
Appeal Decision

Site visit made on 27 April 2021 by A J Sutton BA (Hons) DipTP MRTPI

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/G3110/W/21/3266703

Site of Millway Close, Oxford, OX2 8BJ

- 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 Johnson Gillies Limited against the decision of Oxford City Council.
 - The application Ref 20/01337/FUL, dated 29 May 2020, was refused by notice dated 23 September 2020.
 - The development proposed is described as 'To construct a single block of 2 no. one bed flats at first and second floor with refuse store and cycle storage to ground level floor, located to the southern end of the site.'
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The principle of the development at this location is not a matter in dispute between the parties.
4. The main issues are: the effects of the proposed development on the character and appearance of the area and the significance of the Wolvercote with Godstow Conservation Area (CA); the living conditions of occupants of the adjacent flats on Millway Close and No 1 Wolvercote Court with regards privacy and outlook; and users of Wolvercote Village Hall with particular regard to privacy and safeguarding; and whether the proposed development would make appropriate provision for sustainable design.

Reasons for Recommendation

Character and Appearance and Conservation Area

5. The appeal site is a small plot at the end of two existing apartment blocks, constructed in the 1960s and set in a perpendicular arrangement. The site abuts the boundary of part of the CA which is identified as Upper Wolvercote Character Area in the Wolvercote with Godstow Conservation Area Appraisal (CAA).

6. This part of the CA derives considerable significance from the 17th to 19th century buildings, distinguished by traditional low-rise stone cottages; its greenery; and open spaces such as Wolvercote Green. These create a distinctly semi-rural character at the urban edge of Oxford, which contrasts with the city. This traditional village quality is revealed when exiting the busy A40 roundabout and on reaching the junction of Wolvercote Green, close to the appeal site. The CAA identifies that the CA is vulnerable to unsympathetic large-scale modern development and through its proximity to an ever-evolving City.
7. Local Plan Policy DH3 requires development to respect the historic environment and respond positively to the significance, character and distinctiveness of the heritage asset and locality. It requires that great weight be given to the conservation of heritage assets and to their setting where it contributes to that significance or appreciation of that significance. In this it is consistent with national policy on heritage assets in the National Planning Policy Framework (the Framework). The Framework states that significance can be harmed or lost through alteration or destruction of the heritage asset or from development within its setting, and goes on to explain that any harm to the significance of a designated asset (including development within its setting) should require clear and convincing justification.
8. The proposed development would be lower in height than the existing blocks but would be significantly taller than other surrounding development. Due to its scale and siting, infilling an existing area of hardstanding, it would be prominently visible approaching along the existing footpath and from the local area. It would contrast sharply with the existing blocks in terms of form, materials and detailing, and would have considerably larger windows. In particular, the use of render and zinc cladding would result in a strident, modern design at odds with the simple, plain form of the adjacent blocks. Furthermore, constrained by the boundary near the village hall, the proposal would step in somewhat, creating an awkward footprint which would not be reflective of the linear layout of the existing blocks. Consequently, the proposal would be a prominent and incongruous addition to the existing development, which would harm the character and appearance of the area.
9. The CA extends around the Millway Close development to the north and west, and the existing blocks are clearly visible from various parts of the CA. From the footpath through the appeal site, which provides access to Millway Close, the historic buildings and open spaces which contribute to the significance of the asset are revealed and can be appreciated. The appeal site and block 7 form the immediate backdrop at the corner of the CA and are part of the surroundings in which it is experienced. From the CA the existing modern blocks appears as comparatively large-scale urban style development at odds with the surrounding traditional architectural form. As such they are a negative feature in the setting of the CA.
10. Block 7 and the site are partially screened by trees in the landscape space to the south and by properties on Wolvercote Green. However, due to its scale, localised views of the proposed development would be apparent from the CA, including from the corner of the Green, footpaths which access Wolvercote Green and the junction of Godstow Road. This visibility would increase when the screening trees are not in full foliage.

11. A section of the proposed side elevation would be obscured by the Village Hall when looking from the CA. However, due to its scale and modern design the proposal would still be clearly apparent in public views, and would be a prominent and incongruous feature in views to and from the CA, amplifying the adverse effect of block 7. Consequently, the unsympathetic addition would further erode the traditional village quality and semi-rural character of the area and would not make a positive contribution to local character and distinctiveness. Therefore, it would harm the setting, and thereby the significance, of the CA.
12. The proposal would only impact on a small part of the setting of the CA, and therefore it would amount to less than substantial harm to the CA as a whole. In accordance with the Local Plan and the Framework this harm needs to be weighed against public benefits of the proposal.
13. The proposal would contribute to the supply and mix of housing on previously developed land, making efficient use of land in a built-up area, as supported by the Local Plan and Framework. It would also provide cycle parking which would encourage use of sustainable transport modes. However, the contribution of two dwellings would be small. As such these public benefits would carry only modest weight. While the appellant suggests that solar panels could be installed, none are shown on the plans before me and as they may require permission in their own right, I cannot be certain that they would be provided. Therefore, I can afford this minimal weight.
14. Having regard to local and national policy I give great weight to the desirability of conserving the significance of the CA. In this case, the public benefits identified would be outweighed by the harm that would arise to the designated heritage asset.
15. Accordingly, the proposed development would have a harmful effect on the character and appearance of the area and the significance of the Wolvercote with Godstow Conservation Area. It would be contrary to Policies DH1 and DH3 of the Local Plan, which collectively state that permission will be granted for development of a high quality that creates or enhances local distinctiveness and where it respects and draws on Oxford's unique historic character. It would also conflict with the Framework in respect to seeking high quality design and conserving the historic environment.
16. Permission has been granted for other infill blocks at Millway Close, however I have very limited details about these, in particular no elevations have been provided. The location plan shows they would be sited between Blocks 2, 4 and 6 broadly in line with the existing buildings. As such, they would not be as prominently visible in the local area as the scheme before me. Therefore, it has not been demonstrated that those infills would be comparable to the scheme before me in terms of their impact on the character and appearance of the area or the CA.

Living Conditions – Privacy and Outlook

17. The proposal would be substantially larger in terms of height and forward projection than the single storey bin store originally on the appeal site. It would bring the three-storey built form considerably closer to the rear windows of 1 Wolvercote Court and to its garden than the existing blocks of flats. Due to its proximity, it would appear an oppressive and looming feature which would

- harmfully dominate the outlook from rear first floor habitable rooms and the rear and side garden space of No 1.
18. The proposed front windows would allow future occupants elevated and uninterrupted views of the rear and side garden space of No 1. Whilst a degree of overlooking already occurs from the existing blocks, it is at an angle, whereas the proposed development would be substantially closer and with a more direct view towards the garden. Furthermore, the windows would be markedly larger than the fenestration of the existing flats. As such, the proposal would significantly erode the existing sense of privacy enjoyed by the occupants of No 1 in their garden. The resultant loss of privacy and the harm identified to the outlook from stated aspects of the dwelling and garden, would render them considerably less private and enjoyable spaces for the occupants of No 1 to use, and would be harmful to their living conditions.
 19. The existing blocks of flats are set at right angles to one another with gaps between. While this configuration allows a degree of overlooking between flats, it is at an angle and with some distance between habitable room windows. Therefore, it provides a sense of privacy for occupants of the flats, particularly at first and second floor where windows are not overlooked by pedestrian paths. Whilst a proposed north elevation drawing has not been submitted, the site and floor plan drawings show an opening for each proposed flat on that elevation, serving the kitchen/living area of the units. Those windows would be very close to the windows of the adjacent first and second floor flats in Block 6. Due to their size and proximity they would substantially increase the overlooking of those flats, adversely affecting the privacy and thereby the living conditions of the occupiers.
 20. Obscured glazing may resolve this harm; however, it would not provide a good quality living space for future occupants of the units as it would restrict their outlook. Moreover, due to its northern aspect, levels of light to this part of the flats, would already be limited without further obscuration. As such, it would not be appropriate to impose a condition requiring these windows to be obscure glazed.
 21. Therefore, the proposed development would have a harmful effect on the living conditions of the occupants of the adjacent flats on Millway Close in terms of privacy, and the occupants of No 1 Wolvercote Court with regards privacy and outlook. As such it would be contrary to Policy H14 of the Local Plan, which states that permission will only be granted for development which provides reasonable privacy for occupants and will not be granted for development that has an overbearing effect on existing homes. It would also conflict with the Framework requirement to ensure a high standard of amenity for existing and future users.

Safeguarding

22. The Village Hall hosts a pre-school and I observed that the nursery used the open area at the front of the building for outside play.
23. The development would abut the rear boundary of the Hall and the large windows of the proposed units would provide views of its outside space from a short distance. However, the low boundary walls to the side of the Hall allow views of the grounds from the adjacent footpath and the existing flats have views towards the outside space, albeit it at a greater distance. Therefore,

whilst future occupants of the units would have close views of the grounds, particularly at the side, this would not lead to a material loss of privacy compared to what is already experienced by those using the grounds of the Hall. Nor would it alter the current circumstances with regards safeguarding of children using the pre-school for this reason.

24. Therefore, the proposed development would not significantly compromise privacy for the existing users of Wolvercote Village Hall, and therefore would not have an adverse impact in respect of safeguarding. Consequently, it would not be contrary to Policy H14 of the Local Plan in respect of these matters. Nor would it conflict with the policies of the Framework in respect to creating safe places.

Sustainable Design

25. Policy RE1 states that planning permission will only be granted where it can be demonstrated that sustainable design and construction principles have been incorporated, including for new-build residential developments a requirement to achieve at least 40% reduction in carbon emissions from a stated base. Compliance with the policy is to be achieved through submission of an energy statement.
26. No energy statement has been submitted during the application process or the appeal. The Local Plan was adopted prior to the planning application being determined, and even if an energy statement was not requested during the application process the appellant could have addressed this matter as part of the appeal.
27. The appellant suggests that the proposal would incorporate sustainable design features including potential for solar panels, however very little detail has been provided, and there is insufficient information to demonstrate a 40% carbon reduction. While the appellant suggests this could be secured by a planning condition, this would not accord with the requirements of Policy RE1 and in any event, given the limited detail available, I cannot be certain that this level of reduction can be achieved within the design of the proposal before me. In particular, no solar panels are included on the submitted drawings, and these may require planning permission in their own right. I therefore cannot conclude that such a condition would be reasonable or enforceable.
28. Therefore, it has not been demonstrated that the proposed development would make appropriate provision for sustainable design. In this respect it would conflict with the requirements of Policy RE1 of the Local Plan and policies of the Framework which seek to tackle climate change.

Other Matters

29. Grade II listed Manor Farm is a much altered 17th Century farmhouse on the western side of Godstow Road. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires, in respect to listed buildings, special regard is had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The appeal site, positioned to the east of the existing blocks, is sufficiently remote from this heritage asset so as it would not affect its setting or features of interest.

Planning Balance, Conclusion and Recommendation

30. I attach modest weight to the benefits of the proposal, which I have set out above. However, the proposal would result in harm to the character of the area, setting of the designated heritage asset and the living conditions of neighbours, and I give very substantial weight to the resulting conflict with the Local Plan in respect to these matters. This harm would not be outweighed by the identified benefits.
31. Therefore, there are no material considerations, including the Framework and the benefits of the proposal, that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

32. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. The appeal is therefore dismissed.

L McKay

INSPECTOR