
8. Furthermore, it strikes me that if the condition were breached, the house occupied and permits applied for and issued in the absence of an amendment to the Order, the condition may prove difficult to enforce.
9. For these reasons therefore, I conclude that condition No. 7 fails to meet the tests of reasonableness and enforceability set out in paragraph 206 of the Framework and the supporting guidance set out in Paragraph 003 Reference ID: 21a-003-20140306 of the Planning Practice Guidance chapter on conditions.
10. Whilst there may indeed be issues around parking stress in the Headington area, the application of a condition such as No. 7 is not a reasonable or enforceable mechanism for ameliorating it. On the basis of the above I conclude that the appeal should be allowed. Accordingly I vary the planning permission by deleting the disputed condition.

David Morgan

Inspector