



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: 22 December 2020

Appeal Ref: APP/G3110/W/20/3258730 56 St Luke's Road, Oxford OX4 3JE

- 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 Harris Caan against the decision of Oxford City Council.
 - The application Ref 20/01386/FUL, dated 9 June 2020, was refused by notice dated 7 August 2020.
 - The development proposed is the change of use from a dwellinghouse (use class C3) to a large House in Multiple Occupation (sui generis). Demolition of existing single storey rear extension. Erection of two storey side extension and erection of part single, part two storey rear extension. Formation of 1no. rear dormer in association with loft conversion. Alterations to 1no. window in rear elevation. Alterations to roof to form hip to gable. Provision of car parking, bin and cycle stores.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above, I have used the description of development given on the appeal form and decision notice as it is more comprehensive than that given on the planning application form.
3. When I visited the site, the property had been extended as shown on the proposed plans and elevations. However, as the building was unoccupied it did not appear to be in use as a House in Multiple Occupation (HMO). I shall determine the appeal accordingly.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) the living conditions of future occupants having regard to the provision of internal and garden space.

Reasons

Character and appearance

5. St Luke's Road comprises predominantly two storey semi-detached houses with hipped roofs. Whilst some properties have been extended and altered over time, there is nevertheless coherence derived from their regular spacing and set back. Furthermore, the generally matching forms, modest proportions and detailing give a sense of balance. These factors result in a pleasant, sub-urban character to the area.

6. The submitted drawings¹ indicate that prior to the recent works of construction, 56 St Luke's Road was one such semi-detached house with a hipped roof. Furthermore, the appeal site is on a prominent corner plot with Coleridge Close. As such, it would have made a positive contribution to the established character of the area.
7. The proposal comprises several physical elements that in combination significantly alter the character and appearance of the house. These include the alteration of the original roof shape from a hip to a gable, the introduction of a two storey side extension with a hipped roof, the provision of a box roof dormer in the rear elevation and single and two storey rear extensions. Cumulatively, these alterations add considerable volume to the side and rear of the structure. The massing of the box roof dormer extends across the majority of the rear elevation and beyond the original planes of the hipped roof. This significantly increases the bulk at upper storey level making it visually dominant. When seen together with the hip to gable roof alteration and projecting rear extension, the development appears harmfully disproportionate to the modest proportions of the original dwelling.
8. In addition, the number of differing roof forms used adversely contrasts with the clean lines of the prevalent simple hipped roof form evident in the surrounding area. There is a complexity and awkwardness to the conjunctions of the roof treatment that has a particularly jarring effect on the structure itself, as well as the overall street scene. The height of the alterations combined with the configuration of the corner plot makes changes to the side and rear elevations prominent. As such, they are readily apparent from public viewpoints in St Luke's Road and Coleridge Close which exacerbates the harmful impact.
9. Furthermore, in common with other paired dwellings nearby, the appeal site would originally have formed a matching pair with 54 St Luke's Road. Although, no.54 has a side extension, it is subordinate to and respectful of the original hipped roof such that the proportions are clearly discernible. As such, the incongruous appearance of the proposed alterations adversely diminishes the symmetry and balance with No.54.
10. It follows that the proposal conflicts with the advice in the design checklist contained in Appendix 6.1 of the Oxford Local Plan 2036, June 2020 (LP). This indicates that development proposals should be informed by the site context. In relation to the design and alteration of buildings it specifically refers to the characteristic aspects of roofscape in the area, indicating that proposals should contribute positively to it.
11. The appellant refers to surrounding properties having been extended and altered over time and identifies 58 St Luke's Road on the opposite side of Coleridge Close as an example. I observed that this property has been extended considerably. Even so, the roof form employed attempts to observe the proportions and form of the original hipped roof which, by comparison to the appeal proposal assists in reducing the bulk at upper storey level.
12. Nevertheless, in my opinion, the overall scale of development at No.58 illustrates that disproportionate extensions do diminish the balance and proportions of the original dwelling to the detriment of the character and

¹ Drawing Nos. 56stlukes3.3.1 & 56stlukes1.3.1

appearance of the area. It also appeared to have been in situ for some time and hence it is unlikely that the development was considered against recently adopted policy DH1 of the LP. This stipulates 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.

13. Therefore, this example does not provide a sound basis to allow more harmful development. It follows that I am not persuaded that the proposal appears as a 'bookend' with No.58 at the entrance to Coleridge Close. Neither did I observe other nearby properties with extensions or alterations of a comparable scale and form to the appeal proposal. Therefore, other more minor alterations are of limited relevance and attract little weight.
14. Although the appeal site may not be within a conservation area or near to listed buildings, the absence of heritage significance does not indicate that it lacks local distinctiveness or any attributes worthy of enhancement.
15. Accordingly, I find that the proposal falls considerably short of a high quality design that creates or enhances local distinctiveness and is therefore, harmful to the character and appearance of the area contrary to policy DH1 of the LP.

Living conditions

16. Policy H6 of the LP sets out criteria for considering proposals to change from the use of a dwelling in Use Class C3 to a HMO. These include that the development complies with the space standards set out in policy H15 and that the development complies with Oxford City Council's Landlord's Guide to Amenities and Facilities for Houses in Multiple Occupation, 2019 (HMO guidance).
17. The HMO guidance explains that there are mandatory licensing requirements for HMOs under the Housing Act 2004. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 (the Regulations) includes, amongst other matters, minimum bedroom floor areas. Furthermore, where there is no additional communal living space, the Council requires a larger bedroom size for licensing purposes. Accordingly, the minimum space requirements for bedrooms for HMOs to be licensed in Oxford City depends upon a variety of factors covering the number of occupants, the size of the kitchen, the size of any communal living area and the number of storeys².
18. There is no dispute between the parties that the proposal meets with these requirements. However, the parties disagree as to whether the proposal must also meet with the Technical Housing Standards – Nationally Described Space Standard, Department for Communities and Local Government, March 2015 (NDSS). Policy H15 of the LP stipulates that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. Furthermore, all proposals for new build market and affordable homes must comply with the NDSS. As such, the only space standards explicitly referred to in policy H15 are the NDSS. However, notwithstanding the criterion in policy H6, attempting to apply the NDSS to HMO accommodation is problematic for the following reasons.

² Page 7, HMO guidance

19. Firstly, as mentioned above, Oxford City Council has a specific internal space standard for HMO accommodation which is referenced in policy H6. The supporting text to policy H15 which pertains to internal space standards refers to NDSS but goes on to mention that in addition, minimum bedroom sizes for HMOs are governed by the Regulations. It further states that this will ensure that new developments are designed and built to provide adequate space for occupants. Therefore, if the specific internal space standards for HMO's is met, which is acknowledged would provide adequate space, it is not clear why a further less specific standard should also be applied. To do so would be illogical and confusing.
20. Secondly, the NDSS itself states that it deals with internal space within new dwellings³ and does not expressly refer to HMO accommodation. It goes on to state that minimum floor areas and room widths for bedrooms are an integral part of the overall space standard and they cannot be used in isolation from other parts of the design standard or removed from it. This is reinforced by Table 1 of the document that refers to minimum gross internal floor area for dwellings providing up to 6 bedrooms.
21. The term 'dwelling' in planning terms often refers to a self-contained unit of residential accommodation occupied by one household as a single person or family, or by not more than six residents living together as a single household, including where care is provided for residents⁴. This would broadly align with the scale and nature of dwellings envisaged by Table 1 of the NDSS.
22. In contrast, HMOs often contain non self-contained accommodation with shared facilities between more than one unrelated household. In this case, the proposal would be a larger HMO (sui generis use class) providing eight bedrooms with a shared kitchen and dining area. The distinction is recognised by the difference in use class as well as the glossary of terms used in the LP⁵. It is reasonable to suppose that these differences may have implications for the application of internal space standards such that the gross internal area for dwellings in the NDSS is not directly transferable to HMO development. Moreover, it is clear that the individual bedroom standard is not severable from the overall NDSS.
23. Thirdly, policy H15 only states that new build market and affordable homes must comply with the NDSS standard. The proposal is not a new build market or affordable home, rather it is a change of use and alteration of an existing building.
24. Taking these factors together, it is not shown that the NDSS standard is applicable to the appeal proposal. The opening sentence of policy H15 states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. Even if I were to accept that a large HMO fell within the scope of the term 'dwelling' for the purposes of policy H15, the information before me indicates that it complies with the specific HMO internal space requirements set by Oxford City Council.
25. The proposal provides some private rear garden space that would be directly accessible from the communal kitchen/dining area. Although relatively modest,

³ Paragraphs 1 & 7

⁴ Town and Country Planning (Use Classes) Order 1987 (as amended)

⁵ Page 190

this is a usable space which could accommodate facilities for sitting out, clothes drying and other activities. In addition, there are garden areas to the side and front, which although more public, would allow for some gardening activity.

26. Policy H16 is prefaced by stating 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 standards according to the size of dwelling. The policy does not expressly state that it is applicable to proposals for HMOs. Furthermore, in contrast to the express mention of policy H15, policy H6 of the LP does not include policy H16 or outdoor garden space as a criterion to be used in the assessment of HMO development. Additionally, the definition of 'dwelling' given in the glossary of the LP does not include large HMOs within its scope.
27. It follows that there is little basis to suppose that the outdoor amenity space standards in policy H16 apply to the proposal before me and I have not otherwise found the proposed garden provision to be inadequate.
28. Accordingly, I find that the proposal would make adequate provision of internal and garden space such that the living conditions of future occupants would not be unacceptably compromised. Therefore, I find no conflict with the criteria in policy H6 of the LP for a change of use to HMO including the cross reference to the internal space standards in policy H15. Moreover, I am not persuaded that the outdoor amenity standards for dwellings in policy H16 of the LP apply to the circumstances of the appeal proposal and consequently, find no conflict with it.

Other matters

29. I acknowledge that the provision of HMO accommodation in a reasonably accessible location would contribute towards the supply and mix of housing and would use previously developed land. However, given the relatively modest nature of the proposal, these benefits are of limited weight. The lack of Council objection in relation to the matters of cycle and car parking, provision of adequate bin storage and the impact on the living conditions of neighbouring residents does not weigh in favour of the proposal, rather as they would be necessary to make the proposal policy compliant, they are neutral factors. Accordingly, the benefits do not surmount the significant weight given to the harm to the character and appearance of the area.

Conclusion

30. Although I did not find harm in relation to the living conditions of future occupants, I nevertheless found that there would be unacceptable harm to the character and appearance of the area. Therefore, for the reasons given above I conclude that the appeal is dismissed.

Helen O'Connor

Inspector