



Appeal Decision

Site Visit made on 19 October 2021

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/G3110/W/21/3276053

66 Cricket Road, Oxford OX4 3DQ

- 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 S Khanam against the decision of Oxford City Council.
 - The application Ref 21/00053/FUL, dated 7 January 2021, was refused by notice dated 10 March 2021.
 - The development proposed is demolition of existing house and erection of 1 x 2 bed house and 2 x 1 bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although the Council determined the application, it has expressed concern that it was not properly made because ownership certificate A was completed. This certificate states that the applicant is the sole owner of the whole of the site. However, the pedestrian access to the side of the proposed building is not on land in his ownership. Since the determination of the application the applicant has submitted the correct certificate and confirmed that the owner of this land, Oxford City Council, has been notified. This has regularised matters and allowed the appeal to be validated.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal would constitute high quality design that would complement or enhance the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regard to ease of access to amenity space and the size of amenity space provided;
 - the effect of the proposal on the living conditions of the occupiers of 64 Cricket Road with regard to outlook and levels of sunlight and daylight.
 - whether the proposed development would maximise energy efficiency and the use of low carbon technology; and,
 - whether the proposed development would be car free.

Reasons

Character and appearance

4. Cricket Road, on the same side of the road as the appeal site, is characterised by closely spaced, two storey, semi-detached houses. In contrast, the appeal

site is occupied by a particularly narrow, two storey, detached house that occupies only half the width of its plot. Together with the neighbouring house of similar design on the other side of the adjacent allotment entrance, this creates a sense of openness in the street scene. However, as I noted earlier a permission for a two storey house that was granted permission in 2011 remains extant and it would occupy the open side garden to the house in a very similar manner to the appeal proposal. Moreover, such development would be in keeping with the development of the garden to the side of 92 Cricket Road which occupies a similar position on the corner of the other allotment entrance.

5. The proposed building would be slightly longer than the existing house on the site and would have a slightly lower eaves than the neighbouring house at No 64 and a roof ridge that would be approximately 1m taller. It would also have a gable ended roof, rather than a hipped roof that characterises semi-detached houses on the road. However, the appeal site is not in a conservation area and, as the new, contemporary designed houses at 114 am & c Cricket Road show, gable ended houses that are taller than their semi-detached neighbours can complement the street scene. Accordingly, I find that the scale and roof form of the proposed house to be acceptable.
6. Policy DH1 of the Local Plan advises that all development proposals will be expected to be supported by supporting text and / or visuals to explain their design rationale which should cover the relevant design checklist points in Appendix 6.1. A disappointing lack of detail has been presented in this regard. For example, there is a lack of information as to how visual interest will be created by attractive detailing, high quality materials, depth lines and fenestration. In the drawings, for example, this has manifested itself in the unrelieved expanse of blank brickwork punctuated only by a few small windows on the flank wall of the house that would form part of the street scene. In addition, the use of French windows within the rear elevation of the building as the sole entrance to the rear flat raises concerns about the legibility of the design, as well as concerns regarding security and safety given the lack of natural surveillance.
7. For the reasons given above, I therefore conclude that the proposal would not constitute high quality design that would complement or enhance the character and appearance of the area. As a result, it would be contrary to policy DH1 of the Local Plan.

Living conditions for future occupiers

8. The private amenity space serving the proposed development would be the garden area to the rear. The house that would form the right side of the proposed building would have the majority of the rear garden as its own private amenity space and would have direct access to it, complying with the amenity space standards in policy H16 of the Local Plan.
9. The Council have assessed the amenity space requirements for the two units of accommodation that form the left side of the building as if they were houses. It seems that this is because each has a ground and first floor. However, these units are correctly described as flats or maisonettes. As a result, it is the standards in policy H16 that apply to these types of accommodation, rather than the standards that apply to houses, that are correctly applied.
10. Whilst the rear flat would have direct access to its amenity space, the front flat would not. Instead, occupiers of the front flat would have leave the front door,

walk along the front and side of the building, past the garden area dedicated to the rear flat, before being able to access its own private, gated area of amenity space. This convoluted and inconvenient arrangement is an example of poor design and falls far short of the direct access sought by policy H16.

11. The fact that both flats, as with the house, would be provided with an adequate area of amenity space does not overcome the cogent planning objection regarding access to the amenity space serving the front flat.
12. For the reasons given above, I therefore conclude that the proposal would result in unacceptable living conditions for the occupiers of the front flat, contrary to policy H16 of the Oxford Local Plan 2036 ('Local Plan').

Living conditions at No 64

13. The proposed building would be positioned on the side boundary with No 64 in a similar manner to the existing house on the site. However, at first floor level it would extend 1.5m further to the rear. As a result, the Council states that the proposed development would breach both the 45 degree line and 25 degree line drawn from the centre of windows within the rear elevation. On the basis of the Council's statement, this includes the window with a central door serving the main habitable room on the ground floor. As this is the sole window serving this room, the length of the proposed building would unduly obstruct sunlight entering it and enclose the outlook from within the room to the extent that it would be overbearing. Whilst levels of daylight within the room would not be adversely affected to a material degree, this would not obviate the harm to outlook and levels of sunlight that would be caused.
14. Reference has been made to the permission granted in 2011 for a detached two storey house in the side garden of No 66 which remains extant by virtue of development having commenced. However, the house approved in that scheme is no longer in length than the two storey part of the existing house at No 66. The same is true of the other permissions, which are no longer extant, that have been referred to at No 66 where the plans that have been submitted show the proposed building.
15. Two storey extensions to the rear of houses at No 60 and No 70 enclose the rear elevations of adjacent houses to a similar extent that the proposed development would enclose No 64. However, I have not been provided with any further information regarding these developments, and in any event the fact that two examples of similar development in terms of rearward projection have occurred nearby is not a reason, on its own, to allow unacceptable development. As a consequence, the presence of these extensions have not altered my findings in relation to this issue.
16. For the reasons given above, I therefore conclude that the effect of the proposed development on sunlight and outlook would cause demonstrable harm to the living conditions of the occupiers of No 64, contrary to policy H14 of the Oxford Local Plan which seeks to prevent such harm.

Energy Efficiency and use of low carbon technology

17. In order to tackle the cause of climate change, policy RE1 of the Local Plan requires that new development is energy efficient and makes use of renewable energy where possible. As a result, the policy requires the submission of an energy statement to demonstrate compliance. No such statement has been provided.

18. Energy use is an issue that is integral to the application and may well affect the form and external appearance of the building. As a result, this is a matter that needs to be addressed at planning application stage and should not be a pre-commencement condition. I therefore find that the failure to provide an energy statement is contrary to policy RE1 of the Local Plan.

Car parking

19. The proposed development includes 3 off road parking spaces in front of the proposed building. However, the appeal site is located within a Controlled Parking Zone (CPZ) and is within comfortable walking distances of frequent public transport and a local supermarket or equivalent. As a consequence, policy M3 of the Local Plan requires that new residential development is car free.
20. The removal of the car parking spaces proposed would ensure compliance with policy M3 and mean that the space for on road parking available immediately outside the appeal site would not be lost. As a consequence, such an amendment would protect, rather than harm, the availability of on road parking in the area for regulation by the CPZ. The interests of those who would normally have been consulted on such a feature, if it had been included as part of the application, would therefore not be prejudiced if on-site parking was to be prevented by condition. Accordingly, I find the Council's objection on this ground to the scheme to be ill founded.

Other Matters

21. The proposed access along the side of the plot to the flat and gardens to the rear would be over land that is not within the control of the appellant. However, as this is a matter of civil law, and a planning application is determined on its planning merits, this is a consideration that has not altered my assessment of the appeal.

Conclusion

22. The appeal site is in a location where the principle of residential development is supported by the development plan. I have found that the proposal could be required by condition to be car free in compliance with policy M3 of the Local Plan. The appeal site is also in a location with good access to public transport and local facilities.
23. The proposal though would not constitute high quality design that would complement or enhance the character and appearance of the area and would result in unacceptable living conditions for the occupiers of the front flat and neighbours at No 64. The scheme would therefore be contrary to policies DH1, H14 and H16 of the Local Plan. An energy statement has also not been provided to demonstrate that energy efficiency and renewable energy have been incorporated into the design of the scheme, contrary to policy RE1 of the Local Plan. As a result, I find that the proposed development would be contrary to the development plan considered as a whole and there are no other considerations that outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector