
Appeal Decision

Site visit made on 11 May 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/G3110/W/20/3265572

Land to the rear of Nos 10-28 Marshall Road, Oxford, OX4 2NR

- 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 Jeff Higgs on behalf of Drennan International Ltd against the decision of Oxford City Council.
 - The application Ref 20/00821/FUL, dated 24 March 2020, was refused by notice dated 10 September 2020.
 - The development proposed is redevelopment of existing light industrial unit to provide 5no 2-bed flats, 2no. 3-bed housed and 2no. 4-bed houses, with private amenity space, car parking and bin and bicycle storage. Demolition of garage to no. 10 Marshall Road to enable improvements to access from the public highway.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of existing light industrial unit to provide 5no 2-bed flats, 2no. 3-bed housed and 2no. 4-bed houses, with private amenity space, car parking and bin and bicycle storage. Demolition of garage to no. 10 Marshall Road to enable improvements to access from the public highway at land to the rear of Nos 10-28 Marshall Road, Oxford, OX4 2NR in accordance with the terms of the application, Ref 20/00821/FUL, dated 24 March 2020, subject to the conditions in the conditions annexe at the end of this decision.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal provides an efficient layout whilst considering the potential to deliver affordable housing;
 - whether adequate bike storage can be provided;
 - and the energy efficiency of the proposed dwellings.

Reasons

Character and appearance

3. The appeal site is within the suburbs of Oxford near Cowley. It is within a predominantly residential area of circa 1920/30s and Marshall Road typifies this era with some uniformity in character particularly in the eastern half. The

appeal site lies behind residential frontages and adjoins back gardens on all four sides, including some mature evergreen trees.

4. The appeal site itself includes a vacant large warehouse, whilst only single storey, this has a disproportionately wide pitched roof. There is a tarmac hardstanding around its entrance and a small brick outbuilding at the other end of the site. The proposal involves the demolition of both the warehouse and the outbuilding.
5. The existing access is off Marshall Road, by a narrow tarmac track, which allows a view of some of the appeal site through the narrow gap in Marshall Road; otherwise there are only glimpses of the appeal site from the public domain through the gaps in between the semi-detached dwellings.
6. The existing access would be widened by the proposed demolition of a single width flat roofed garage (associated with No 10 Marshall Road), which would increase the visibility of the site. However, the proposed buildings would not be prominent and some of the proposed landscaping, including a green verge and new trees, would be evident from the enlarged access. The widened gap in the frontage would not be large so as to weaken the continuity of the view along the street. The removal of the garage would also be beneficial in terms of restoring the symmetry of the associated dwelling.
7. The new development would be arranged in 2 groups with one facing the access. The landscaping would offer a sense of arrival with lawns and a pair of trees to the front of the flats. Both groups of buildings have clear front/back elevations and the private open space is so arranged. Parking would be also logically located, and the landscaping plan shows some softening with trees/shrubs within appropriate space.
8. The buildings would be two and a half storeys, which would not be overly tall compared to the Marshall Road houses. In any event the buildings would be substantially set back from Marshall Road and the site is also around 600mm lower, so the height would not appear out of keeping. The proposed buildings would have a fairly steep roof pitch but not to the extent of looking awkward. Furthermore, the roofscape would be fragmented, which would soften its appearance.
9. The windows would be very simple in their shape and detailing which arranged symmetrically would give a harmonious appearance. The proposed mix of brick and render walling and slate would emulate the locality. The proposed use of buff and red brick to differentiate the two groups would also break up the form of the development.
10. The site as a light industrial use has had vehicle and pedestrian movements which would be likely to be comparable to the movements from this residential development. Consequently, the proposal would not impair the tranquillity of the area.
11. Consequently, from Marshall Road the proposed buildings would not be harmful: the view into site would be marginally improved by the new landscaping and the new houses would only be glimpsed from a few gaps in the frontage and set back a considerable distance; in any event the design would not be out of keeping. From the other adjacent roads only the rooftops of the proposed buildings would be perceptible from the public domain and they

would be set back. The proposal would exert a limited influence on the surroundings.

12. I therefore conclude that the proposal would not harm the character and appearance of the area.
13. Policy DH1 of the Oxford Local Plan (LP) requires high quality design, reinforcement of local distinctiveness and a design rationale. Paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) require design to respect the surroundings, avoid poor design and use effective landscaping. The proposal would not be in conflict.

Whether the layout would be efficient

14. The site is surrounded by back gardens and houses which have the potential for overlooking and, equally the privacy of the new residents within the development is important. The space left for landscaping would be essential to soften the proposal and, the existing trees on the boundaries would also need root protection space: all these factors are constraints to the developable area and a possible layout. Additionally, the parking spaces and their manoeuvring would also require significant land.
15. Similarly, the point of access is fixed, which would limit the potential layout options. Although two turning heads are shown, only one would be large enough for long vehicles. Given the number dwellings and the likelihood of deliveries, the access arrangements are important, and this layout would be practical. Indeed, the two blocks address the access and provide a sense of arrival including landscaping, which would be spoilt by re-orientating to a side facing aspect.
16. For the reasons set out in the earlier section, the proposed two blocks are appropriately arranged. Re-orientating them to accommodate more development would run the considerable risk of causing harm to the character and appearance of the area.
17. I note the comments from the Council that the proposal could have provided one bedroom flats in lieu of two bedrooms but, splitting the volume would entail more circulation area, possible problems for floor/ceiling heights and undermine the quality of the accommodation as well as warrant more car parking. Whilst I note no affordable housing would be provided, being below the threshold, this would not be due to an inefficient use of the available land.
18. The proposal would provide a mix of 2, 3 and 4 bedroom dwellings, which would be a balanced addition to the community. This would broadly tally with the results of the 2014 Oxfordshire Housing Market Assessment, which indicate the greatest market need is for 3 bedroom homes.
19. The Council refer to a 2020 appeal decision at 1 Pullens Lane, Oxford¹ however that proposal was for three houses, and is not comparable to the particular characteristics of this site or this proposal. In any event, an increase in dwellings would be likely to have adverse effects.
20. Policies S1, RE2 and H2 of the LP promote sustainability and seek to maximise use of land. H2 requires affordable provision on sites of 10 or more homes, to a

¹ APP/G3110/W/20/3254807

minimum of 50%. Paragraph 127 of the Framework states the potential of sites should be optimised and similarly paragraph 118 supports the reuse of underutilised land. The proposal would not be in conflict.

Cycle parking/storage

21. The layout plan shows covered storage for 24 cycles, with the open access away from the prevailing wind. Additionally, this would be close to the flats and by the site access, which would be commodious for residents and their visitors.
22. The four houses would have side accesses to their back gardens and the appellant has suggested that a condition could be imposed requiring cycle parking. This is acknowledged by the Council.
23. The exact specification of these facilities needs to be carefully considered to ensure the security and the confidence of the cycle owners. This would be capable of being confirmed by the submission of the details required by a condition.
24. I therefore conclude that adequate provision can be made for the nine proposed dwellings, in terms of the number, location and potential specification of cycle parking facilities.
25. Policy M5 of the LP requires well located cycle parking spaces. The development would not be in conflict with this policy.

Energy

26. The appellant has submitted a revised Energy and Sustainability Statement. The dwellings would be built to reduce heat loss, the use of low energy lighting and efficient white goods. Notably air source heat pumps are also envisaged, which would be easily installed and are widely regarded. The Council question the SAP calculations for the carbon emissions and question whether this would require photo-voltaic panels on the roof. However, if such panels would be required, the proposal would allow for nearly due south facing orientation for both groups of buildings. The pitch of the roofs would also conducive, and the colour of the surrounding slate tiles would also blend.
27. The appellant suggests a condition to allow for the submission of further details. Such a condition could also ensure implementation.
28. In my judgement a condition would ensure that the various potential measures can be sufficiently detailed to ensure the dwellings can be built to appropriately energy efficient standards and allow water conservation.
29. Policy RE1 of the LP promotes the use of energy statements, carbon reduction and water efficiency. The proposal would not be in conflict with this policy.

Other matters

30. I note the comments from third parties particularly on parking provision and the potential implications of any shortfall. However, the provision here would be proportionate for the dwellings proposed. Any asbestos in the existing building would have to be removed under nationally set stringent rules. Living conditions would be respected due to the layout, the orientation of the windows and the heights of the proposed buildings.

Conditions

31. Paragraph 55 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The Council has suggested conditions and the appellants did not comment on them in their final submission.
32. Conditions are necessary on the facing materials, landscaping and tree protection so that the development harmonises with the surroundings. Similarly, the secure by design measures are necessary to ensure quality development but the suggested wording is changed to require submission of details to the Council rather than approval by another party. As I have found above conditions on cycle parking, energy and water conservation are needed to agree their finalised details and ensure implementation. For similar reasons a condition has been added to require implementation of the electric car charging points as shown on the plans. Archaeological investigation is necessary to respect its potential and has to be pre-commencement. Additionally, ecological conditions are necessary to promote the site's potential albeit with the submission timings changed. Provision of visibility splays, drainage, contamination and the construction process are necessary to maintain living conditions.

