



Appeal Decision

Site visit made on 17 March 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal Ref: APP/G3110/W/19/3241147 255 Woodstock Road, Oxford OX2 7AE

- 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 and Mrs Beer against the decision of Oxford City Council.
 - The application Ref 19/01604/FUL, dated 13 June 2019, was refused by notice dated 20 August 2019.
 - The development proposed is the erection of a new detached dwelling with associated bin and bike store, driveway and hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have used the description given on the original planning application form rather than that used on the Council's decision notice and cited in the appeal form as it is a reasonably accurate summary of the proposal, and I have not seen evidence that the appellants agreed to the changed wording of the description.
3. Since the Council made its decision the emerging Oxford Local Plan 2036 has undergone examination and the interim conclusions of the examining Inspectors are that the plan is broadly sound. However, the final report has not yet been issued and it follows that this plan does not currently form part of the development plan. I have had regard to the emerging policies that are most relevant to the appeal proposal and consider that they do not propose fundamental changes to those in the adopted plan. As such, the emerging plan does not have a significant bearing on my determination.
4. The appellants have submitted a revised Proposed Site Plan referenced 344/P/005 Rev E as part of their appeal statement¹. They have also submitted additional illustrative plans referenced 'Context Elevation - South West 344/P/015' and 'Garden and footprint areas 344/P/016'². The main differences with the proposed site plan, reference 344/P/005 Rev C, upon which the Council made its decision, relate to the position of the refuse bin store and the dividing line for the garden areas for the existing and proposed property. As these relate to relatively minor matters of detail, I do not consider that the development proposal would be fundamentally altered. Moreover, the Council and some third parties have made comments in relation to the submitted

¹ Appendix 5 of Appellants' Appeal Statement

² Appendices 2 and 3 of Appellants' Appeal Statement

revised site plan. As such, I am satisfied that no parties would be prejudiced by my consideration of them as part of my determination.

Main Issues

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

- The character and appearance of the area;
- Ecology;
- The living conditions of the residents at 253 and 255 Woodstock Road having particular regard to noise from the access arrangements;
- The living conditions of the residents at 255 Woodstock Road and the proposed dwelling having particular regard to the adequacy of the garden provision, and;
- Whether the layout would be practicable having particular regard to fire engine access and refuse storage.

Reasons

Character and appearance

6. The appeal site is located behind 255 Woodstock Road which sits within a row of detached residential properties that front onto the street. These houses are mostly regularly set back from the road with long rear gardens within which there is a notable amount of tree cover adjoining a lake. Further to the west and facing towards the lake is more modern residential development along Elizabeth Jennings Way. There is a discernible distinction in character between the principal elevations of the houses along Woodstock Road in contrast to the spacious verdant gardens and lake to the rear. The generous rear gardens together with the lake separate the different enclaves of residential development and provide a pleasant, relatively quiet, partially semi-natural area visible in views across the lake.
7. The appeal site comprises part of the grounds of No.255 and contains a steeply sloping bank towards the lake at the western end of the rear garden. At my site visit I observed that there appeared to have been some fairly recent tree clearance within the site. Nevertheless, the western rear garden area retains a natural character due to the presence of vegetation and absence of built form. Moreover, its proximity to the lake, nearby trees and established gardens is such that they are read together in views across the lake. As such, the appeal site makes a positive contribution towards the spacious, scenic natural character adjacent to the lake that separates the surrounding built form.
8. The introduction of a large detached house deep into the rear garden at a point that is otherwise generally free from built form would, due to its associated volume and presence, harmfully erode the spacious, semi-natural character of the space.
9. Furthermore, the proposal would be of a striking contemporary design, built into the sloping land and orientated towards the lake which is intended to be bold in appearance and a 'new landmark'³. This design approach results in a 3

³ Paragraph 7.3.5 Design and Access Statement

storey west facing elevation with an asymmetric roof above, as well as a significant proportion of glazing in the façade in order to maximise views of the lake. As a consequence, the massing and scale of this elevation would be considerable, which is evident from the context elevation plan, reference 344/P/015.

10. Moreover, the positioning of the dwelling at a broadly central point close to the eastern edge of the lake would make its presence prominent in views from across the lake, both from Elizabeth Jennings Way itself as well as in a notable number of private residential views. This would be particularly evident during winter months as the extensive glazing, when combined with reduced leaf cover, would mean that internal lighting would be conspicuous.
11. Whilst I acknowledge that additional planting⁴ along the water's edge and side boundaries would assist in softening the appearance of the structure, the degree of shielding from the planting shown would be limited. Moreover, the fenestration and orientation of the building is deliberate in order to allow for views of the lake. Therefore, it is unlikely that occupants of the proposed dwelling would allow significant planting to interfere with the aspect. Consequently, this elevation would be unlikely to be heavily screened, which would exacerbate the manifest and disproportionate presence of the development and its disparity with the prevailing natural and spacious surroundings.
12. I accept that the site is not in a conservation area or other designated landscape zone. Even so, it does not follow that it does not have a distinctive character, nor that it is unworthy of protection and as I have outlined, the appeal site is in a sensitive location separating residential buildings. Therefore, taking the factors described above together, the result would be unacceptably harmful to the character and appearance of the area. As such it would conflict with paragraph 127 c) of the National Planning Policy Framework (the Framework) which states that decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
13. My attention is drawn to paragraph 117 of the Framework which supports the effective use of land in meeting the need for homes. Nevertheless, paragraph 122 of the Framework, which also supports development that makes efficient use of land, stipulates that account must be taken of the desirability of maintaining an area's prevailing character and setting, which includes residential gardens.
14. Reference is made to two residences that have been constructed relatively close to the lakeside, namely 101 Bainton Road and the Lake House (259 Woodstock Road). The orientation and form of No.101 are significantly different to the appeal proposal and consequently, it is of limited comparative value. Of the two examples, the Lake House, as a contemporary styled backland residential development has more in common with the proposal. Nevertheless, by comparison its west facing elevation has a considerably reduced scale and mass. Furthermore, it has a less central position along the eastern edge of the lake which means it is less obvious in wider views. It is therefore notably different to the scheme before me in these respects, and it follows it carries

⁴ Landscaping and Biodiversity Plan 344/P/014 Revision A

limited weight as a direct comparison. In any event, I have determined the appeal proposal on its own merits.

15. Reference is made to a fallback position⁵ comprising a rear extension of No.255 and two detached outbuildings that might potentially be constructed under permitted development rights. A certificate of lawfulness⁶ confirms that two single storey outbuildings can be constructed, and the appellant indicates that these would be used as ancillary family accommodation in the event that the appeal is dismissed. As such, I accept that this represents a fall back position of notable weight. However, the fallback scheme would not result in a similar concentrated mass of built form as close to the lakeside as the scheme before me. Therefore, I do not accept that the fallback position would result in greater harm to the character and appearance of the area in comparison to the appeal proposal, and hence, as a potential alternative, it does not weigh in favour of allowing it.
16. Accordingly, I find that the proposed development would be harmful to the character and appearance of the area and is therefore, contrary to policy CS18 of the Oxford Core Strategy 2026, March 2011 (CS) which in setting criteria for development that demonstrates high quality urban design includes a requirement that development should respond appropriately to the site and its surroundings. In addition, it would conflict with policies CP1 and CP8 of the Oxford Local Plan 2001-2016, November 2005 (LP) which, in addition to other matters, require development to respect the character and appearance of the area with policy CP8 specifically referring to the massing creating an appropriate visual relationship with the surrounding area.
17. Additionally, the development would conflict with policies HP9 and HP10 of the Sites and Housing Plan 2011-2026, February 2013 (SHP) which state, amongst other things, that planning permission will only be granted for residential development that responds to the overall character of the area including its built and natural environment. Furthermore, it would be contrary to policy HOS4 of the Summertown and St Margaret's Neighbourhood Plan, March 2019 which whilst generally supportive of residential backland development, states that this should protect any attractive prevailing character of the area.

Ecology

18. The Phase 1 Habitat Survey Report plan⁷ shows that approximately half of the grounds of 255 Woodstock Road contained dense or scattered scrub. Notwithstanding that works have subsequently taken place within the site to remove some of the trees shown on drawing 344/P/012, there is still an absence of built form and some remaining vegetation in proximity to this part of the lake. When this is combined with the trees and gardens on surrounding land, the undeveloped and unlit nature of this part of the site provides suitable habitat for a range of species, including bats, all species of which are protected. Although I acknowledge that the evidence does not suggest that any bats roosted at the site, it would nevertheless contribute towards suitable habitat to support foraging and commuting bats. Furthermore, an entrance to a main badger sett in the site is immediately adjacent to the proposed dwelling⁸,

⁵ Plan 344/P/011

⁶ Reference 19/02619/CPU dated 9.12.19

⁷ Figure 2, Phase 1 map, page 10

⁸ Paragraph 5.23 Appellants' Planning Statement

indicating the presence of a protected species at the site. This would be closed to facilitate the development.

19. It follows that, as a result of the physical encroachment of the development there would be harm to a habitat supporting protected species. The Landscaping and Biodiversity Plan⁹ shows a section of wildlife corridor between the proposed dwelling and the lake. However, I have concerns as to the effectiveness of the proposed corridor given its limited width and proximity to the dwelling and its associated lighting and activity. Moreover, this area is also indicated as garden land¹⁰ for the future occupants of the house which combined with its proximity to the lake, makes it likely that there would be considerable human activity and lighting in this part of the grounds. Furthermore, significant planting is unlikely to occur in this area as it may interfere with views of the lake. These factors are likely to deter some wildlife from using the wildlife corridor and reduce foraging activity.
20. Additionally, I have seen limited information regarding the proposed mitigation to address the adverse effect on the badger sett. Whilst the outline mitigation strategy indicates how physical harm to badgers might be avoided as part of the construction process, there is little consideration given to the consequences of, and provision for any necessary compensation for potential displacement as a result of the development. The appellants state that an up to date badger survey would be undertaken as part of a Natural England Licence application to Natural England¹¹. However, the Natural England standing advice¹² in relation to development projects that may affect badgers, which is relevant to the consideration of planning proposals, states that mitigation plans should show how the negative effects to protected species will be reduced or compensated for. Based on the information provided, I am not reasonably satisfied that the proposal would be licensable as I am not assured that appropriate safeguards are proposed that would adequately mitigate for the adverse impact on badgers.
21. Furthermore, advice in Circular 06/2005 Biodiversity and Geological Conservation¹³ states that the presence of protected species and the extent that they may be affected should be established before any planning permission is granted.
22. In addition, I am mindful that paragraph 175 a) of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, then planning permission should be refused. Given that badgers are statutorily protected, an adverse impact on them equates to significant harm to biodiversity.
23. I acknowledge that there would be some wildlife benefits arising from the native tree and hedgerow proposals, provision of a green roof and installation of pollinator houses and bird and bat boxes. However, I am not assured that these measures, even when combined with a condition for a lighting scheme would be sufficient to outweigh the overall harm resulting to the ecological value of the site I have identified.

⁹ Drawing 344/P/014A

¹⁰ Drawing 344/P/016

¹¹ Appendix 4 Appellants' Planning Statement, Ecoconsult Wildlife Consultancy, November 2019

¹² Dated 28.3.15

¹³ Paragraph 99

24. Taking these factors together, I find that it has not been demonstrated that the proposed development would have no materially harmful effects on a protected species and therefore, would have a harmful impact on the ecological value of the site overall. Accordingly, the proposal would be contrary to policy CS12 of the CS, which provides that development that results in a net loss of sites and species of ecological value will not be permitted.

Living conditions of existing residents 253 and 255 Woodstock Road

25. The proposed dwelling would be served by an access drive onto Woodstock Road, located between Nos. 253 and 255, directly adjacent to the boundary with No. 253. The driveway would extend adjacent to the entire length of the proposed rear garden for No.255 and for a considerable proportion of that serving No. 253. In addition, the parking and turning arrangements for the proposal would result in associated vehicle movements and activity taking place close to the boundary with the rear garden of No.253. This would be likely to introduce regular vehicular movements into an area presently used as a domestic garden.
26. At my site visit to the rear garden of the neighbouring property, I noted it was relatively quiet and provided relief from the traffic associated with Woodstock Road at the front. As a result, noise from vehicle engines and movement in such proximity, would be particularly noticeable, and therefore, likely to disturb the occupants of the properties either side when using their gardens.
27. The appellants assert that a single dwelling would generate limited traffic movements and refer to TRICs data for a single dwelling showing 8-10 movements per day. However, this data is based on average calculations and is not calibrated to take account of the size of dwellings. The proposal before me relates to a six bedroom dwelling, which is larger than average and therefore, likely to generate more frequent movements.
28. Drawing these factors together, although relatively limited, vehicular movements in this context would markedly diminish the level of enjoyment that adjacent occupiers derive from using their private garden. This falls short of the high standard of amenity for existing and future users advocated in paragraph 127 f) of the Framework.
29. I am referred to an appeal decision¹⁴ regarding the access arrangements of Lakeside House. However, I am not provided with the full details of the proposal that was before that Inspector, which inhibits me from making a meaningful comparison with the scheme before me. Even so, as already alluded to, the property appears to be smaller in scale than the appeal proposal and therefore, unlikely to generate a similar proportion of vehicle movements. As such, I have given this decision limited weight.
30. It is also pointed out that the garage could be removed, and a similar driveway constructed under permitted development rights. Be that as it may, there is little basis to suppose that this is likely to happen in the absence of the proposed dwelling, especially given that parking and access arrangements are already in place to serve the existing dwelling.
31. Accordingly, based on the evidence provided, I find the proposal would result in unacceptable harm to the living conditions of the residents of 253 and 255

¹⁴ Reference APP/G3110/A/09/2093796

Woodstock Road when using their gardens, due to noise disturbance from vehicle movements that would be generated by the additional dwelling. It therefore conflicts with policies CP1 and CP10 of the LP which, amongst other matters, state that planning permission will only be granted where the amenity of other properties is adequately safeguarded.

32. The Council also refer to policy HP14 of the SHP in refusal reason 3 on the decision notice. However, this policy refers to the consideration of privacy and daylight. As such, I do not find a conflict with this policy.

Garden provision

33. Policy HP13 of the SHP concerns the provision of outdoor space and stipulates that planning permission will only be granted for new dwellings that have direct and convenient access to an area of private open space. For houses of 2 or more bedrooms the private garden should be of an adequate size and proportions for the size of house proposed, for exclusive use by occupants of that house. As such, a specific minimum size is not specified in the policy. However, paragraph A3.24 of the supporting text states that family homes should provide adequate space for children to play in and for family activities, with an expectation that the area is at least equivalent to the original building footprint.
34. Drawing 344/P/016 illustrates the respective footprints of the proposed and existing dwellings and how the garden arrangements in Proposed Site Plan 344/P/005 Revision E would meet the requisite expectation for garden space. This is an arrangement that could be secured by a planning condition. The gardens provided would be private and for the exclusive use of the respective residents and due to their position, would be convenient to access. Moreover, a variety of outdoor space is shown for the proposed dwelling comprising terraced areas which would allow for sitting out, a level rear garden away from the lake suitable for play and land adjacent to the lake. The high scenic quality of the latter would provide an enhanced sense of spaciousness.
35. The outdoor space provided for the new dwelling does include a wildlife corridor. However, the implications of this in ecological terms is a matter I have considered elsewhere and does not discount it from being part of the outdoor space provided.
36. The Council highlight that nearby residential properties in Woodstock Road have larger gardens by comparison. Be that as it may, it does not follow that the outdoor space provided in the proposal would be inadequate, especially given that the gardens of the surrounding residences are particularly generous with some having assimilated orchard land associated with St John's College¹⁵ over time.
37. Accordingly, I find that the proposal would provide a good amount of outdoor space that would safeguard the living conditions of the existing and intended occupants of the dwellings. As such, I have not found any conflict with policy HP13 of the SHP. Neither do I find the proposal would run counter to policies CP1 and CP10 of the LP that, amongst other matters, seek to safeguard amenity and ensure that outdoor needs are properly accommodated.

