



Appeal Decision

Site visit made on 17 November 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/G3110/W/20/3256960

Land to the rear of 4 Lime Walk, Oxford OX3 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 Biggin Morrison Investments Ltd on behalf of Biggin Morrison against the decision of Oxford City Council.
 - The application Ref 19/03303/FUL, dated 13 December 2019, was refused by notice dated 2 July 2020.
 - The development proposed is demolition of former MOT facility (Use Class B2). Erection of part four, part three storey building to create 4 x 1-bed flats and 3 x 2-bed flats (Use Class C3). Erection of a single storey building to create 1 x 2-bed flat (Use Class C3). Provision of private amenity space, bin and cycle storage, alterations to landscaping and formation of 1no. disabled parking space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The officer report to committee was published prior to the adoption of the Oxford Local Plan 2036 (2020) (LP), however, the decision was issued after its adoption. In refusing planning permission, the Council references the emerging policies that were relevant to their assessment of the application.
3. The appeal was lodged after the adoption of the LP and the appellant has commented on the relevant policies in their evidence. Accordingly, I have not gone back to the main parties in relation to the newly adopted plan.

Main Issues

4. The main issues are:
 - i) the effect on the living conditions for the occupants of neighbouring properties, having regard to privacy;
 - ii) the effect on the character and appearance of the area;
 - iii) the effect on Lime Tree Mews, having particular regard to daylight; and
 - iv) whether the proposal would provide suitable living conditions for future occupants, having regard to outdoor amenity space.

Reasons

Living conditions – neighbouring properties

5. The appeal proposal would increase the height of a redevelopment scheme that already benefits from planning permission. The main building is broadly rectangular in form, presenting its narrowest elevation towards the access road, and as proposed, it would be part four storey, part three storey in height. The principal elevation faces south and would contain many windows that face towards the gardens of Nos 8 and 10 Lime Walk. However, the tallest section of the building would be set a substantial distance away from the southern boundary of the appeal site. In addition, a single storey building would also be located between the site boundary and the facing windows. Accordingly, I am satisfied that this element of the proposal would not be detrimental to the privacy levels currently enjoyed by No 10.
6. In addition, the building would be located close to the garden of No 8. However, due to the depth of the appeal site, the south facing elevation would look towards the rearmost section of this adjacent garden. Accordingly, due to its distance from the majority of the adjacent garden, coupled with the use of privacy fin details, I am satisfied that the occupants of this neighbouring property would not experience an unacceptable loss of privacy.
7. Despite this, the relationship of the east facing elevation to the gardens of the houses in Lime Walk would be materially different to that identified above. This elevation would look directly towards the rear garden of No 4, and more obliquely towards the rear garden of No 6, and would contain large window openings at first floor and second floor level. Although first floor windows may be tolerable due to the surroundings, second floor windows offer views from a substantially more elevated position. Accordingly, the second floor window would provide clear views into the garden of No 4. I note the use of privacy fin screens, and to a limited extent, this would reduce the degree of overlooking of the garden serving No 6. However, the combination of the elevated position and the size of the opening would ensure that the privacy of Nos 4 and 6 would be compromised to an unacceptable degree, and demonstrably more so than windows at first floor level. This is a significant shortcoming of the proposal and one to which I attach significant weight.
8. As a consequence, I conclude that the proposal would harm the living conditions for the occupants of neighbouring properties. It would therefore fail to comply with Policies RE7 and H14 of the LP and Policy HP14 of the Sites and Housing Plan 2011–2026 (2013) (SHP). Taken together, these seek to protect and provide reasonable levels of privacy for the occupants of existing homes.

Character and appearance

9. The proposal would be situated towards the rear of the site, adjacent to Dorset House, a large building containing student accommodation. It would also be of a comparable bulk and scale to the adjacent office building. The larger bulk of the proposal would be nestled towards the back of the site, furthest away from the adjacent dwellings that front Lime Walk. In addition, the location of the step down in bulk from four to three storeys would ensure that the proposal would not dominate the surrounding buildings. Instead, it would be viewed in the context of these larger structures and the staggered mass of the building would be suitably sensitive to such surroundings.

10. Accordingly, for the reasons identified above, I conclude that the proposal would not harm the character and appearance of the surrounding area. It would therefore comply with Policy DH1 of the LP, Policy HP9 of the SHP and Policies CIP1 and GSP4 of the Headington Neighbourhood Plan. Taken together, these seek high quality design that responds to the overall character of the area.

Lime Tree Mews

11. The appeal site is located adjacent to Lime Tree Mews, a building in mixed use. Immediately adjacent to the shared side boundary is a lightwell which serves office accommodation at ground and first floor level and which is enclosed by a tall brick boundary wall.
12. The appeal proposal would be taller than the adjacent lightwell structure. Accordingly, it would have an impact on the level of daylight received by this design feature. Indeed, the evidence presented by the appellant confirms this. However, in my view, the nature of the enclosed lightwell is such that daylight would already be restricted by the windows served by it. Moreover, I agree that the office use would be less reliant on access to natural daylight to ensure the space remains functional. As a consequence, despite the limited reduction in daylight received by the facing windows, I am satisfied that this would not compromise the use of this building.
13. Accordingly, having regard to daylight, I conclude that the proposal would not harm Lime Tree Mews. It would therefore comply with Policy RE7 of the LP which seeks to protect the amenity of neighbours.

Living conditions – future occupants

14. Policy H16 of the LP requires that 1 and 2 bed flats should have access to a balcony or terrace or direct access to a private or shared garden, a requirement replicated in Policy HP13 of the SHP. It is common ground that the proposal would fulfil this requirement, however, the Council have concerns regarding the size of the shared amenity space. Despite this, based on the evidence before me, there are no specific space standards within local policy.
15. The communal area would not be significant in size. However, it would have a south west aspect and three of the units proposed would have doors that would open immediately onto the space. All of the apartments would have an outlook over the shared area and therefore, in my view, this would encourage its active maintenance and use. In addition, three units in the upper levels of the development would have private balconies.
16. I have no evidence before me to suggest that the area would not create a pleasant environment for future occupants, or that it would be deficient in size. As a consequence, I conclude that the proposal would provide suitable living conditions for future occupants. It would therefore comply with Policy H16 of the LP and HP13 of the SHP which establish the local requirements for outdoor amenity space.

Other Matters

17. The proposal would increase the number of dwellings on the site and accordingly, this could be perceived as being a more efficient use of the land. However, for the reasons identified above, the increased number of apartments

brings with it significant shortcomings in relation to the privacy of neighbouring dwellings. Accordingly, the weight that can be attached to the additional dwellings is limited, and does not outweigh the concerns identified above.

Conclusion

18. I have identified that the proposal would not harm the character and appearance of the area. It would also not harm the usability or functionality of Lime Tree Mews, and it would provide suitable living conditions for future occupants. These are matters which weigh in favour of the proposal. However, I have also found that the proposal would result in significant and demonstrable harm to the privacy of the occupants of neighbouring properties. This is a matter of fundamental concern and which outweighs the benefits identified above. As a consequence, the appeal should be dismissed, and planning permission be refused.

Martin Chandler

INSPECTOR