
Appeal Decision

Site visit made on 16 March 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/G3110/W/20/3264337

3 The Slade, Headington, Oxford, Oxfordshire OX3 7HL

- 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 Nissar Mohammed against the decision of Oxford City Council.
 - The application Ref 20/01449/FUL, dated 9 June 2020, was refused by notice dated 14 September 2020.
 - The development proposed is described as 'conversion of greenhouse into a self-contained one-bedroom dwelling'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. At my site visit I observed that the proposal has been built and I shall consider the appeal accordingly.

Main Issues

3. The main issues are the effect of the proposal on:
 - The living conditions of residents at the proposed dwelling and 3 The Slade having regard to garden provision and privacy, as well as internal space provision for the former;
 - The character and appearance of the area;
 - The Lye Valley Site of Special Scientific Interest (SSSI), and;
 - Carbon emissions.

Reasons

Living conditions of residents at the proposed dwelling and 3 The Slade

4. Policy H15 of the Oxford Local Plan 2036, June 2020 (LP) stipulates that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. The supporting text explains that adequate size and layout are a necessary functional component of high quality design which has increasing importance given the encouragement given to making more effective use of land.

5. Policy H15 further states that new build homes must comply with the Government's Technical Housing Standards – Nationally Described Space Standard (NDSS). Although the proposal is described as the conversion of a greenhouse, the submitted site plan shows that it has a larger footprint than the former structure. Furthermore, from the photographic evidence provided of the greenhouse, the proposal would have required such an extent of new built fabric that it amounted to a new build dwelling. As such the NDSS by virtue of policy H15 of the LP is applicable and the appellant does not suggest otherwise.
6. There is no dispute between the parties that the NDSS requires a minimum gross internal floor area of 37 square metres. The proposal provides approximately 20.8 square metres gross internal floor area which amounts to a proportionately significant shortfall relative to the minimum standard. The floor plan shows a kitchen, shower/wc room and combined living and bedroom. Given the limited space, it would be difficult to accommodate a basic level of furniture commensurate with the needs of a single occupant without blocking windows or circulation space necessary to move around the dwelling. Neither does the floor plan show that reasonable domestic storage is provided for clothes or frequently used bulky items such as vacuum cleaners or ironing boards.
7. Taking these factors together, the day to day living experience of the occupant would be cramped and inconvenient. As a result, their quality of life would be significantly and unacceptably compromised. The quality of the finish of the internal accommodation does little to mitigate the constrained physical space and so would not address or outweigh the conflict with the requirements of policy H15 of the LP.
8. Furthermore, policy H16 of the LP requires dwellings to have direct and convenient access to an area of private open space specifying that houses of 1 or more bedrooms should provide a private garden, of adequate size and proportions for the size of house proposed, which will be considered to be at least equivalent in size to the original building footprint.
9. The submitted plans do not specify any dedicated garden space for the proposed dwelling, which is located directly adjacent to, and approximately half way down the rear garden of 3 The Slade. Consequently, the windows and glazed door in the proposed dwelling allow for direct and immediate views onto the rear garden. Furthermore, occupants of No.3, when using their garden could look into the windows of the proposed dwelling which serve the kitchen and combined living/bedroom. Such a relationship permits an unacceptable degree of intrusive overlooking to the main living areas of the proposed dwelling. In addition, it seriously comprises the privacy of the rear garden of No.3, where residents would reasonably anticipate a greater degree of privacy.
10. Additionally, the position of the proposed dwelling requires the occupant to access it via the side of the house and back garden of No.3. This generates movement in proximity to the ground floor windows of the rear elevation of No.3 that overlook the rear garden. Consequently, the occupant of the proposed dwelling would be able to see into the ground floor rear windows of No.3 at close range, thereby unreasonably reducing the privacy of the residents.
11. It follows that due to the limited privacy, the proposal significantly compromises the living conditions of both the occupant of the dwelling and

those of No.3. Paragraph 127 f) of the National Planning Policy Framework (the Framework) states that planning decisions should ensure that developments provide a high standard of amenity for existing and future users. For the reasons outlined, the proposal would fall substantially short of this.

12. In support of the proposal the appellant suggests two options¹ for the arrangement of the garden space which he considers, if conditioned, would provide suitable outdoor space for the occupants of both the proposed dwelling and No.3. Both options would provide outdoor space for the proposed dwelling which could be enclosed by fencing. Nevertheless, it would be directly overlooked by the upper floor windows in the rear elevation of No.3. Moreover, based on the sketch provided, option 1 would not appear to provide No.3 with a private garden at least equivalent in size to its original building footprint, as advocated by policy H16 of the LP. From my observations it is a semi-detached family dwelling. Therefore, the significant reduction in private garden space would unreasonably erode the present living conditions of the occupants.
13. By comparison, option 2 retains more rear garden space for the occupants of No.3. However, it would be segregated, with the main area accessed via a narrow, fenced corridor diminishing its overall usability and visibility from the house. This would undermine the occupants of No.3's enjoyment of the garden space. Consequently, neither suggested option would provide a satisfactory arrangement that would fully overcome the harm identified. As such, I am not persuaded that planning conditions to secure either option would make the development acceptable in planning terms.
14. Accordingly, I find that the proposal is harmful to the living conditions of the occupant of the proposed dwelling having regard to the provision of internal and garden space. Additional harm to the living conditions of the occupants of the proposed dwelling and residents at No.3 results from the limited privacy provided by the configuration of the development. Therefore, it is contrary to policies H15 and H16 of the LP which seek to secure adequate provision of internal and outdoor amenity space. It also conflicts with policy H14 of the LP which, amongst other matters, requires development to provide reasonable levels of privacy for occupants of both existing and new homes.

Character and appearance

15. 3 The Slade lies in a predominantly residential area with most housing on the eastern side of the road near to the appeal site comprising two storey semi-detached dwellings arranged in regular plots with clear building lines. Their layout and appearance reflect a clear distinction in hierarchy between the more prominent front elevations facing the road in contrast to the secondary role of outbuildings and rear gardens. This contributes towards a well-ordered, suburban quality to the area.
16. The photographic evidence provided shows that the appeal site originally accommodated a greenhouse within the rear garden area of No.3. The semi-detached property and associated domestic outbuildings respect the established form and grain of development described and thereby were in keeping with the character of the area.

¹ Page 14, Appellant's Written Representations: Grounds of Appeal

17. The proposal is a detached dwelling situated to the rear of No.3 behind a shed. Its small size rectangular form and flat roof take an altogether different form and scale from the surrounding two storey traditional dwellings. In addition, its principal elevation is roughly perpendicular to that of most dwellings which present towards the road. Consequently, this arrangement is at odds with the ordered plot pattern of established dwellings in the vicinity.
18. The appellant indicates that its location, form and scale is similar to nearby domestic outbuildings. However, such an approach overlooks the importance of the function of the building as an intrinsic part of its character. The prevailing grain of development makes a clear distinction between the location and form of primary and secondary buildings, their relationship to one another and to the street. Therefore, by mixing the established form and function of buildings, the proposal would result in a somewhat confusing addition that would diminish the well-ordered character of the area.
19. My observations were that the proposal is not prominent in views from the street due to its siting and modest scale. Nevertheless, limited glimpses are possible in the gap between Nos.1 and 3 The Slade. Furthermore, it will feature in some private views from several nearby houses. In any event, its relatively limited visibility does not justify a development that would undermine the character and appearance of the area as policy G6 of the LP, which generally supports new dwellings on residential garden land, requires such development 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.
20. Accordingly, I find that the proposal would be harmful to the character and appearance of the area contrary to criteria in policy G6 of the LP.

Lye Valley SSSI

21. The Lye Valley SSSI is a site of national importance for biodiversity that is sensitive to changes in water quantity or quality. Both parties accept that the site lies within the surface and groundwater catchment area for the Lye Valley SSSI. Policy RE4 of the LP indicates that development will only be permitted in these circumstances if it can demonstrate that there will be no adverse impact on the surface and groundwater flow to the Lye Valley SSSI. Policy G2 of the LP stipulates that planning permission will not be granted for any development that would have an adverse impact on sites of national importance.
22. Paragraph 175 b) of the Framework confirms that development on land likely to have an adverse effect on a SSSI either individually or in combination with other development should not normally be permitted.
23. In the absence of a Sustainable Drainage System (SuDS) strategy which demonstrates how a reduction in the quantity or quality of groundwater recharge, or an increase in surface water run-off will be avoided, Natural England consider that the development could have potential significant effects on the Lye Valley SSSI. Given their area of expertise and status as a statutory body, their opinion attracts considerable weight.
24. The appellant highlights that the proposal is of a modest scale, replaces a former building and is set on pre-existing hardstanding. Nevertheless, the building does have a slightly larger footprint than the former greenhouse and

the Framework requires consideration of the impact individually or in combination with other development. The limited information before me does not amount to a SuDS strategy that recognises that. Accordingly, an adverse effect on the SSSI cannot be ruled out.

25. Moreover, as the scale of harm has not been identified, it follows that there is little certainty as to whether appropriate safeguards can provide adequate mitigation. The submitted plans do not specify a garden area for the proposed dwelling which casts doubt on the appellant's suggestion that rainwater might be collected from the flat roof and repurposed within the garden area. Given the sensitivity of the SSSI and the uncertainty that a suitable SuDS strategy can be achieved, this is not a matter that can be appropriately made the subject of a condition as the principle of the development would have already been permitted.
26. Therefore, I am not assured that the proposed development would have no adverse effect on the Lye Valley SSSI. On that basis, I find that the proposal would be contrary to policies RE4 and G2 of the LP.

Carbon emissions

27. Policy RE1 of the LP states that planning permission will only be granted for development proposals for new build residential dwellinghouses which achieve at least a 40% reduction in carbon emissions from a 2013 Building Regulations (or future equivalent legislation) compliant base case. This reduction is to be secured through on-site renewable energy and other low carbon technologies and/ or energy efficiency measures.
28. The explanation for the policy in relation to carbon reduction outlines that the Council aims to tackle the causes of climate change by ensuring developments use less energy and assess the opportunities for using renewable energy technologies. The requirements of policy RE1 play a crucial role in meeting the Council's wider commitments to reducing total carbon dioxide emissions for the city.
29. Notwithstanding that the structure has generally incorporated wall and roof thermal insulation, double glazed windows and door and may employ energy saving measures with regards to appliances, heating and lighting, this falls short of demonstrating compliance with the specific threshold required by policy RE1. Furthermore, as it is not established that the development could meet the requisite standard, a condition to require a subsequent Energy Statement may not address this harm. As such, this is a matter that must be reasonably established before the principle of the development is permitted.
30. Hence, I find that the proposal fails to demonstrate the requisite level of reduction in carbon emissions required by policy RE1 of the LP. Consequently, it conflicts with that policy.

Other matters

31. Reference is made to the ownership of a shared access drive between 1 and 3 The Slade. The grant of planning permission would not negate or supersede any private legal rights relating to land ownership. In any event, from the evidence before me land ownership would not directly affect the main issues outlined above and therefore, has not had a significant bearing on my assessment of the proposal.

32. The proposal provides an additional small single storey dwelling in an accessible location that would contribute to the overall housing supply and mix. It would also make more efficient use of previously developed land, to which the Framework gives general support. Nevertheless, the extent of benefits accruing from a single dwelling are modest. As such, they attract limited weight and do not lead me to a different view.

Conclusion

33. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise². No compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan.

34. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

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