



Appeal Decision

Site visit made on 17 November 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2021

Appeal Ref: APP/V3120/W/19/3232046 15 Cumnor Hill, Oxford, OX2 9EY.

- 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 Lucy Developments Ltd. against the decision of Vale of the White Horse District Council.
 - The application Ref. P18/V1886/FUL, dated 25 July 2018, was refused by notice dated 23 April 2019.
 - The development proposed is the demolition of existing dwelling and construction of 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/recycling store.
 - This decision supersedes that issued on the 1st October 2019. That decision on the appeal was quashed by Order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of a 2.5 storey building containing 8 No. 2-bed flats, including improved vehicular access, 8 resident car parking spaces, 16 covered cycle parking spaces and covered refuse/ recycling store at 15 Cumnor Hill, Oxford, OX2 9EY, in accordance with the terms of the application, Ref P18/V1886/FUL, dated 25 July 2018, and the plans submitted with it, as amended on the 26 March 2019, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appellant submitted amended plans of the proposal on the 26 March 2019, before the Council's formal decision was made, to supersede the plans originally submitted to the Council with the planning application. The details of the revised drawing numbers are set out in paragraph 18 of the appellant's statement 'Re-Determined Appeal Representations', as agreed with the Council, and I have had regard only to these plans.
3. I note that the Council issued a Certificate of Lawfulness in February 2020¹ which indicates that a proposal to extend the area of hardstanding at the front of the property to have a larger parking and turning area for the dwelling would be lawful 'permitted development' as defined in the GPDO². The appellant describes this as a 'fallback' position.

¹ Ref. P20/V0359/LDP

² Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Main Issues

4. The main issues are:

- the effect of the proposed redevelopment scheme on the character and appearance of the area; and
- the effect on the living conditions of the occupiers of the neighbouring properties.

Reasons

Background

5. The appeal site comprises a detached house within a large garden which is set back from the frontage along Cumnor Hill, a main road leading west out of Oxford. The site lies at the Botley end of the hill and the road rises to the west to the village of Cumnor. There are other detached houses to the west of the appeal site but a new building of apartments lies to the east at No.13 on the corner with Hurst Rise Road and some of the detached houses in this side road back onto the appeal site.
6. The proposal involves the redevelopment of the existing property with a new building of mainly 2.5 storey form with accommodation in the roof space lit by a combination of small dormer windows, windows in the gables and rooflights.

Policy context

7. The Council's Local Plan 2031 Part 2 was adopted on the 9 October 2019. This replaces the Local Plan 2011 as referred in the second reason for refusal.
8. The representations of some local people refer to the emerging Cumnor Neighbourhood Plan but there is no evidence presented that this plan relates to the appeal site or that it has been 'made' following a referendum therefore I have not been able to afford it weight.

Effect on character and appearance

9. The relevant policy on design matters is Core Policy 37 of the Local Plan 2031 which, amongst other aspects, requires new development to be of a high quality design which responds positively to the site and surroundings and reinforces local identity. In assessing this issue, I have had regard to the Council's Design Guide (DG) adopted in 2015 and to the specific design principles as referred to in the reasons for refusal which I will consider in turn. I note that Part 6 of the Design Guide refers to 'buildings in rural and lower density areas' and the introduction to this includes a reference to Cumnor Hill. However, having regard to the surroundings of the appeal site in the local part of Cumnor Hill, which is a general suburban area associated with Botley rather than a rural landscape, in the absence of any specific clarification in the Guide, I find that the principles set out in Part 6 of the Guide are of very limited relevance to the appeal site.

DG51, and DG69 – Scale, height and massing

10. The existing dwelling has a mainly two storey form and an appearance akin to a ski chalet with a shallow sloping roof and prominent white painted fascia at the eaves. It is not of a design generally characteristic of the area and there

are no compelling planning reasons to require its retention. Nevertheless, the building is well set back from the road frontage and this form is repeated along most of Cumnor Hill.

11. The proposed building respects this general building line with an even greater set back from the road. The local area is also characterised by large buildings, mainly detached houses on the higher reaches of the road, but around the appeal site there are other examples of larger buildings comprising apartment development. This includes the development on the adjacent site at No.13. On the southern side of the appeal site the house at No.17 is also of a large scale with 2.5 storeys of accommodation. I find that the general scale of the building proposed is not at odds with the site's surroundings.
12. The setting of the proposed building in the street scene, as shown on plan PA-09 Rev B indicates that the height of the building would respect that of neighbouring properties and also follow the general slope of the land. Viewed from the front the mass of the building would be greater than the existing chalet but would not appear too great or imposing in the context of the immediately adjacent properties. There would be a slight reduction in the gap between the corner of the building and the party boundary to the west but the greater width of the proposed building would not give rise to an unacceptable visual bulk as demonstrated in the street scene elevation.
13. The building would have a greater depth, shown in part by the crown roof where there would be a roof ridge at the front as well as on each side elevation. However, this building depth would not be apparent in views from a north-east direction in Cumnor Hill as these would largely be screened by the presence of the building at No. 13 and its forward position in the street. Viewed from the south-west the large west elevation would be seen in the context of the extended front at No. 17 and existing vegetation in the front garden, and this structure and the landscaping help reduce the apparent bulk of the building.
14. Overall, I find that the scale, height and massing of the building proposed would respond positively to the surroundings of the site and meet the characteristic form of the area. It would not have a harmful effect on the local street scene but would enhance it.

DG75 – apartment parking

15. The Council's objection about parking relates to the prominence of the proposed parking area at the front of the site and suggests that this would have an overbearing visual effect on the area. The amended scheme indicates that a parking area for eight spaces and visitor parking can be formed in a sweep of hard surfacing at the front of the building and by making use of a variation in surface materials. The appellant says that the effect of the parking area proposed should be compared to that of the 'fallback' position, as described in paragraph 3 above, on what could be lawfully undertaken as 'permitted development'. However, I am not able to place much weight on this comparison as it is not established that it is any landowner's clear intention to carry out such changes while the host property is a dwellinghouse and in advance of any redevelopment scheme. I have therefore considered the parking proposal on its individual merits.

16. The land at the front of the No.15 rises from the road and also there is the general slope of the land from east to west. The parking of vehicles to the front of the proposed new apartment building could therefore be quite prominent in the street scene. However, the existing parking area and driveway is well screened by the hedge and tree along the road frontage. The proposed parking scheme would retain much of the openness to the front of the building and the width and alignment of the access road has been reduced and mellowed from the original submission. The revision for the waste bin area shows that this would be small in scale and can be further screened by planting. Overall, I am satisfied that with appropriate landscaping and surface materials the parking area proposed would be integrated well in the local landscape, as suggested in DG75, and it would not be an overbearing or harmful feature in the local street scene.
17. The Council refers to another decision where an appeal³ for a redevelopment with flats was dismissed at 108 Cumnor Hill, but it appears to me that the circumstances of that site are materially different to the appeal site, as that part of the Hill is characterised by less dense individual houses in large gardens within a mature landscaped setting.
18. I conclude on this issue that it has been demonstrated that the redevelopment scheme proposed would respond positively to the site and its surroundings and would enhance the character and appearance of the area rather than harm them. It therefore meets the requirements of Core Policy 37 and the emphasis placed on good design in section 12 of the National Planning Policy Framework (the Framework).

Effect on living conditions

19. Core Policy 23 on housing density now supersedes Policy DC9 and this requires new development to be at a higher density unless various factors apply, including having an adverse effect on the amenity of neighbours. The Council's concerns are about the relationship with No.2 Hurst Rise Road but the occupier of No.4 of this road together with No.17 Cumnor Hill also raise objection to the scheme under this issue.
20. Dealing with the Hurst Rise Road properties first, the officer report sets out the distances involved in the relationship between the two properties, including the difference in land levels, and I also considered the specific relationships at my site visit. The existing chalet building is sited close to the eastern boundary of the site and at a point where the rear garden of No.2 is at its shortest. The proposed scheme re-sites the building bulk further south and the flank wall is staggered away from neighbouring land. Moreover, the amended plan avoids windows at first floor level in the flank elevation facing east.
21. I have also had regard to the subsequent Daylight and Sunlight Analysis (DaSA) prepared in June 2019 on behalf of the appellant. This concludes that the proposed building would not cause loss of daylight or sunlight to the surrounding properties and would have a negligible effect on the gardens' hours of sunlight. This evidence is not contested by the Council.
22. Although there would be an increased building bulk and height, I am satisfied that the siting and staggered set back of this elevation of the proposed building

³ APP/V3120/W/19/3227259

mean that it would not have an overbearing effect on the general residential aspect enjoyed by the occupiers of the Hurst Rise properties, bearing in mind this suburban area is already developed.

23. Turning to No.17 Cumnor Hill, this detached property is well set back from the road frontage and is sited close to the party boundary shared with the appeal site. The property also has a number of windows at ground and first floor level which look towards the appeal site but the majority of these at first floor level light bathrooms with two of the windows being to a bedroom as set out in the DaSA.
24. The proposed building would have side facing eaves level about the same height as the existing chalet but the flank wall of the building would be closer to the boundary. However, the re-sited building would lie in part along-side the single storey element to the front of No.17 which does not have windows in the flank elevation. Taking account of the assessment in the DaSA, it is reasonably demonstrated that the position and extent of building bulk would not result in a loss of daylight or sunlight to this property. The proposal would therefore not have an overbearing impact on the amenity or living conditions of the occupiers of this property.
25. I conclude on this issue that on the evidence presented and my observations at the site visit, the proposal would not have an adverse effect on the amenity or living conditions of the occupiers of neighbouring properties and I find no conflict with the requirements of Core Policy 23.

Other matters

26. Local residents also raise concern that the proposed development of apartments would add to a problem of air pollution from cars parking at the front of the site. However, there is no substantiated evidence before me to demonstrate that there is an existing problem over air quality locally or that the proposal would make this materially worse.

Planning Balance

27. On the main issues I have found that the scale, height, massing and overall design of the proposed new building of apartments would respond positively to the surroundings of the site in this lower part of Cumnor Hill and also maintain the characteristic set back of development in the frontage. The proposal would not have a harmful effect on the street scene but would enhance it. Moreover, the detailed evidence submitted by the appellant demonstrates that the proposed building although larger in size than the existing chalet would not have an overbearing effect on the amenity or living conditions of the occupiers of properties neighbouring the site.
28. This assessment is based on the amended plans submitted in March 2019 which had been revised to address concerns about the extent and form of the parking area and access road and the direct effect on neighbours.
29. Taking account of the Council's Design Guide I find that the proposal meets the relevant provisions of the development plan on securing high quality design. The proposal is also in line with the guidance in the Framework in support of sustainable development which makes an effective use of land and achieves well designed places without harming the character of an area.

30. This accord with an up-to-date development plan is not outweighed by any other consideration, either on its own or taken collectively, and this indicates that the appeal should be allowed.

Conditions

31. The Council recommends seven conditions on any permission which I will consider under the same numbering. Some of these conditions are 'pre-commencement' ones but this restriction on development is unnecessary and the conditions can be amended to ensure that the condition must be satisfied before any construction works begins.
32. In addition to the condition on the commencement of development (no.1) a condition (no.2) which specifies the plans that are approved is necessary in the interest of clarity as well as the appearance of the area and the development, if proceeded with, must be in accordance with them. The appearance of the development is also dependant on a detailed landscaping scheme (no.3) and I will add to the one recommended by the Council to make it clear that the landscaping scheme has to address the boundaries of the site and the open garden and parking area to the front.
33. Further details are also required of the disposal of foul and surface water from the site (no's 4 and 5) in the interests of avoiding pollution and flooding and I will impose these conditions. Condition no.6 is also necessary to ensure that there is reasonable parking provision on site for the development proposed.
34. Finally, the condition (no.7) regarding the external materials of the development is reasonable and necessary to ensure that the development fits in with the surroundings of the site and I will impose it but modify it so that it relates to the surface materials of the driveway and parking area as well.

Conclusion

35. 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; PA-01, PA-02E, PA-03, PA-04, PA-05, PA-06F, PA-07F, PA-08D, PA-09B, PA-10B, PA-15 and PA16 received on 3rd August 2018 and 2nd April 2019, except as controlled or modified by conditions of this permission.
- 3) No construction shall take place until landscape details have been submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted, noting species, plant sizes and numbers/densities, the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The landscaping scheme shall address the eastern, western and southern boundaries of the site, the parking areas, and the open area of garden.
- 4) No construction shall commence until a full surface water drainage scheme has been submitted to and approved by the Local Planning Authority. The surface water drainage scheme must include details of the size, position and construction of drainage works and be designed to accommodate a 1 in 100 year storm + 40% CC. Thereafter the surface water drainage scheme shall be implemented in accordance with the approved details.
- 5) No construction shall commence until a full foul water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The foul water drainage scheme shall include details of the size, position and construction of the drainage scheme, all coupled with calculations to evidence this. Thereafter the foul water drainage scheme shall be implemented in accordance with the approved details.
- 6) The residential units shall not be occupied until the car parking spaces, turning spaces, access improvements, cycle parking provision, and vision splays shown on approved drawing number PA-02E1, received 2nd April 2019 have been constructed and surfaced. The parking spaces shall be constructed to prevent surface water discharging onto the highway. Thereafter, the parking spaces, cycle parking provision and vision splays shall be kept permanently free of any obstruction to such use.
- 7) The exterior of the development hereby permitted, together with the driveway and parking areas, shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the Local Planning Authority.