



Appeal Decision

Site visit made on 4 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/V3120/W/19/3240576 32 Lime Road, Oxford OX2 9EG

- 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 F Fanyinka against the decision of Vale of White Horse District Council.
 - The application Ref P19/V0455/FUL, dated 18 February 2019, was refused by notice dated 8 August 2019.
 - The development proposed is the change of use of existing ancillary residential outbuilding to mixed ancillary residential use and short-let accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Vale of White Horse Local Plan 2031 Part 2, Detailed Policies and Additional Sites (LP Part 2) was adopted in October 2019 and now forms part of the development plan. Policies DP16 and DP23 of the LP Part 2 supersede saved policies DC5 and DC9 of the Vale of White Horse Local Plan 2011 in relation to the respective matters of access and the impact of development on amenity. In this regard, I consider that the most relevant policies in the recently adopted development plan have broadly similar objectives to those replaced and as such, there have been no fundamental changes insofar as is relevant to the circumstances of this appeal decision. Furthermore, given the advanced stage of the LP Part 2 at the time of the decision, both parties have had the opportunity to comment on the relevant policies as part of the appeal process. As a result, I am satisfied that no parties will be prejudiced by my consideration of them in my determination.
3. The North Hinksey Neighbourhood Plan has undergone examination, but I am not aware that it has yet proceeded to a referendum. Therefore, although it is at an advanced stage of preparation, it does not yet form part of the development plan. In any event, as neither party has made notable reference to any of the policies of the plan as part of their case, it does not have a significant bearing on my determination.
4. Notwithstanding the Council's reference to a retrospective application, the appellant indicates that the building that is the subject of the appeal is presently used as ancillary accommodation to 32 Lime Road¹ and the short-term letting of the building that had occurred previously has been suspended

¹ Paragraph 8 Appellant's Statement of case

pending the outcome of the appeal. I note that the proposal would not involve physical alterations to the building and have therefore, determined the appeal on this basis.

Main Issues

5. The main issues are the effect of the proposal on:

- The living conditions of the occupants of the main dwelling and annexe building having particular regard to privacy, and;
- Highway safety, having particular regard to the level of off street parking provided, and;
- The character and appearance of the area, having particular regard to the impact on highway verges.

Reasons

Background

6. The annexe building was originally permitted² as ancillary accommodation for the dwelling at 32 Lime Road to provide a home gym, guest bedroom, games room and en-suite. Three parking spaces were required as part of that permission to serve the planning unit overall. The appeal proposal would retain this use but would also allow for the use of the building as short-let holiday accommodation as an alternative use. It would nevertheless remain as part of the same planning unit as 32 Lime Road. However, since the annexe building obtained permission, the main house has changed use from a single dwelling to a small house in multiple occupation (small HMO).

Living conditions

7. The annexe building is accessed through the rear garden of 32 Lime Road and is located in close proximity to the main house, with the intervening distance at some points being particularly limited. It has two ground floor windows, serving an open plan area and guest bedroom, that directly face towards the rear elevation of the main dwelling and the rear garden. I observed that the main dwelling has double glazed doors serving the kitchen/dining area and a window serving a bedroom on the ground floor of the rear elevation. Furthermore, an outside table and seating area was positioned between the main dwelling and annexe at the time of my visit.
8. As a consequence of the configuration of the annexe with the main dwelling and rear garden, I have concerns regarding the privacy of future occupants of both components should the annexe be occupied by short-let residents as opposed to guest accommodation. Firstly, notwithstanding some difference in the levels between the respective buildings, the limited separation between windows serving habitable rooms would allow for an unacceptable degree of inter-visibility between the main dwelling and the annexe building which would compromise the privacy of both occupants.
9. I acknowledge that, to a degree, this might also be the case when the guest bedroom is used under the existing consent. Nevertheless, that consent was not solely for guest accommodation, it also comprised a games room and home gym for the occupants of the main dwelling which limited the extent of the

² Reference P12/V1520/HH 12.11.2012

guest accommodation and available facilities. Therefore, guests using the bedroom as part of the residential annexe would also be likely to use the main house to a degree. This would be commensurate with their relationship or connection with the occupants of the main dwelling.

10. Additionally, it would normally be the case that guests would only occasionally be present. In this context, the limited degree of privacy would be commensurate with such use. It does not follow that it would be equally suitable for short-term let accommodation as normally there would be no corresponding relationship between the occupants of the annexe and main dwelling and therefore, a higher degree of privacy would be appropriate. Furthermore, given that the building would serve both the existing use as well as paying visitors, the cumulative occupancy of the building would be more frequent.
11. In addition, the private rear garden of 32 Lime Road is limited in size but does provide for a reasonably private sitting out area for the occupants of the main dwelling. Occupants of the guest accommodation would have to access the building through the rear garden and additionally would have a direct view from the building onto the rear garden, including the sitting out area. Likewise, residents using the garden would be directly adjacent to ground floor windows serving the open plan area and bedroom of the annexe, allowing direct views into the building. This would seriously compromise the privacy of both sets of occupants in circumstances where it would be reasonable to anticipate a higher level of privacy.
12. Taking these factors together the proposed use of the appeal building would result in an unacceptably intrusive level of overlooking between occupants of the annexe and the main dwelling. This would be contrary to principle DG64 regarding privacy within the Vale of White Horse, Design Guide, March 2015 Supplementary Planning Document. Furthermore, it would fall short of providing a high standard of amenity for existing and future users as required by paragraph 127 f) of the National Planning Policy Framework (the Framework).
13. I have considered whether the development could be made acceptable through the use of conditions or planning obligations. However, this would necessitate some form of barrier within the limited garden space, which itself, is likely to have undesirable knock-on effects for the outlook or light levels of existing residents.
14. The appellant highlights that the owner of the main dwelling would retain control over when the short-let accommodation might be occupied and that prospective users of the accommodation would have a choice about whether to lease it. I accept that this might mitigate the harm to a certain degree, nevertheless it does not fully justify permitting an unacceptable development to occur in the first instance.
15. In support of the proposal the appellant considers that short-term accommodation is not ordinarily expected to provide the same level of amenity as a family home, and by way of comparison refers to hotel accommodation, which would not normally feature the use of a garden. Be that as it may, it does not follow that this justifies development that would have a significant adverse effect on privacy. Furthermore, although the occupants of the small HMO may share bathroom, kitchen and living room facilities and therefore, may

not enjoy the same degree of privacy as a self-contained dwelling, it is not shown how this addresses the harm resulting from overlooking. If anything, it provides further impetus to avoid further reducing their level of privacy.

16. Accordingly, I find that the appeal proposal would result in unacceptable harm to the living conditions of the residents of both the main dwelling and short-let accommodation as it would not provide for a suitable level of privacy. Therefore, the proposal would be contrary to policy DP23 of the LP Part 2, that amongst other matters, requires development to avoid significant adverse impacts on the amenity of neighbouring uses, including the loss of privacy.

Highway Safety

17. The appeal site is located on the corner of Lime Road and Sycamore Road. Although primarily residential in nature, Lime Road provides a local route to principal roads and forms part of a bus route. There are no on-street parking controls in the vicinity of the appeal site and if vehicles park on the road, the carriageway is restricted to single width. Moreover, although many nearby dwellings do provide some off-street parking, the provision is limited and, in some cases, manoeuvring the access may be difficult. It was evident from my observations of the worn condition of the highway verges in the vicinity of the appeal site, that vehicles regularly park either partially or entirely on the grassed areas adjacent to the footway, suggesting a notable level of overspill parking and competition for on street parking spaces.
18. Parked vehicles on the verges at the junction of Lime Road and Sycamore Road would reduce the ability of drivers to see oncoming traffic when seeking to turn into Lime Road from Sycamore Road. Furthermore, by restricting the available space they may present an obstacle to the movement of pedestrians using the footway as well as reducing their visibility to drivers using the junction.
19. 32 Lime Road has three off-street parking spaces accessible from Sycamore Road. Parking provision for 3 spaces was required by condition at the time planning permission³ was granted for the appeal building as ancillary accommodation serving a single dwelling. It is not clear from the information submitted whether the current parking configuration was approved as part of the formal discharge of that condition. In any event, since then the main house has changed to a small HMO, which would form part of the planning unit with the proposed mixed use of the annexe building.
20. I also observed that the position of the pedestrian access gate to the rear garden was to the east of that shown on Drawing CoU1. Whilst there is no evidence to suggest that these developments required planning permission, it is nevertheless relevant to my consideration of the likely parking demand arising from the overall planning unit and its ease of use.
21. There is some ambiguity in the evidence from the Highway Authority as to the overall amount of off-street parking that they consider to be necessary to serve the proposal. The final observations of the Highway Authority⁴ in relation to the planning application were that the 5 bedroom HMO use would generate a minimum requirement of 3 off-street spaces when account is taken of the public transport options available. Furthermore, users of short-let accommodation in a sub-urban area such as the appeal site, are more likely to

³ Condition 6, Reference P12/V1520/HH

⁴ Local Highway Authority Consultation dated 8.8.19

- travel by private car and would generate a requirement for one space. This would equate to a total of four off-street spaces with minimum dimensions of 2.5m x 5m.
22. However, in their appeal statement⁵ the Highway Authority state that '*Parking standards require 2 car parking spaces for the principle [sic] dwelling and 1 space for the annexe, if it is not to be used in conjunction with the main dwelling.*' In contrast to the consultation response dated 8 August 2019, it is not clear in the appeal statement whether the comments take account of the 5-bed HMO use of the main dwelling. As such, I have given greater weight to the more comprehensive analysis of the parking requirements in the consultation response dated 8 August 2019. On that basis, given the expertise and local knowledge of the Highway Authority, it is reasonable to suppose the proposed use of the annexe would generate a parking space requirement in addition to the occupants of the main house.
23. The appellant considers that the level of parking generated by the proposal would be no different to that generated by guests using the residential annexe under the terms of the existing consent and points out that it would be possible for visitors to use the train, bus or taxi. However, in the absence of evidence to show otherwise, as the building would serve both the existing use and paying visitors, the cumulative occupancy of the building would be more frequent. It follows that the associated parking demand arising from visitors would be more continual.
24. Furthermore, relatives of the occupants of the main dwelling would be more likely than unconnected visitors to be able to rely on, use or share residents' vehicles and therefore, may use public transport to a greater degree. In combination, it follows that it is reasonable to anticipate that the proposed use would give rise to a demand in parking when compared to the existing use of the annexe.
25. On that basis, the development would fail to provide an appropriate level of convenient parking for the planning unit overall, which is likely to generate an additional demand for on-street parking. Adding to the competition for such spaces is likely to exacerbate instances of anti-social parking problems restricting visibility near the junction of Lime Road and Sycamore Road. For the reasons already outlined this would be detrimental to highway safety. Paragraph 109 of the Framework indicates that unacceptable impact on highways safety is one of the reasons which would justify preventing development on highway grounds.
26. The Council raise concerns that the parking layout would result in a vehicle straddling the pedestrian access path as indicated by the position of the southernmost vehicle on the section drawing reference CoU1. I observed a car parked in this position at the time of my visit, and its encroachment onto the path narrowed the space available for pedestrians using the rear garden gate. This would impede pedestrian access to the residential annexe making it inconvenient for the occupants. However, if the pedestrian gate were located to the position shown on plan CoU1 this could be overcome, which I accept is a matter that could be the subject of a condition. Nevertheless, this would not address my concerns regarding the quantum of off-street parking.

⁵ Paragraph 4, Dated January 2019 (but received 9 January 2020)

27. I further acknowledge that, even though provision is not shown on the submitted plans, there would be sufficient room within the grounds of the appeal site to make appropriate provision for bicycle parking. Therefore, this is a matter that might be addressed by a planning condition. However, the provision of cycle parking would not overcome the concerns already outlined.
28. Therefore, I find that the proposal would lead to an unmet parking demand that is likely to increase the level of on-street parking within the vicinity of the site and exacerbate parking on highway verges nearby. Given the proximity of the site to a junction, this would be detrimental to highway safety contrary to policy CP33 of the Vale of White Horse, Local Plan 2031, Part 1 Strategies Sites and Policies, December 2016 (LP Part 1) which in promoting sustainable transport and accessibility, amongst other matters, actively seeks to ensure that the impacts of new development on the local road network are minimised.
29. Given that I consider bicycle parking is a matter that could be addressed by a condition I do not find that the proposal would conflict with the requirements of policy CP35 of the LP Part 1, which seeks to promote public transport, cycling and walking. Furthermore, although reference is made to policy DP16 of the LP Part 2, this generally relates to access. Based on the evidence before me, the provision relating to loading, unloading, circulation, servicing and vehicle turning are of limited relevance to the details of the proposal. Nor does the development generate the need for off-site highway, cycleway or public right of way infrastructure improvements. On that basis, I find no conflict with policy DP16.

Character and appearance

30. The section of Lime Road nearest to the appeal site comprises mostly of semi-detached dwellings in an ordered layout which results in a pleasant suburban character. One of the features that contributes positively to that character, by softening the appearance of the surrounding built form, is the grassed areas of verge between the footway and carriageway. These are evident along Lime Road and Sycamore Road adjacent to the appeal site.
31. As referred to above, there is evidence that areas of the verges are becoming worn due to the regular presence of parked cars. Both the worn appearance and presence of parked vehicles upon them detract from the character and appearance of the street scene. I have already found the proposal would lead to an increase in on street parking, which is likely to occur on, or displace other parked vehicles onto, the grassed verges. It follows that the development would exacerbate this negative impact thereby causing harm to the character and appearance of the area.
32. The appellant considers that the presence of on-street parking forms part of the established character of the area, which I acknowledge to a certain extent. Nevertheless, it is the increased likelihood of encroachment of parked vehicles onto the grassed verges rather than the carriageway itself that results in notable harm. The presence of the verges within the public domain fulfils an aesthetic purpose. As such, the presence of vehicles in these locations was not an intended part of the ordered layout of the street scene. Consequently, the proposal would run counter to paragraph 127 c) of the Framework which states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

33. Accordingly, I find that the development would, due to the likely impact of parking on the surrounding highway verges have an adverse impact on the character and appearance of the area. Therefore, it would be contrary to policy CP31 and CP37 of the LP Part 1. Policy CP31 in generally allowing development that supports the visitor economy, sets criteria which, amongst other matters, seeks to ensure that such development is in keeping with the character of the settlement. Furthermore, policy CP37 requires development to be of high quality design that, amongst other things, visually integrates with its surroundings.

Planning balance and conclusion

34. The appellant highlights that no objection was raised by the Council in relation to other impacts from the proposal and that there would be an economic benefit due to an increase in visitor accommodation. Be that as it may, the absence of identified harm in relation to other matters is a neutral factor in my overall consideration. I accept that there would be some economic benefit arising from the development which counts in its favour. Nevertheless, the modest nature of the scheme limits the extent of economic benefit arising from it and therefore, attracts only limited weight.
35. I have had regard to the representations in general support of the scheme which point out that it would make efficient use of the space. Nevertheless, this does not address, nor outweigh the harm identified in relation to living conditions, highway safety and the character and appearance of the area, as these are matters which attract significant weight.
36. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁶. No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan.
37. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.