



Appeal Decision

Site Visit made on 22 June 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/V3120/W/21/3271127

45 and 45A 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 Mr Chopping - Oxford Homes Residential Ltd against the decision of Vale of White Horse District Council.
 - The application Ref P20/V0996/FUL, dated 27 April 2020, was refused by notice dated 24 November 2020.
 - The development proposed is the demolition of Nos. 45 & 45a Cumnor Hill, and construction of 10 flats & 1 house set across two blocks.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the planning application in 2020, the Cumnor Neighbourhood Plan (NP) was supported at referendum on 6 May 2021 and 'made' by the Council on 18 May 2021. Neighbourhood plans, when brought into force, become part of the statutory development plan for the area that they cover. The appellant is aware of this and has commented on the NP policies, which I will take into consideration with this appeal given its 'made' status.

Main Issues

3. The main issues are the effect of the development on (1) the character and appearance of the area; (2) whether the development provides a suitable mix of house types and provides for any necessary affordable housing; (3) whether the proposed dwellings would result in increased flood risk; and (4) bin and recycling provision.

Reasons

Character and Appearance

4. The site of No 45 and 45a Cumnor Hill is within a residential area. It is a large and verdant plot, with both dwellings well set back from the road, with a single shared access off Cumnor Hill. This site is representative of the prevailing character of plots within this section of Cumnor Hill, which itself is a long residential road.
5. The NP has designated much of the area of Cumnor Hill a 'Low Density development' area. Whilst this is not a designation set within the Local Plan, it

does not conflict with the policies of the Local Plan either, but adds locally specific policy detail through the NP.

6. For the most part, development on Cumnor Hill is characterised by large detached single dwellings set within spacious plots, which I would describe as being low-density. The area of Cumnor Hill to which the site is positioned is particularly low-density compared to some of the other sections of this street that I observed.
7. It is policy DBC3 of the NP which refers to Low-Density Areas, requiring that proposed development should reflect small-scale building patterns, amongst other things. A proposal which would increase the number of dwellings on site from two to eleven would not be small scale or what I would consider low density for this location. Whilst some of the criteria as set out in this policy may be met, the proposal does not fully accord with this policy in my view. I note the extant permission for two large new dwellings on the site, but the proposed scale of development of the appeal scheme would be significantly greater again, both in volume and dwelling numbers.
8. This area of 'Lower Cumnor Hill' is also designated an area of 'Special Local Character' (SLC). Criterion C of policy DBC5 requires that '*The effect which development proposals would have on the character of the Area of Special Local Character will be taken into account in determining the planning applications concerned.*' The supporting text (paragraph 86) discusses the distinct character of the area of SLC and highlights characteristics of "considerable local importance", which includes the "low-density nature" of this area. I acknowledge that this is not the same as a Conservation Area designation, but it is a policy nonetheless that I have taken into consideration. Nor does this policy seek to prevent all development, but just requires development to take into account the character of the area of SLC.
9. It is clear, therefore, that a key characteristic which contributes to the importance of the SLC is the low-density nature of the built development in this particular section of Cumnor Hill. It is my view that a mainly flatted development totalling eleven dwellings would significantly increase the density to the point where it cannot be considered as 'low-density' in the context of this site, even with the areas of landscaping and garden that would remain.
10. Much of the built development would be set well back from the site frontage with the highway, which does reflect this particular characteristic of the street. However, the proposed number of dwellings would be a significantly greater intensive development within the plot than existing, requiring large areas of hardstanding and some store buildings, for example, typical of flatted development. There would be a greater use of the access and driveway. All this would demonstrate the increased density of development at the plot, which would be especially noticeable given that most other plots in the immediate vicinity of the site appear to contain single dwellings only.
11. I note the other flatted development in the area which the appellant has drawn my attention to, but I would still regard the prevailing character of the section of Cumnor Hill which the site is located to be low-density with mainly single dwellings in spacious plots, as highlighted through the recently made NP. In this regard I would also consider the previous approved two large dwellings to be a better response to the character of the area than that proposed with this appeal. I also note the other appeals in the area that have been brought to my

attention, though while there are some similarities between this appeal and these other developments there are also significant differences, including their site position along Cumnor Hill.

12. On other design matters, I recognise the quality of the design and materials to be used. I also recognise that gaps would remain to the sides of the buildings and the boundaries, with significant landscaping to remain and be enhanced also. The parking areas would be suitably broken up and the bin and bike stores well screened. However, these matters do not overcome the issue that this is a relatively high density development which does not reflect the character of its setting.
13. The proposed development would therefore erode the low-density of this part of Cumnor Hill, which is a positive characteristic within this part of the street. The proposal would therefore be harmful to the character and appearance of the area. It would therefore conflict with policies CP23 and CP37 of the Vale of White Horse Local Plan 2031, Part 1. These policies require that development responds positively to the site and its surroundings in the design, and that development should have a minimum density of 30 dwellings per hectare unless it would have an adverse effect on the character of the area. In this case I have concluded the proposed density with 11 dwellings proposed replacing the existing two would have an adverse effect on the character of this section of Cumnor Hill.
14. The proposal would also be contrary to policies DBC3 and DBC5 of the Cumnor Neighbourhood Plan, for the reasons described above.
15. However, on this main issue I do not find any clear or material conflict with policies DP23 and DP24 of The Vale of the White Horse Local Plan 2031 Part 2, as they relate more to the impact of development to neighbour amenities and the effect of neighbouring uses on new development.

