
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: 24 June 2021

Appeal Ref: APP/Q3115/W/21/3268207

11 Sycamore Close, Watlington, OX49 5LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Joshua and Kirsty Robinson-Ward against the decision of South Oxfordshire District Council.
 - The application Ref P20/S3489/FUL, dated 18 September 2020, was refused by notice dated 18 December 2020.
 - The application sought planning permission for construction of 92 dwellings, associated site works and access without complying with a condition attached to planning permission Ref SO/S/553/83, dated 29 December 1983.
 - The condition in dispute is No 22 which states that: Notwithstanding the provisions of the Town and Country Planning General Development Order 1977/81 or any subsequent statutory modification or re-enactment thereof, no development within Schedule 1, Class 1, of that Order shall take place unless an application for planning permission in that behalf is submitted to and approved by the Local Planning Authority.
 - The reason given for the condition is: to safeguard the character of the area.
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Procedural Matters

1. The above site address is taken from the application form. However, the condition relates to the 92 dwelling development including Sycamore Close as depicted in the red line of the application details. The appeal is considered on this basis and reflected in the decision paragraph below.
2. Both parties have confirmed by e-mails dated 13 May 2021 that the application was considered for either the blanket removal of condition 22 for the whole estate or the modification of condition 22 to allow roof extensions for all houses in the estate. The application red line included the 92 dwellings in Sycamore Close, which indicates the condition should be considered over this area rather than just the appellants' house, particularly as it was originally so imposed. Indeed No.11 has very similar characteristics to the other 91 dwellings, so it is therefore fair that the permitted development rights should be considered across the wider development as a whole.
3. The Town and Country Planning General Development Order 1977/81 as in the reason for the original condition above, has been replaced with the Town and Country Planning (General Permitted Development) (England) Order 2015. The appellants submitted the application due to the need to convert their loft space with a flat roof rear dormer to achieve the head height required for stairs. However, the condition and decision notice refer to wider development rights in

Part 1 Development within the curtilage of a dwellinghouse and the appeal is thus considered on the basis. Part 1 allows for changes including extensions, enlargements and alterations as well as outbuildings, enclosures, hard surfaces, oil containers and satellite antenna

Decision

4. The appeal is allowed and planning permission is granted for 92 dwellings, associated site works and access at Sycamore Close, Watlington, OX49 5LN in accordance with the application Ref P20/S3489/FUL dated 18 September 2020, without compliance with condition number 22 previously imposed on planning permission Ref SO/S/553/83 dated 29 December 1983.

Main issue

5. The main issue is whether the condition is necessary and reasonable having regard to the character and appearance of the area and the living conditions of the occupants of Sycamore Close.

Reasons

6. The appeal site includes 92 dwellings within Sycamore Close and the neighbouring roads, on the edge of Watlington, with open countryside lying to one side. The appeal site has a narrow main road frontage and consequently appears distinct from the main settlement. To the side and rear is an area of modern housing at St Leonards Close and Pyrton Lane.
7. The houses are laid out in a series of short curving cul-de-sacs, off a central access road. A scattering of mature trees and open spaces help create character.
8. The houses do not follow the traditional vernacular and are more reflective of their 1980s era. There is readily discernible variation in house types, form and materials, indeed alterations and additions to the original houses and their gardens are evident.
9. The Watlington Conservation Area briefly abuts part of the south eastern boundary of the appeal site before extending tangentially away thereafter. St Leonards Church is also close by, which is grade II*, dating back to the twelfth century, built in limestone and flint, with a modest tower.
10. Paragraph 55 of the National Planning Policy Framework (the Framework) affirms that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
11. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Similarly, the Planning Practice Guidance note on the Use of Conditions states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity.
12. Permitted development rights allow for modest changes to buildings which have been prescribed to avoid impact on the character of the area unless there are very particular local circumstances. The use of permitted development rights would allow and inevitably lead to changes. It is reasonable to presume

- that these permissible changes would be by their very nature be very confined and have been devised on a national basis to avoid harm.
13. The proposal would inevitably lead to various changes to the dwellings: extensions, enlargements and alterations as well as outbuildings, enclosures, hard surfaces, oil containers and satellite antenna.
 14. The houses have a typical modern gable width and proportions, which could absorb the above changes without spoiling their appearance. Additionally, they have a simple form which could also be changed without looking complex or awkward. Similarly, their detailing too is not intricate so as to be impaired by changes. The gardens have sufficient space for additions.
 15. Additionally, the layout of the development is informal and there is no singular format of each plot so that individual changes would not be out of place. Furthermore, the houses themselves do not have a consistency which would have to be maintained. The original scheme has variations and moreover there have been subsequent changes (with the benefit of planning permissions).
 16. Similarly, the architectural style is not so well defined or precious or consistent, which the appellants describe, correctly in my view, as 'modern development', so that it must be rigidly maintained. Consequently, whilst the Council make reference to the need for consistency and simplicity in roof extensions as in the South Oxfordshire Design Guide, this strategy would not be necessary for the context of these 92 houses. It also overly constrains the reasonable adaption of homes to suit the inevitably changing needs of the occupants.
 17. The Sycamore Close development has a narrow frontage onto the main road leading into Watlington and has its own identity: the houses do not impose upon its character. Consequently, permitted development changes to the houses would not have a wider impact.
 18. Only a few houses of Sycamore Close border the Conservation Area and its setting is more dominated by the modern development at Pyrton Lane and St Leonards Close. Consequently, the scale and nature of permitted development should not impinge on the setting of the Conservation Area. Similarly, the above modern development separates Sycamore Close from the listed St Leonards Church. Thus, the settings of the Conservation Area and listed building would not be harmed by the proposal and notably the Council did not express any concerns on such matters.
 19. The 2020 decision notice foresees impact on the potential amenity of neighbouring properties and available amenity space. However, this was not stated in the reason for the condition in the original decision. Nonetheless, the changes allowed under the permitted development rights are relatively modest in relation to the size of the garden spaces here. The 92 houses have no particular site specific or development specific constraints which would warrant such limitation.
 20. I therefore conclude that condition 22 is neither reasonable or necessary to make the development acceptable and the proposal would not harm the character and appearance of the area or living conditions.
 21. Policies DES1, DES2, DES5, DES6, H20 and STRAT1 of the South Oxfordshire Local Plan seek to promote high quality design, respect for the local character, protect private amenity space, ensure adequate outdoor space, maintain

daylighting and privacy. Similarly, the Watlington Neighbourhood Plan (NP) Policy P1 requires respect for the local context. Paragraphs 127 and 130 of the Framework also seek to promote quality design. Paragraph 194 requires clear and convincing justification for any harm or loss to the significance of a designated asset including its setting. The proposal would not be in conflict.

22. The Council and the NP Policy P1 make reference to the South Oxfordshire Design Guide which has detailed criteria for roof extensions. Similarly, the NP Policy P1 has a cross reference to the Watlington Design Guide, which analyses local character. However, these do not justify widespread removal of Permitted Development Rights, which would only be warranted by very particular circumstances.

Conditions

23. The other original conditions relate to implementation, which has taken place and consequently they are not now necessary, so are not imposed.

Conclusion

24. I therefore conclude that the appeal should be allowed.

John Longmuir

INSPECTOR