



Appeal Decision

Site visit made on 18 August 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/V3210/W/20/3251366.

5 Toynbee Close, North Hinksey, Oxford, OX2 9HW.

- 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 Toynbee Close Development Ltd and 5 Toynbee Close Ltd. against the decision of Vale of the White Horse District Council.
 - The application Ref. P19/V1512/FUL, dated 19 June 2019, was refused by notice dated 6 December 2019.
 - The development proposed is the erection of a new building containing 2 no. x 2 bedroom flats to the rear of 5 Toynbee Close, demolition of car port and outbuilding to facilitate access from Toynbee Close with provision of parking with bin and cycle stores. Demolition of existing dwellinghouse and erection of a 2 storey building containing 1no. x 3 bedroom flat and 2no. x 1 bedroom flats with provision of parking with bin and cycles stores.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new building containing 2no. x 2 bedroom flats to the rear of 5 Toynbee Close, demolition of car port and outbuilding to facilitate access from Toynbee Close with provision of parking with bin and cycle stores. Demolition of existing dwellinghouse and erection of a 2 storey building containing 1no. x 3 bedroom flat and 2no. x 1 bedroom flats with provision of parking with bin and cycles stores at 5 Toynbee Close, North Hinksey, Oxford, OX2 9HW, in accordance with the terms of the application, Ref P19/V1512/FUL, dated 19 June 2019, and the plans submitted with it as amended, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, with particular emphasis on the design of the new buildings; and
 - the effect on the living conditions of the occupiers of neighbouring properties by loss of privacy from being overlooked.

Reasons

Background

3. The appeal site comprises a bungalow and its large garden which lie at the eastern end of Toynbee Close, a short cul-de-sac, in a mainly residential area

of Botley a suburb to Oxford. It is proposed to demolish the existing bungalow and erect a new detached two storey building comprising two 2-bed flats at the rear (northern) end of the site (the rear development) and also erect a new two storey building mostly over the footprint of the existing bungalow which would accommodate three flats (a three bed flat on the ground floor and 2 one-bed flats on the first floor. The submitted layout shows 7 parking spaces – 4 near the centre of the site fronting an extended driveway, and three on raised ground at the front of the site with access directly off Toynbee Close.

4. The appellant advises that planning permission has been granted for the erection of a new dwelling on the rear part of the site under ref. P16/V3039/FUL, together with a more recent permission for a flatted development under the ref. P20/V0301/FUL. These separate permissions over a similar part of the site are referred to by the appellant as a 'fallback' position which can be implemented, nevertheless the appeal scheme must be assessed on its individual planning merits.

Effect on character and appearance

5. In considering this issue I have had regard to the Council's North Hinksey Parish Character Assessment (January 2018) and particularly the Elms Rise Estate Character Area. The assessment describes the general character as a classic suburban character of two storey pyramid roofed semi-detached houses set back with green front gardens. The assessment recognises the high degree of consistency in architectural uniformity although it describes the Hutchcombe Road area (to which Toynbee Close lies off) as having a less uniform character and represents a transition to the lower density development at Cumnor Rise, and that here there is a greater mix of one and two storey houses and materials. I have also had regard to the emerging North Hinksey Village Neighbourhood Development Plan (NHVNDP) as modified and pending prior to referendum, although this is not yet part of the development plan.
6. At my site visit I noted the topography of the local part of North Hinksey is undulating and Toynbee Close slopes away from Hutchcombe Road before rising again at its eastern end. The level of Toynbee Close outside the appeal site is therefore at a higher level than the slab/floor level of the existing bungalow. There is also a slope running north-south so the rear part of the appeal site garden slopes downwards towards the rear of properties in Cope Close. The appeal site and surrounding gardens tend to be well landscaped with trees and shrubs although I noted at the visit that there is evidence of trees having been felled at the appeal site. Some mature trees in adjacent gardens overhang the site.
7. In terms of the local townscape the general character of the area is formed by mainly two storey properties both detached and semi-detached although in Toynbee Close there is also a pair of bungalows between the houses as well as the bungalow on the appeal site. The architecture of the area is therefore quite varied although most properties, whether single or two storeys, have some form of traditional pitched roof.
8. Dealing with the proposed new building on the front part of the site, this is proposed to have a contemporary form with the building broken up into a series of flat roof 'boxes' by different materials, roof heights and widths. On

the face of it the building would contrast markedly with the other properties in the Close, however, the actual effect is not likely to be materially harmful to the local townscape. The two storey form of the building, with a flat roof as an integral part of the design, would not appear over bulky alongside the neighbouring house (no.4) which is two storey plus the pitched roof and thus would be higher. On the eastern side the new property would be alongside trees/shrubs which enclose a parking area and the rear gardens of houses in Maple Close. Therefore, in visual terms the new building would only be read as part of the western end of the Close and its position at the end of this cul-de-sac limits the degree to which it affects the public realm. Moreover, the palette of materials proposed would not be dissimilar to the varied buff brick colour, brown vertical tile hanging and grey/brown roof tile that exist locally.