Housing Mix and Affordable Housing

16. Core Policy 22 of the Local Plan Part 1 requires that a mix of housing types and sizes to meet the current and future needs of households is required on new developments, in accordance with the Council's Strategic Housing Market Assessment (SHMA). Due to an identified requirement for more 1 bedroom dwellings within the district the Council state that the proposal should have included at least one 1 bedroom dwelling as part of the proposed development, possibly with less 2-bedroom dwellings of which six are currently proposed.
17. The recently made NP relevant policy RES1 seeks to address local need in Cumnor stating that developments of ten dwellings or more should include a provision of smaller dwellings (1-2 bedrooms) in at least equal numbers to larger dwellings (3 bedrooms and above). In this case, with six two bed flats proposed (which this policy considers as a 'smaller' dwelling) then this mix would meet with the NP policy. Considering the very recent adoption of this policy, being specific to Cumnor, then I would regard the proposed mix as acceptable, even without a one bedroom dwelling included.
18. As such, the proposed development, on the issue of dwelling mix, would be in accordance with NP policy RES1 and I would regard it as being in broad accordance with CP22 in that it provides a suitable dwelling mix in this circumstance.

19. As set out by the appellant, the proposal seeks to provide ten apartments and a single semi-detached dwelling, replacing the two existing dwellings on the site. This is therefore a net gain of 9 units. In this regard, Core Policy 24 requires 35% affordable housing on all sites capable of a net gain of eleven or more dwellings. As the proposal is for a net gain of 9 units then the threshold for affordable housing under the Core Policy is not met.
20. Paragraph 63 of the National Planning Policy Framework (the Framework) states that the provision of affordable housing should not be sought for residential developments that are not major developments. The Framework defines major development for housing as being where ten or more homes will be provided. However, the Framework does not provide detail on where there are homes to be replaced, therefore leading to a consideration of net gain.
21. In this case, I do not regard Core Policy 24 as being inconsistent with the Framework as it provides additional detail with the consideration of net gain. The result of the proposal would be nine more dwellings than existing, therefore under the threshold of ten. Although the Framework is a material consideration, the Development Plan has primacy and I do not consider that the Development Plan policies are in conflict with the Framework on this matter. As such, the lack of affordable housing provision is not in conflict with local or national policies and is not a reason to withhold planning permission.

Flood Risk

22. It is understood that the site is within an area which has a potentially high risk of flooding from groundwater. I recognise that the proposal would include excavations which may result in groundwater emergence. I also note the increase in hardstanding proposed with the development. No form of substantive mitigation has been submitted.
23. Whilst I acknowledge the site is within Flood Zone 1 and that there is no history of flooding from groundwater at the site, I understand that the geology of the site could result in this issue relating to possible groundwater emergence and possible implications for the drainage strategy. This issue has been also addressed with NP policy RNE2, which with the supporting text sets out what should be included with a submission to address the issue.
24. Whilst I note the appellant's suggestion of a use of a condition to address this matter, it is apparent from the evidence that groundwater flooding is a particular issue for the area of this site, which could have an impact on the drainage strategy also. This is clearly an important matter which may have implications for the development and I do not consider it reasonable to depend on a planning condition to address this issue.
25. As such, there is a lack of information submitted with the appeal as to how the issue of potential groundwater flooding would be addressed, to ensure there would not be an increase in flood risk, either for the site or neighbouring land. The proposal is therefore contrary to policy CP42 of The Vale of the White Horse Local Plan 2031 Part 1, and policy RNE2 of the NP. These policies require that development proposals would be located and designed to take into account flood risk, including that from groundwater.

Waste, Recycling and Bin Provision - Planning Obligation

26. The proposed development provides space for bins for the dwellings, with there being no objection from the Waste Management Officer. However, there was a requirement for £170 per dwelling as a planning obligation through a legal agreement. However, there does not appear to be any clear policy justification for the request, and it is not clear whether monies towards waste and recycling infrastructure are secured through the Council's adopted CIL.
27. On this basis, I am not persuaded based on the evidence before me that such an obligation is required and so the proposal does not conflict with Core Policy 7 of the Vale of White Horse Local Plan 2031, Part 1, which relates to providing supporting infrastructure for example.

Planning Balance

28. The proposal would provide a net increase of 9 dwellings within this plot. I acknowledge the appellant's comments regarding the design and quality of the dwellings proposed. Also, the site is within an accessible location and the housing would boost local supply with a mix of dwelling types and sizes. The site would also remain well landscaped. Given that 11 dwellings are proposed in total, I would give all the benefits a cumulative modest weight.
29. However, for the reasons given in this decision and taking into account the boost that would be provided to the housing land supply and all other benefits, the harm would significantly and demonstrably outweigh these benefits.

Conclusion

30. For the reasons given I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR