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## Appeal Decision

Site visit made on 1 August 2017

**by G P Jones BSc (Hons) MA MRTPI**

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

**Decision date: 8 August 2017**

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**Appeal Ref: APP/G3110/W/17/3171549**  
**73 Barton Road, Oxford OX3 9JE**

- 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 David Moss against the decision of Oxford City Council.
  - The application Ref 16/03149/FUL, dated 7 December 2016, was refused by notice dated 23 February 2017.
  - The development proposed is described as Demolition of existing garage. Erection of 1 x 1-bed dwellinghouse (Use Class C3). Provision of private amenity space, bin and cycle store.
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### Decision

1. The appeal is allowed and planning permission is granted for the Demolition of existing garage. Erection of 1 x 1-bed dwellinghouse (Use Class C3). Provision of private amenity space, bin and cycle store at 73 Barton Road, Oxford OX3 9JE in accordance with the terms of the application, Ref 16/03149/FUL, dated 7 December 2016, subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, the effect on the living conditions of future occupiers of the appeal property, and the effect of the proposal on trees.

### Reasons

#### *Character and appearance*

3. The proposal would entail the demolition of the existing garage and workshop and its replacement with a single storey dwellinghouse with one bedroom that would become no. 73A. The existing garage and workshop building is located at the front of the site with its side elevation forming part of the front boundary. Despite this, the appeal site lies in a relatively secluded location at the end of a cul de sac with a bin storage block in close proximity and blocks of flats nearby.
4. Within the existing street scene the appeal site forms part of an enclave of smaller dwellings with the existing property of no. 73 and the neighbouring properties of nos. 75 and 77 to the east. The plot for no. 73 is larger than most of the surrounding residential plots and the existing dwelling of no. 73 is centrally located within this plot and therefore is set much further back within its plot than the neighbouring properties to the east.

5. The Council considers that the proposed dwelling would be in an elevated position. Whilst there is a slight rise up from the nearby road and footway I would not consider the proposed dwelling to be particularly elevated and it would be on the same level as nos. 73, 75 and 77. The blocks of flats in the immediate vicinity are significantly taller than the proposed dwelling and these form the main character and appearance to the surrounding area. Within the overall street scene the proposal primarily would be viewed within the context of these flats and the bin storage block.
6. Furthermore, although the proposed bungalow would be taller than the existing garage and workshop building it would occupy broadly the same footprint and its scale would be subservient to the nearby properties. The Council considers that the site would be considered previously developed land and I concur with this. The existing building is not of any particular architectural merit and its replacement with a dwelling using appropriate building materials would improve the appearance of the area.
7. I consider that the particular circumstances of this proposal, in terms of the existing building that it would replace and its relatively secluded location dominated by much larger buildings in the vicinity, mean that it would be acceptable in terms of its effect on the character and appearance of the area. As such it would comply with Policies CP1 and CP8 of the Oxford Local Plan 2001-2016 (LP), adopted 2005, Policy CS18 of the Oxford Core Strategy 2006 (CS), adopted 2011, and Policies HP9 and HP10 of the Sites and Housing Plan 2011-2026 (SHP), adopted 2013. Taken together these policies seek to ensure that development, including on garden land, is of a high standard of design that responds to the character and appearance of the area.

#### *Living conditions*

8. The proposed dwelling would have an access driveway running close to its north-eastern elevation that would lead to a single parking space for nos. 73 and 73A respectively. These would be situated beyond the rear garden of no. 73A. The common side boundary with no. 75 is marked by a close-boarded wooden fence of some 2m in height.
9. The Council contends that the proposal would give rise to an unacceptable level of disturbance and loss of privacy for the occupiers of the proposed dwelling. There would inevitably be some disturbance and loss of privacy from vehicles entering and leaving the proposed parking spaces. However, this would be limited by the fact that there would realistically only be sufficient space available to accommodate a vehicle from each of the properties in the allocated parking spaces. As such the proposal would be unlikely to give rise to a significant number of vehicle movements and would not cause undue disturbance or loss of privacy.
10. Consequently I consider that on balance the potential impact on the living conditions of the occupiers of the proposed bungalow would be acceptable and neither would there be an unacceptable effect on the living conditions of the occupiers of nos. 73 or 75. Therefore I consider that the proposal would accord with LP Policies CP1 and CP10 that require development to show a high standard of design, and ensure that amenity is safeguarded and privacy is provided. The Council has also cited SHP Policy HP12 in its reason for refusal but as this primarily relates to the amount of indoor space provided, which the

Council considers to be acceptable, I do not consider it applicable in this instance.

### *Trees*

11. Just beyond the eastern boundary of the site, in the rear garden of 22 The Beeches, are two mature trees. The Council's decision notice and appeal statement refers to one of these trees, a lime tree, being subject to a Tree Preservation Order (TPO). Whilst both of these trees are outside of the boundary of the appeal site, they are quite close to the common boundary. The appellant contends that should this appeal be allowed then a suitably worded condition could be framed to require the submission of an arboricultural assessment with suitable mitigation measures.
12. These two trees have quite an upright growth pattern and do not currently spread significantly over into the appeal site. In addition, they are sited at a distance such that it is unlikely that their root systems would be significantly adversely affected by the building works required for the new dwelling which would be on the same footprint as the existing garage. The area for the two proposed parking spaces would be clearly within the root protection area of these trees. However, I consider that it should be possible to construct these two parking spaces without having an undue effect on their overall root systems.
13. Therefore due to the distance of the trees from the main built development I consider that it would be possible to impose a planning condition to ensure the successful protection of the root systems of these trees both during construction operations and afterwards. Consequently I consider that, subject to the imposition of appropriate planning conditions the proposal would be acceptable in this regard.

### **Conditions**

14. In addition to the standard condition which limits the lifespan of the planning permission, the Council has suggested a number of conditions in the event that the appeal succeeds. I have considered these in the light of the advice contained within the Planning Practice Guidance (PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG.
15. A condition to direct that the development accords with the approved plans is required for the avoidance of doubt and in the interests of proper planning. Conditions requiring the submission of details or samples of external materials and a landscaping plan are necessary in the interests of protecting the character and appearance of the area. As hard surfacing is proposed a requirement for sustainable drainage is necessary in order to prevent excess rainwater egress onto the public highway. Details of the bin store and cycle parking are necessary in the interests of promoting sustainable development.
16. Conditions requiring details of tree protection measures and methods of working within root protection areas are required to protect the trees near to the site, including any that are subject to TPOs. A condition restricting permitted development rights is necessary in this instance due to the constrained nature of the site and the small area of outdoor space associated with the proposed dwelling. A condition limiting parking permits is required in

order to ensure that the proposal would not have a detrimental effect on the parking provision in the locality. The Council has recommended that a swept path analysis be provided but the submitted plan clearly indicates the provision of a turning area and wider than standard parking spaces, and to my mind this is sufficient.

### **Conclusion**

17. The proposal would provide an additional residential unit in a sustainable location in terms of access to goods and services. Furthermore, it is my view that it would have the potential to improve the appearance of this part of the street scene. Having regard to paragraphs 14 and 49 of the National Planning Policy Framework, I conclude that due to the particular circumstances of this case the adverse impacts of the proposal in terms of the potential effect on trees and living conditions that I have identified would not outweigh the benefits that I have identified.
18. Therefore for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*GP Jones*

INSPECTOR

## SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be constructed in accordance with the approved plans reference: 73BR:SU01, 73BR:SU02, 73BR:P01 Rev C, 73BR:P05, and the Site Location Plan, unless otherwise agreed in writing by the local planning authority.
3. Prior to the commencement of development details or samples of all external facing materials shall be submitted to and approved in writing by the local planning authority. Thereafter only the approved materials shall be used.
4. Prior to the occupation of the dwelling hereby permitted details of the bin store and cycle parking area for at least 2 bicycles, including means of enclosure, shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the bin store, cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter these areas shall be retained solely for these purposes.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) no structure including additions to the dwellinghouse as defined in Classes A,B,C,D or E of Schedule 2, Part 1 of the Order shall be erected or undertaken without the prior written consent of the local planning authority.
6. Prior to the commencement of development a landscape plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include a survey of existing trees and indicate which, if any it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar manner. The landscaping proposals, as approved, shall be completed by no later than the first planting season after completion.
7. Prior to the commencement of development, detailed protection measures for the protection of all trees to be retained during the development shall be submitted to and approved in writing by the local planning authority. Such measures shall include scale plans indicating the position of barrier fencing and/or ground protection materials to protect Root Protection Areas of retained trees and/or create Construction Exclusion Zones around retained trees, including those in the rear garden of 22 The Beeches. Unless otherwise agreed in writing by the local planning authority the approved measures shall be in accordance with the relevant sections of BS 5837:2012 Trees in Relation to Design, Demolition and Construction Recommendations. The approved measures shall be in place before the start of any works on site and shall be retained for the duration of all construction operations. Prior to the commencement of any works on site the local planning authority shall be informed in writing when the approved measures are in place. No works or other activities, including the storage of materials, shall take place within the Construction Exclusion Zones unless otherwise agreed in advance and in writing by the local planning authority.

8. Prior to the commencement of development a detailed statement setting out the methods of working within the Root Protection Areas of all retained trees, including those in the rear garden of 22 The Beeches, shall be submitted to and approved in writing by the local planning authority. Such details shall take account of the need to avoid damage to tree roots through excavation, ground skimming, vehicle compaction and chemical spillages. Thereafter the development shall be carried out in strict accordance with the approved statement unless otherwise agreed in writing by the local planning authority.
9. The proposed new residential unit shall be excluded from eligibility for parking permits and the existing dwelling at 73 Barton Road, Oxford, shall be restricted to one parking permit prior to occupation of the new unit. The Traffic Regulation Order shall be met by the applicant through a Unilateral Undertaking.
10. Any part of the development hereby permitted which increases the area of hard surfacing shall be drained using sustainable drainage methods, including the use of porous pavements. Soakage tests shall be carried out to prove the effectiveness of soakaways or filter trenches.