9. Taking the general range of materials, topography and position in the street scene into account, I find that the flat roof design of the building would not be an unduly obtrusive or alien feature in the street scene or would be visually inappropriate. It would not harm the general character of the area as described in the character assessment.
10. In terms of the proposed front parking spaces, these will be level with the road at the end of the Close, as opposed to driveways sloping down to the properties as per the other houses, but the parking area has to be seen in the context of the larger parking area at the end of the cul-de-sac. I find that the visual impact of this parking area in the street scene would be limited and not prominent or out of place as the Council alleges.
11. Turning to the building on the rearward part of the site, at the site visit I noted that this area was well contained at the moment by mature landscaping in most of the adjoining gardens. Further, because of the length of the garden a building here would not be read in conjunction with the frontage housing development in any of the existing Closes.
12. I find that the proposed rearward building would reasonably assimilate with its surroundings. The fact that the Council have already permitted a building in this location of similar design and scale adds weight to this conclusion.
13. I have also had regard to the general advice on 'achieving well-designed places' in the NPPF. Paragraph 127 (c) advises that planning decisions should ensure new development is sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change (such as increased densities).
14. Overall, I find that the design and scale of both buildings proposed and the related aspects of the development would result in an innovative and visually attractive form of development which establishes a distinct identity in itself and is visually appropriate to fit in with the surroundings of the site and the wider area. The proposal accords with the requirements of Policy CP37 of the Vale of the White Horse Local Plan (VWHLP) Part 1, and respects local character as per Policy HS1 of the emerging NHVNDP.

Effect on living conditions

15. This issue is concerned with overlooking from windows and a balcony/terrace particularly at first floor level, and whether these would result in a loss of privacy and amenity for the occupiers of existing and the new properties and thus have a significant adverse effect as referred to in Policy 23.
16. Dealing with the rearward building first, the building has been designed with its main aspect facing south 'up' the site. Other windows at first floor level on the south elevation are shown to be glazed with obscure glass while the bedroom window on the west elevation faces a mature tree screen. The Council's main concern is the introduction of a first floor terrace facing south. This would look over the proposed flat roof of the new building mainly towards the garden and parking area, and oblique views to the east would be visually restricted by the proposed opaque glass screen. The provision and retention of this can be required by condition.
17. Although there could be some additional overlooking from the terrace when compared to that arising from the full width bedroom window in the permitted 'fallback' scheme, views towards the gardens of adjoining properties would be limited because of the degree of landscape screening which exists and the topography of the land.
18. Turning to the forward building, again the design here is for the main aspect to be north-south with minor flank windows glazed with obscure glass. The exception to this layout is the corner window to the front facing first floor flat. I considered the position of this at the site visit and noted that the front wall of the garage of the adjoining property (No.4) would be about the same distance from the road as the corner window. However, this adjacent property does not have any existing windows in the east facing flank other than a roof light to the garage. The proposed corner living room window would therefore face towards a blank wall rather than directly into this neighbouring property or its private amenity space, and to the public realm where a degree of overlooking has to be expected.
19. I conclude on this issue that the proposal would not materially harm the living conditions of neighbours by resulting in overlooking and loss of privacy and there is no conflict with the provisions of Policy 23 in terms of ensuring that a new development does not have a significant adverse effect on living conditions or residential amenity of the occupiers of neighbouring properties.

Other matters

20. In addition to the above issues, local residents are concerned about the increase in the density of development and resulting activity on site and also raise objections in terms of noise impact and light and traffic pollution. However, dealing with the latter first, I note that the highway authority did not raise objection to the increased level of traffic generation on Toynbee Close from one bungalow to 5 flats and it appeared to me that the nature of this part of the highway is adequate for the use proposed. Moreover, it has not been demonstrated that there is a local air pollution problem or that the degree of additional traffic would make this materially worse, or that the frequency of vehicle movement would harm residential amenity. The

proposal would give rise to more residential activity on site and may result in more light stemming from the properties, but the proposed development has to be considered in the context of the site being within a suburban residential area and the increase in noise or light emissions would not be materially out of place. I am therefore not able to give significant weight on these objections.

Planning balance

21. Bringing together my conclusions on the main issues I have found that the proposed housing scheme would reasonably fit in with the surroundings of the site and although a contemporary form of design is proposed this would not be harmful to the general residential character of the area. I am also satisfied that with appropriate conditions to control overlooking from upper floor windows and an aspect from the terrace in the rearward building, the proposal would not result in a level of overlooking which would have a significant adverse effect on the living conditions or amenity of the occupiers of neighbouring properties. For the reasons given, I find that the proposal is in accordance the relevant provisions of the development plan.
22. This position has to be balanced with the other adverse effects but these are limited and not of such weight as to outweigh the positive aspects of the development.
23. I have also taken account of the national guidance in the NPPF to achieve well designed places and make effective use of land. I find that the proposal meets the balance of guidance when the NPPF is read as a whole and the proposal should be regarded as 'sustainable development' which the NPPF seeks to achieve.
24. Overall, as the proposal accords with the development plan and the other material considerations do not outweigh this, the scheme should be permitted

Conditions

25. In terms of conditions the Council recommended 15 which I will consider under the same numbering. Moreover, where the conditions are 'pre-commencement' ones, the appellant's agent was given the opportunity to comment on them prior to the decision.
26. In addition to the condition on the commencement of the development (no.1) a condition specifying the plans that are approved (no.2) is necessary in the interest of clarity and the development must be carried out in accordance with these plans to maintain the appearance of the area. To ensure that the development is carried out in an appropriate manner further details are necessary of the existing and proposed ground levels (no.3); measures for the protection of trees that are to be retained (no.4); details of external materials (no.8) and boundary treatment (no.9); as well as a scheme for new landscaping (no.5).
27. In order to ensure the residential scheme has proper drainage to avoid pollution or flooding, further details of the means of disposal of surface and foul water are needed and the approved scheme must be implemented (no.6 & 7). I will therefore impose these conditions. The submission and agreement of further details of refuse storage and recycling (no.10) is

necessary to avoid pollution and in the interests of amenity and I will impose this along with conditions to ensure the implementation of the cycle parking facilities (no.11) and new access arrangements and vehicle parking facilities (no.12) in the interests of highway safety and sustainable transport. Finally, conditions to ensure that specific windows are non-opening below eye level and glazed with obscure glass (no.13 and 14) are reasonable and necessary to prevent overlooking of neighbouring properties and I will also impose no.15 for a similar reason to require the provision of a side screen, although I will amend this to also allow the erection of a solid wall 1.8m high in the light of an alternative scheme permitted by the Council.

Conclusions

28. For the reasons given above I conclude that the appeal should be allowed.

David Murray

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 approved shall be carried out in accordance with the details shown on the following approved plans, A-02-100 Rev B, A-04-100, A05-101 Rev A, A-05-103 Rev B, A-03-100 Rev A, A-03-102 Rev B, A-03-300 Rev A and A-02-100 Rev B, except as controlled or modified by conditions of this permission.
- 3) Prior to the commencement of development detailed plans showing the existing and proposed ground levels of the site together with the slab, finished floor and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of any site works or operations relating to the development hereby permitted, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Written approval must be obtained prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:-
 - (i) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
 - (ii) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection;
 - (iii) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
 - (iv) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby;
 - (v) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees;
 - (vi) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
 - (vii) Details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area (RPA), which is to be of a 'no dig' construction method in accordance with the principles of

Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage

- (viii) Provision the supervision of ANY works within the RPA of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.
- 5) Prior to the commencement of the development hereby permitted a scheme for the landscaping of the site, including the planting of live trees and shrubs and the treatment of the access road and hard standings, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 6) Prior to the commencement of development, a full foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this.
- 7) Prior to the commencement of development, a full surface water drainage scheme, including details of the size, position and construction of drainage works, shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage scheme shall be designed to accommodate a 1 in 100 year storm + 40% Climate Change and will be implemented in accordance with the approved details prior to the commencement of the development hereby approved.
- 8) Prior to the construction of the buildings hereby approved above foundation slab level, a photographic schedule of all materials to be used in the external construction and finishes of the development (including bin and cycle stores) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
- 9) Notwithstanding any details shown on the approved drawings, the site's internal and external boundaries shall be enclosed in accordance with a detailed scheme and programme of implementation which shall first have been submitted to and approved in writing by the Local Planning

Authority. The programme shall ensure that the approved boundary treatments for each dwelling are completed prior to the occupation of that dwelling, and the approved boundary treatments for the whole site are completed prior to the occupation of the first dwelling.

- 10) Prior to the occupation of any dwelling, provision shall be made for storing domestic refuse and recycling materials for that dwelling in accordance with the approved plans. Thereafter, the approved refuse and recycling materials storage facilities scheme shall be permanently retained.
- 11) Cycle parking facilities shall be provided prior to the occupation of the development hereby approved in accordance with the details shown on drawing A-02-100 rev B & A-03-300 rev A. Thereafter, the cycle parking shall be retained as approved.
- 12) Prior to the use or occupation of the new development, the new vehicular access, parking area/spaces and turning space shall be constructed and the visibility splays provided in accordance with the details shown on approved drawing number A-02-100 Rev B. The parking and turning areas shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking and turning areas shall be kept permanently free of any obstruction to such use, and the visibility splays shall be permanently maintained free from obstruction to vision.
- 13) The two first floor windows in the east and west side elevation of the front building hereby permitted (labelled 'high level obscure glazing' on drawing A-03-100 rev A) shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the building and shall be retained as such thereafter.
- 14) The three first floor windows in the north elevation of the rear building hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the accommodation and it shall be retained as such thereafter.
- 15) The east balcony elevation of the rear building hereby permitted shall be screened by the erection of either an obscure glass screen or a solid brick wall, 1.8m in height, prior to the first occupation of the accommodation and the screen/wall shall be retained as such thereafter.