Conclusion

33. I therefore conclude that the appeal should be allowed subject to the conditions in the annexe below.

John Longmuir

INSPECTOR

CONDITIONS ANNEXE

- 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission
- 2) The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans:
Drawing DMR001/004 A – Proposed Block and Roof Plan (1:200 @ A1)
Drawing 0784.1.1 Rev A – Landscaping Plan (1:125 @ A1)
Drawing DMR01/003 – Proposed Plans and Elevations (garage removed) for no. 10 Marshall Road (1:50 @ A2);
Drawing DMR01/005 – House Plans GF – Proposed (1:50 @ A2);
Drawing DMR01/006 – House Plans First Floor – Proposed (1:50 @ A2);
Drawing DMR01/007 – House Plans Second Floor – Proposed (1:50 @ A2);
Drawing DMR01/008 – House Elevations West Proposed (1:50 @ A2);
Drawing DMR01/009 – House Elevations East Proposed (1:50 @ A2);
Drawing DMR001/010 – House Elevations Block 1 – Proposed North and South Elevations (1:50 @ A2);
Drawing DMR001/011 – House Elevations Block 2 – Proposed North and South Elevations (1:50 @ A2);
Drawing DMR001/012 – Flats Plans Ground Floor Proposed (1:50 @ A3);
Drawing DMR001/013 – Flats Plans First Floor Proposed (1:50 @ A3);

Drawing DMR001/014 – Flats Plans Second Floor Proposed (1:50 @ A3);
Drawing DMR01/015 – Flats – North Elevation (1:50 @ A2);
Drawing DMR01/016 – Flats – South Elevation (1:50 @ A2);
Drawing DMR01/017 – Flats – West Elevation (1:50 @ A2);
Drawing DMR01/018 – Flats – East Elevation (1:50 @ A2);
Drawing DMR01/019 – Sections and Elevations for Houses and Flats (1:100 @ A2).

3) Prior to the commencement above ground level, details and samples of the proposed exterior materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

4) Details of the provision of waste bins and covered and secure cycle storage for all nine dwellings shall be submitted to and approved in writing by the Local Planning Authority, prior to the first occupation of the development. The development shall be carried out in accordance with the approved details, prior to first occupation of the development and shall be permanently so retained thereafter for the purposes of bin and cycle storage only.

5) Prior to the commencement of works above ground level, notwithstanding the submitted details, a scheme shall be submitted to the Local Planning Authority for approval showing a 40% reduction in carbon emissions from a 2013 Building Regulations compliant base case, and water conservation measures. The development shall be only implemented in accordance with the approved details, with all measures made operational prior to first occupation.

6) Prior to the commencement of works above ground level, notwithstanding the approved plans, further details of the proposed soft and hard landscaping shall be first submitted to and approved in writing by the Local Planning Authority. The landscape plans shall include planting species, type, mix and density; retained trees and vegetation; and means of enclosure. The approved landscaping shall be carried out in the first planting season following occupation of the dwellings. Any plant or tree that dies within the first five years shall be replaced within the next available planting season in accordance with details that shall be first submitted to and approved in writing by the Local Planning Authority.

7) Prior to the start of any work on site including site clearance, details of the design of all new hard surfaces and a method statement for their construction shall be submitted to and approved in writing by the Local Planning Authority. Details shall take into account the need to avoid any excavation within the rooting area of any retained tree and where appropriate the Local Planning Authority will expect "no-dig" techniques to be used, which might require hard surfaces to be constructed on top of existing soil levels using treated timber edging and pegs to retain the built up material. The development shall only be carried out in accordance with the approved details.

8) Detailed measures for the protection of trees to be retained during the development shall be submitted to, and approved in writing by, the Local Planning Authority (LPA) before any works on site begin. Such measures shall include scale plans indicating the positions of barrier fencing and/or ground protection materials to protect Root Protection Areas of retained trees and/or create Construction Exclusion Zones (CEZ) around retained trees. Unless otherwise agreed in writing by the LPA the approved measures shall be in accordance with relevant sections of BS 5837:2012 Trees in Relation to Design, Demolition and Construction-Recommendations. The approved measures shall be in place before the start of any

work on site and shall be retained for the duration of construction unless otherwise agreed in writing by the LPA. Prior to the commencement of any works on site the LPA shall be informed in writing when the approved measures are in place in order to allow officers to make an inspection. No works or other activities including storage of materials shall take place within CEZs.

9) A detailed Arboricultural Method Statement (AMS) setting out the methods of working within the Root Protection Areas of retained trees shall be submitted to and approved in writing by the Local Planning Authority before any works on site begin. Such details shall take account of the need to avoid damage to tree roots through excavation, ground skimming, vehicle compaction and chemical spillages including lime and cement. The development shall be carried out in strict accordance with of the approved AMS.

10) Prior to the start of any work on site, details of the location of all underground services and soakaways shall be submitted to and approved in writing by the Local Planning Authority. The location of underground services and soakaways shall take account of the need to avoid excavation within the Root Protection Areas of retained trees as defined in the British Standard 5837:2012- 'Trees in relation to design, demolition and construction recommendations'. Works shall only be carried in accordance with the approved details

11) Prior to the commencement of works above ground level a Sustainable Drainage (SuDS) maintenance plan shall be submitted and approved by the Local Planning Authority. The SuDS Maintenance Plan will be required to be completed by a suitably qualified and experienced person in the field of hydrology and hydraulics. The SuDS maintenance plan will be required to provide details of the frequency and types of maintenance for each individual sustainable drainage structure proposed and ensure the sustainable drainage system will continue to function safely and effectively in perpetuity.

12) The development shall be carried out in accordance with the Stantec Surface Water Management Strategy Doc Ref 2001/R001 Rev A March 2020.

13) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. All works shall be carried out and completed in accordance with the approved written scheme of investigation.

14) Prior to the commencement of works above ground level, measures for Secured by Design shall be submitted to the Local Planning Authority for approval. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

15) Prior to the commencement of works above ground level, a scheme of ecological enhancements shall be submitted to, and approved in writing by, the Local Planning Authority to ensure an overall net gain in biodiversity will be achieved. The scheme shall include confirmation of landscape planting of known benefit to wildlife, including nectar resources for invertebrates. Details shall be provided of artificial roost features, including bird and bat boxes, and four dedicated swift boxes. Any new boundary walls and fencing shall include holes suitable for the safe passage of hedgehogs. The development shall only be undertaken in accordance with the approved details.

16) The development shall be undertaken in accordance with the recommendations provided within the Preliminary Ecological Appraisal and Bat Survey Report produced by Bioscan (May 2020). No works of site clearance, demolition or construction shall take place until a European Protected Species Mitigation Licence has been granted by Natural England. A copy of the licence is to be provided to the Local Planning Authority.

17) Prior to occupation of the development, visibility splays measuring 2m by 2m shall be provided to each side of the access. This visibility splay shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.6 metres as measured from carriageway level for the lifetime of the access.

18) Prior to the commencement of development, a Construction Traffic Management Plan (CTMP), in accordance with Oxfordshire County Council's template, should be submitted to the Local Planning Authority and agreed in writing. The development shall be carried out in accordance with the approved works. The CTMP should identify The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman, access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network), details of wheel cleaning / wash facilities to prevent mud, from migrating on to the adjacent highway, contact details for the Site Supervisor responsible for on-site works, travel initiatives for site related worker vehicles, parking provision for site related worker vehicles, details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours, engagement with local residents.

19) Prior to the commencement of the development a phased risk assessment shall be carried out by a competent person in accordance with relevant British Standards and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR11) (or equivalent British Standards and Model Procedures if replaced). Each phase shall be submitted in writing and approved by the local planning authority. Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model and preliminary risk assessment. Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals. Phase 3 requires that a remediation strategy, validation plan, and/or monitoring plan be submitted to and approved by the local planning authority to ensure the site will be suitable for its proposed use. The development shall not be occupied until any approved remedial works have been carried out and a full validation report has been submitted to and approved by the local planning authority. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on that part of the site affected shall be suspended and a risk assessment carried out by a competent person and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

20) No development shall take place until a Construction Environmental Management Plan, containing the specific dust mitigation measures identified for this development, has first been submitted to and approved in writing by the Local Planning Authority. The development will be carried out in accordance with the approved details. The specific dust mitigation measures shall include the Air Quality Assessment. Version 1 (January 2020), submitted with this planning application.

21) Prior to occupation of any of the dwellings, four car parking spaces shall be installed with operational electric car charging points and shall be retained as such thereafter.

END OF CONDITIONS SCHEDULE