
Appeal Decision

Site visit made on 15 December 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/G3110/W/20/3258809
39 Florence Park Road, Oxford OX4 3PW

- 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 S Bedlow and Mrs A Bedlow against the decision of Oxford City Council.
 - The application Ref 20/00993/FUL, dated 21 April 2020, was refused by notice dated 18 June 2020.
 - The development proposed is a new attached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants have submitted two revised plans with the appeal referenced P10 B Proposed plans and P11 A Proposed Site & Location Plan. These plans differ from the earlier versions P10 A and P11 in that the red edged site boundary is increased to include a highway crossing to Florence Park Road. One of the guiding principles in deciding whether to accept revised plans as part of the appeal is whether the revisions would make such a substantial difference that they would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
3. As the plans that were subject to public consultation did not include the new highway crossing within the red edge, it would be a reasonable conclusion for those consulted to assume that it did not form part of the development. The provision of an additional highway crossing would have visual and highway impacts. Therefore, the revised plans would materially alter the nature of the proposal and potentially prejudice the interests of interested parties. On that basis, I shall determine the appeal in relation to the plans upon which the Council made its decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area, including the effect on trees;
 - The effect of the proposal on the living conditions of future occupants with particular regard to levels of sunlight in the garden, and;
 - Whether the proposal provides appropriate access and parking.
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Reasons

Character and appearance

5. Florence Park Road is a straight and relatively wide avenue leading to the main entrance into Florence Park. The mostly two storey semi-detached and terraced residential development along the road, and the streets stemming from it, display a distinctive, well ordered and deliberate layout which defers to the presence of the park. The regular positioning of angled dwellings at the interchanges of Florence Park Road with other roads is of particular note. This configuration, when coupled with the presence of wide grass verges and street trees, results in a distinctive spaciousness giving emphasis to the status of the main approach to the park. The entrance gates, posts and railings set against the grouping of attractive mature trees within the park are an important focal point in the street scene and add considerably to the qualities of the spacious suburban area adjacent.
6. 39 Florence Park Road is a traditional semi-detached house set at an angle to the road as part of the established layout. It is also adjacent to the main pedestrian and vehicular entrance to the public park and is therefore, on a prominent corner plot. The arrangement and set back of the dwelling within the broadly triangular plot, together with the low wall and established planting in the garden, gives a sense of space and greenery on the approach to the park. The restrained amount of built form also allows for views of mature trees within the park from Florence Park Road, in particular a large, ornamental copper beech tree. As such, the appeal site not only makes a positive contribution to the street scene itself but also defers to the focal point of the adjacent park by allowing an appreciation of the natural features within it.
7. The proposal would introduce an additional dwelling to the side of No.39 thereby elongating the built form at the appeal site towards the park entrance. The combination of the additional volume and height would erode the sense of spaciousness. In addition, as the image in the Design and Access Statement¹ illustrates, its presence would encroach into the space around the copper beech tree thereby impinging on views of it. This would detract from the appreciation of an attractive natural feature recognised as a high quality tree in the tree survey provided².
8. Furthermore, given the angled nature of the layout, the dwelling would be notably closer to the road than the existing dwelling. This would emphasise its prominence in the street scene and would further underline the reduction in space.
9. The copper beech tree lies close to the boundary with the appeal site and its size and visibility means that it makes a considerable positive contribution to the character and appearance of the wider area. The tree location and constraints plan³ shows that the tree overhangs the appeal site and that this would affect a significant proportion of the proposed private rear garden for the dwelling. Having regard to the north-west orientation of the garden, height to the crown of the tree and the likely difference to the duration of sunlight the presence of trees makes in the sunlight analysis⁴ provided, it is foreseeable

¹ Section 4.5, Streetscene impact

² Tree Survey prepared by Keith Durham, KD Design, May 2020

³ Drawing No. T02 A

⁴ Sunlight analysis, drawing No. P13

that there could be pressure from future residents to reduce the crown and branches in order to increase levels of sunlight to the limited available garden space.

10. Although the information provided indicates that it would be possible to retain the tree during the construction of the proposed dwelling, it is not shown that there would be anything to prevent future residents from undertaking works to reduce the overhang. This would impact on the shape of the tree, adversely compromising its visual quality, thereby detracting from its contribution to the wider character and appearance of the area. Furthermore, the tree survey indicates it has at least 40 years of life expectancy remaining, during which time it would continue to grow. Therefore, the extent of the overhang is likely to increase with time which could potentially impact on the proposed building. The foreseeable conflict with the interests of future residents could threaten the health and shape of the tree. Overall, I am not assured that there would be no harmful effects on the copper beech tree.
11. Taking these factors together the resulting development would have an unacceptably harmful impact on the distinctive character of the street scene. Whilst I acknowledge that the design approach reflects features, detailing and materials that would complement the original dwelling, this would not fully overcome the concerns I have identified. It follows that based on the evidence before me, I find that the proposal would undermine distinctive components of the street scene contrary to paragraph 127c) of the National Planning Policy Framework (the Framework). This stipulates that planning decisions should ensure that developments are sympathetic to the local character and history, including the surrounding built environment and landscape setting.
12. My attention is drawn to developments located on some of the dwellings arranged around the intersections between Lytton Road, Cornwallis Road and Florence Park Road as highlighted on drawing no. P11. However, unlike the proposal before me, the examples are adjacent to existing residential plots rather than the entrance to the park which is an important distinction. Furthermore, the majority of these examples relate to the extension of existing dwellings rather than a new dwelling. The exception at 61a Lytton Road, has an awkward cranked and disjointed appearance that detracts from the street scene. Therefore, it does not present a sound basis to justify further harmful development.
13. Moreover, many of the examples highlighted appear to be longstanding and consequently, it is unlikely that they were considered against the recently adopted policy DH1 of the Oxford Local Plan 2036, June 2020 (LP). This states that planning permission will only be granted for development of high quality design that creates or enhances local distinctiveness and is therefore, seeking to reinforce high quality design or raise the standard of design quality. As such, although of some relevance, the examples highlighted are not directly comparable to the proposal before me and therefore, are of limited weight. In any event, I have determined the appeal proposal on its own merits.
14. Accordingly, I find that the proposal falls short of a high quality design that creates or enhances local distinctiveness and is harmful to the character and appearance of the area contrary to policy DH1 of the LP. For this reason, it would not meet all of the criteria set out in policy G6 of the LP which is otherwise generally permissive of new dwellings on residential garden land. The

criteria listed require the proposal to respond to the character and appearance of the area, taking into account the views from streets, footpaths and the wider residential and public environment. In addition, the proposal would be likely to increase pressure to reduce the crown spread of a high quality tree that makes a significant contribution to public amenity. Consequently, the proposal would be contrary to policy G7 of the LP which seeks to protect existing green infrastructure features, including trees.

Living conditions

15. Policy H16 of the LP stipulates that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space and sets out certain specifications. In addition to minimum space requirements, policy H16(d) lists six factors which are material to the consideration of whether adequate space would be provided, one of which refers to the orientation of the outdoor area in relation to the path of the sun.
16. There is no dispute that the quantum of garden space would be sufficient, essentially the parties disagree whether the north-west facing rear garden would receive an adequate amount of sunlight. Drawing No. P13 provides a sunlight analysis using the BRE sun-on ground indicator. This concludes that including the impact from trees, the centre point of the rear garden would receive 2 hours and 10 minutes of sunlight in the afternoon on 21 March (the equinox). The appellants consider that this accords with the BRE Trust Report BR209 whereby, an adequate level of sunlight equates to at least two hours of sunlight on this date. I have not seen any substantive evidence to undermine the findings of this analysis and therefore, give it considerable weight.
17. The analysis further indicates that excluding the impact from trees, the duration of sunlight in the rear garden would be significantly longer. However, I have already taken account of the likely consequences of this for the copper beech tree in the first main issue.
18. Furthermore, policy H16 d)i) also identifies the proximity to public open space as a relevant factor to be taken into account. The development would be directly adjacent to a large public park that would provide alternative opportunities for future residents to sit in the sun. This would temper the degree of harm arising from the relatively limited levels of direct sunlight.
19. Therefore, whilst the amount of sunlight in the rear garden would probably pose some limitations for plant cultivation, it is not so restricted that it would otherwise unacceptably compromise the use or enjoyment of the garden by future residents. Hence, I find that the proposal would provide adequate garden space to accord with policy H16 of the LP. It follows that the living conditions of future residents would not be unacceptably harmed.

Access and parking

20. Policy M3 of the LP seeks to encourage car-free and reduced car parking in residential developments and employs maximum standards outside of controlled parking zones. The maximum standard in this case would be one off-street space. Moreover, the Highways Authority refers to the appeal site as a sustainable location with good access to public transport and local amenities.
21. The highway crossing onto Florence Park Road annotated on the plans does not form part of the application site, and therefore, I acknowledge that vehicular

access to the single car parking space shown would not be provided as part of the application. Nevertheless, based on the evidence before me, it is not shown that this would be necessary to make the proposal compliant with policy M3 or otherwise acceptable in planning terms.

22. Accordingly, it follows that I find no conflict with policy M3 of the LP which sets out the approach to limiting the provision of motor vehicle parking.

Planning balance and conclusion

23. The appellants suggest that the Council is unable to demonstrate a five year housing land supply and refer to the Annual Monitoring Report dated March 2019 and recent planning committee reports and minutes⁵. They contend that the LP has made no difference to the delivery of housing. On that basis they consider that the presumption in favour of sustainable development in paragraph 11(d)ii of the Framework applies. However, I have not been provided with documents nor other substantive evidence to substantiate this position.
24. Paragraph 74 of the Framework states that a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan. The accompanying footnote establishes that the LP adopted in June 2020 would constitute a recently adopted plan. Therefore, the balance of evidence before me does not show that the Council is unable to provide a suitable supply of deliverable housing sites such that paragraph 11(d)ii is engaged.
25. The main benefit of the proposal would be the provision of an additional dwelling in an accessible location making more efficient use of previously developed land. The importance of small sites in this regard is recognised in paragraph 68 of the Framework. The appellants also highlight the importance of starter homes. Nevertheless, and notwithstanding the general commentary on the problems of affordability of housing in Oxford provided, there is little before me to suggest that the proposal would constitute a starter home within the definition of that term in the Framework as a form of affordable housing. Even so, as a smaller market dwelling, it may be more likely to suit first time buyers and therefore, would diversify the housing stock in the vicinity.
26. It is stated that the appellants are self-builders and are on the Oxford City Council self-build register. Support and encouragement for the provision of custom and self-build housing is given in national guidance and legislation and consequently, this factor weighs in favour of the proposal.
27. Furthermore, some economic benefits would arise from the construction of the proposal as well as from the longer term economic activity associated with future occupants. There could also be some financial benefits for the Council in terms of New Homes bonus and Council tax. There would also be an opportunity to secure a beneficial net gain in biodiversity at the site.
28. The appellants generally describe the macroeconomic, national and local political and planning context and point to additional uncertainty arising from the Covid 19 pandemic. Nevertheless, as a single dwelling house, the scale of the proposal would be modest. It follows that the extent of the benefits arising from the development would be commensurate with its scale and would

⁵ Paragraph 1.18 Appellants' Statement of Case

therefore, have a negligible or marginal impact on the wider context outlined. Overall, I attach limited weight to the cumulative benefits arising from the proposal.

29. Balanced against this, is the harm I have identified to the character and appearance of the area that would conflict with paragraph 127c) of the Framework and policies in the development plan that seek to achieve a high quality design for new development. This attracts significant weight. Although I have not found harm in relation to the other main issues, the absence of harm would not amount to a benefit. As such, these are neutral factors.
30. Even if I were to accept the appellants position that the tilted balance in paragraph 11(d) ii applied in this case, the adverse impacts to the character and appearance of the area would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Therefore, this would not constitute a material consideration in favour of the proposal.
31. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise⁶. The benefits of the proposal do not attract sufficient weight to justify a decision other than in accordance with the development plan.
32. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

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