¹⁵ Paragraph 5 & 9, Council's Appeal Statement

38. Finally, I note that the Council's reference to policy HP7 of the SHP in refusal reason 2 on the decision notice was made in error. As this policy relates to Houses in Multiple Occupation it has little bearing on this main issue.

Practicability of Layout

39. The Council raises concerns that the distance of the proposed dwelling from the highway combined with the width of the access would prevent a fire engine accessing the property in an emergency. In addition, it would require the movement of waste receptacles across a significant distance on collection days.
40. The appellants have confirmed that the property would contain a domestic sprinkler system compliant with BS9251:2014 and that in those circumstances the proposed dwelling would be within the requisite distance from the highway. I accept that this is a sufficiently certain standard that could be made the subject of a planning condition. Moreover, the building regulations would specifically consider the matter of fire safety. As such, it is not shown that the distance from the highway would present an insurmountable obstacle to the development due to fire hazard.
41. I have had regard to the Planning Technical Advice Note: Waste bin storage and access requirements for new and change of use developments, November 2014. The revised site plan provided¹⁶ relocates the bin store for the new dwelling closer to the access such that waste collection vehicles should be able to get within 25m of the storage point as required in the recommendations. Moreover, if bins are moved to the edge of the access with the highway on collection day, the distance to move bins would not be significant and similar to the arrangement for the existing property. This is something that could be secured by condition.
42. However, the guidance also states that residents should not be required to carry waste more than 30 metres to the storage point¹⁷ which is likely to be exceeded. Accordingly, whilst the bin storage area shown would not necessitate the movement of waste receptacles, it would require residents to carry waste some distance to place it in those receptacles and consequently, would be somewhat inconvenient. Whilst this is not ideal, it is adequate, and unlikely to impact on the living conditions of future residents or the wider environment to any significant degree.
43. Therefore, I find that the proposal provides a layout that would be reasonably practicable having particular regard to fire engine access and refuse storage. As such the access accords with the provision in policy CP10a of the LP that requires access to the site to be practicable. Moreover, as the development would make adequate provision for refuse storage, it would accord with policies HP13 of the SHP and CP10c of LP which, amongst other matters, require development to make adequate provision for the safe, discrete and conveniently accessible storage of refuse and recycling, in addition to outdoor amenity space.

¹⁶ Drawing 344/P/005 Revision E

¹⁷ Section 3

Planning Balance and Conclusion

44. The proposal would provide accommodation for the appellants' family and add a dwelling to the overall housing supply in a reasonably accessible location. There would be economic and social benefits arising from the construction of the dwelling as well as economic benefit derived from the activity of future occupants for the wider area. Moreover, the development would incorporate some sustainable construction features that bring environmental benefits. However, given that the development is a single dwelling the extent of such benefits would be limited. Therefore, I attach limited weight to these positive factors.
45. The appellant highlights that houses are in short supply in Oxford¹⁸ and that the scale of need is high¹⁹. However, I am not provided with any specific evidence that the Council cannot demonstrate a five year supply of deliverable housing sites such that the balance in paragraph 11d) ii of the Framework is triggered. Even if this were the case, the adverse impacts to the character and appearance of the area, ecology and the impact on the living conditions of nearby residents identified above would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
46. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise²⁰. The benefits that the proposal would bring do not outweigh the significant weight given to the conflict with the development plan policies identified above. Accordingly, they do not justify my determining the development other than in accordance with the adopted development plan.
47. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁸ Paragraphs 4.13 & 4.32 Appellants' Planning Statement

¹⁹ Paragraph 2.7, Appellants' Response Statement, February 2020

²⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.