
Appeal Decision

Site visit made on 24 August 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/G3110/W/20/3253629
32 Clive Road, Oxford, OX4 3EJ.

- 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 K Afzal against the decision of Oxford City Council.
 - The application Ref. 19/03043/FUL, dated 12 November 2019, was refused by notice dated 14 February 2010.
 - The development proposed is the construction of a new 1 bedroom dwelling on land to the rear of No's 30 and 32 Clive Road.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. I have used the description of the development put forward in the application forms, rather than the Council's decision notice, as it reasonably sets out the nature of the proposal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect on the living conditions of the occupiers of existing properties in Clive Road and Edmund Road; and
 - Whether the proposed layout would enable the proper collection of household waste from the site.

Reasons

Background

4. The appeal site comprises the curtilages of No's 32 and 30 Clive Road, which are detached and semi-detached properties respectively, situated in a mainly residential area of Oxford. The properties have long rear gardens which back on to the flank side of No.60 Edmund Road which is accessed from a different direction to the north. Moreover, No.32 has a large single storey outbuilding, constructed in block and render, at the foot of the garden. It is proposed to demolish this and erect a single storey dwelling. Access to this would be obtained from a widened existing driveway between No's 32 and 30.

Policy context and housing land supply

5. Since the Council's refusal of the scheme, the Council adopted the Oxford Local Plan 2036 (the LP) on the 8 June 2020. In terms of the most relevant policies, Policy HP10 of the Sites and Housing Plan, as referred to in the reasons for refusal, is superseded and is now replaced by Policies G6 and DH1 of the LP. Other changes in policy will be referred to under the main issues. The appellant's agent's final comments were made in late July 2020 and therefore could have taken into account the newly adopted plan, but in any event his representations are addressed in line with the new provisions.
6. In terms of the principles most relevant to this appeal, Policy G6 indicates that planning permission will be granted for new dwellings on residential garden land provided that specified criteria are met. Those relevant to this case, are concerned with the need to respond to the character and appearance of the area taking into account public views, and the size and nature of a proposal to respect the scale, layout and spacing of existing development. These factors aside I find that there is no policy objection to the principle of development. Moreover, Policy RE2 indicates that development proposals will only be acceptable where they make efficient use of land and best use of a site's capacity subject to stated criteria.
7. The appellant's agent also states that Oxford City cannot deliver its housing requirement within its own administrative boundaries, but there is no detailed evidence before me to demonstrate that the requirements of paragraph 67 of the National Planning Policy Framework (the Framework) on the supply of housing land is not being met at the moment. Therefore paragraph 12 of the Framework is engaged in this case, rather than paragraph 11(d), in respect of decision taking.

Effect on character and appearance

8. The appeal site lies in a highly developed street of mainly semi-detached two storey properties in a grid iron format. The local area is characterised by frontage development and long rear gardens but adjoining the appeal site there is a bungalow in a backland position to the rear of No. 28 and this has a narrow frontage to the adjoining cul-de-sac to the north-west – Edmund Road, (property now referred to as No.62). The appeal site also has an existing vehicular access from the rearward land to the highway.
9. While a new bungalow in a backland position with a new access in the vicinity of the appeal site would normally be at odds with the established built fabric, the presence of No. 62 and the existing large out-building mean that physically and visually the proposed new bungalow would not appear as a poor fit in the urban grain. In relation to the criteria set out in Policy G6 there would be little visual effect on the public realm and the size and shape of the plot would be appropriate in the immediate surroundings of the site.
10. I conclude on this issue that as the proposed single storey dwelling would not harm the character and appearance of the area the principle of the development is not in conflict with Policy G6.

Effect on living conditions

11. This issue is concerned with the impact of the development on the living conditions of the occupiers of No.60 together with No's 32 and 30 Clive Road

and while the latter are within the control of the appellant these properties have to be considered as normal dwellinghouses.

12. In respect of the relationship with No.60 the proposed bungalow would replace the existing outbuilding and the presence of this structure must be taken into consideration. The main part of the building with a pitched roof mainly runs alongside and close to the blank gable end wall of No.60. However, the outbuilding also has a flat roof element constructed in blockwork. The proposal to replace and enlarge a new structure with a pitch roof over the whole building means that this would almost double the extent of pitched roof, the ridge of which would be 5.4m high.
13. The extended roof area would run close to the boundary and be alongside the private garden area of No.60. My site visit was undertaken at mid-morning and I noted the degree to which the present structure overshadowed the garden of this adjacent property. The additional building bulk arising from the new dwelling would have an imposing visual impact on the garden space of this property and would further overshadow it in the morning. The appellant's agent says that the new structure would not contravene the 45° Code but this relates to the outlook from the windows of a property whereas the concern here is about the domination of the rear garden area.
14. On this specific aspect I find that the proposal would be materially harmful to the living conditions of the occupiers of No.60 and does not meet the requirements of Policy H14 of the LP in terms of not having an overbearing effect on existing homes.
15. Turning to the relationship with 30 and 32, the Council's concerns are in respect of proposed new fences that would be erected alongside the widened driveway together with the effect of increased noise and disturbance from the increased use of the access to serve the new bungalow.
16. I noted the windows in the flank walls at my site visit and it was not clear from the outside what type of rooms the windows lit but the appellant says they are all secondary windows. The proposed fences would in part overlap with the windows, but I am satisfied that the height of the new fences could be controlled by condition to ensure that there was not a dominating effect.
17. In relation to the effect of vehicle movements I note the appellant's evidence that at worst in the peak hour of the day two cars would use the access drive. I am satisfied that the likely traffic generated by the proposal would not result in a harmful effect on the amenity or living conditions of the households in the adjacent properties to the access.

Bin carry distance

18. The Council's Technical Advice Note: Waste Bin Storage sets out that residents should not be required to carry waste more than 30m to a storage point and that waste collection vehicles should be able to get to within 10-25m of the storage point depending on the type of bin in use. The proposed bungalow would be located about 40m from the highway which would exceed the guidance. The appellant submitted a revised plan of the layout showing a bin store off the driveway and located 30m from the road, but this would still exceed the prescribed limit. However, in the context of this site it would be possible to site a bin store within an appropriate distance of the highway and

the guidance itself refers to the recommendations being achieved where possible. If the other aspects of the proposal were acceptable there is likely to be an acceptable solution to the bin carry distance which can be achieved by condition.

Planning balance

19. On the main issues I have found that the principle of the erection of a single storey dwelling on this backland site would not be at odds with the present pattern of development because of the nature of the outbuilding that would be replaced and the presence of an existing bungalow on adjoining land. The proposal would not harm the character or appearance of the area and would accord with the relevant part of Policy G6.
20. However, while I have found that the proposal would not harm the living conditions of the occupiers of No's 30 and 32, the physical bulk and siting of the building would have a dominating effect on the private garden of No.60 Edmund Road and would materially harm the amenity and living conditions of the occupiers. That aspect conflicts with Policy H14 of the LP.
21. The adverse effect has to be balanced with the positive aspects of the development. The proposal would increase the housing supply in Oxford in a small way and help to make efficient use of land that is already developed residentially. These would be benefits under the social, economic and environmental elements of sustainable development as set out in the Framework. However, I find that the harmful effect on neighbours means that the proposal would result in social and environmental harm and this does not accord with the Framework when this is read as a whole.
22. Overall, the local harm and the conflict with the development plan is not outweighed by other considerations and this indicates that the proposed scheme should not be allowed.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR