



Appeal Decision

Site visit made on 19 November 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Appeal Ref: APP/G3110/W/19/3243556

6 Allam Street, Oxford, OX2 6DQ

- 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 Sukhdip Sidhu against the decision of Oxford City Council.
 - The application Ref 19/01296/FUL dated 14 May 2019, was refused by notice dated 31 July 2019.
 - The development proposed is change of use of dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the proposal as it is more concise than that on the original application form.
3. It would appear, from the submissions before me, that the application is retrospective and the site is in use as a house in multiple occupation (HMO).
4. Since the determination of this application, and the submission of this appeal, the Council have adopted the Oxford Local Plan 2036 (8th June 2020). Both parties have been offered the opportunity to comment as to how this impacts upon the appeal and refusal reasons before me. I have taken the additional comments, from both parties, into account.

Main Issue

5. The main issue is whether the proposal could provide an acceptable arrangement for the storage of bicycles.

Reasons

6. The Council confirm that the policies cited in the refusal reason have been replaced, or have had their objectives carried through in the relevant adopted policies, as set out in their additional comments. It is considered, by the Council, that the refusal reason remains valid due to conflict with Oxford Local Plan (LP) Policy M5 (bicycle parking).
7. The appeal site is an end of terrace dwelling with a private garden to the rear. As part of my site visit I entered the property and noted, to access the garden to the rear, there is a small step into the property, a walk through the living space, and a step down into the garden. Users of the appeal proposal would evidently have to pass through the property to store bikes within the garden.

8. At the time of my site visit I took the bus to the Radcliffe Observatory, on Woodstock Road, and then walked to the appeal site itself. This gave me a good opportunity to see the local area and general facilities and transport links near to the site. I noted a good number of people on bicycles and bicycles in racks at varying points. The accompanying text to LP Policy M5 notes around 17.1% of journeys to work are made by bicycle in Oxford.
9. LP Policy M5 seeks to encourage cycling as far as is practical and reasonable, with bicycle storage to be enclosed within a secure store, or at least undercover. It is also stated there must be convenient, level, access between the bike store and the street that avoids having to wheel bikes through buildings or corridors. It is notable that much of Oxford, and indeed around the appeal site, is terraced and/or flatted accommodation. I find that it would likely be difficult for many of these properties to provide bicycle parking with level, unobstructed external access to the street as required by LP Policy M5. Despite this the LP is very recently adopted, giving it full weight. It will have been considered sound by the Inspectors who examined it as well having gone through full public consultation.
10. I do not have a copy of LP Policy M5 appendix 7.3 before me, however, the appellant quotes that it is stated that if there is a shortfall of on-site parking provision, a contribution may be sought towards off-site cycle parking or associated facilities. This is, presumably, to give some flexibility to the provision of bicycle parking within existing buildings which may have restrictions as to access and/or design.
11. Based on the evidence before me a lack of appropriate cycle provision alone may not be a reason for refusal in itself, however, there is a requirement to secure appropriate provision elsewhere in the event of a lack of provision at the development site itself. The appellant is clear in their willingness to contribute to such facilities; however, I do not have before me a completed legal agreement or mechanism which would ensure appropriate contributions can be secured to make the proposal acceptable in this regard.
12. I noted that within the immediate area there appears to be a number of public bike racks on the street with one being very close to the appeal site, off Mount Street. Whilst there were spaces at the time of my visit, this was early afternoon and my visit only represents a snapshot in time. These may well be available for occupiers of the site, however, in relying on more public facilities it would be reasonable to require that it can be demonstrated, through a transport assessment, that there is existing unused cycle capacity available.
13. The proposal would be in conflict with LP Policy M5 which seeks to ensure development that would meet minimum bicycle provision which should provide level, unobstructed external access to the street or secure/provide appropriate off-site contributions.

Other Matters

14. The refusal reason solely relates to storage of bicycles. As a result of my request for comments, relating to the adoption of the new LP, the Council now also state that the proposal would be unacceptable in principle due to conflict with LP Policy H6 which requires the percentage of HMOs within 100m to be 20% or less. The Council state that the number of HMOs within 100m of street length would total 25%. Given that this is an addition to the original reason for

refusal, due to both the passage of time and adoption of the new LP, I find it would be key to provide evidence to justify the additional reason for refusal relating to the principle of the development.

15. I do not, on this occasion, have the relevant calculations and evidence before me to fully evidence this objection in principle to demonstrate that it has been calculated correctly in accordance with LP Policy H6 (and appendix 3.5, which I do not have a copy of). I do not have enough evidence before me to fully justify refusal on this additional ground or find conflict with LP Policy H6.
16. The appellant's comments regarding the additional burden of the new LP are noted, however, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the starting point for the determination of this appeal is the Local Plan. At the point of the determination of this appeal this is the Oxford Local Plan 2036 which now has been adopted and replaces the previous plan documents which were in force at the point of refusal in July 2019. This is an unfortunate consequence as a result of the passage of time. Compliance with previous LP policies at the point of determination carries no weight within the determination of this appeal. The proposal may well be acceptable in all either regards, however, this is a neutral consideration.
17. I note comments relating to 24 Hart Street, 66 Cardigan Street and 8 West Street by both parties. I understand that none of these proposals can provide level, unobstructed external access for bicycle storage. Despite this all of the sites which are listed were assessed against the previous LP which is not the case for this appeal which must be considered on its own merits against the current LP. The commentary, for the now replaced Sites and Housing Plan 2013 Policy HP15, acknowledged that the Council may allow a relaxation of standard where, for example, it was clearly impossible to accommodate the full provision (of cycling parking) due to physical constraints (e.g. some HMOs). The new LP does not do this.

Conclusion

18. The appeal proposal, as stated above, is retrospective. Refusal of this appeal may result in enforcement action by the Council and this is noted that some living at the appeal site may lose their accommodation as a result of this appeal decision. Whilst this falls to be considered as part of potential enforcement action, outside of this appeal, I have taken into account the potential implications based upon the outcome of this appeal. In the event of enforcement action a short compliance period may have a greater impact than a longer one on those who may need to find alternative accommodation.
19. There is likely to be an interference with the rights and freedoms enacted through the Human Rights Act 1998, but it does not follow that this would be a violation of their human rights including under protocol 1, Article 1.
20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR