



Appeal Decision

Site visit made on 28 February 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2022

Appeal Ref: APP/G3110/D/21/3278013

47 White Road, Oxford OX4 2JJ

- 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 Ledward against the decision of Oxford City Council.
 - The application Ref 21/00380/FUL, dated 9 February 2021, was refused by notice dated 8 April 2021.
 - The development proposed is the erection of a timber skate board half pipe ramp.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development has already been carried out.

Main Issues

3. The main issues in this case are the effect of the development on the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy and noise, and its effect on the character and appearance of the area.

Reasons

Living Conditions

4. The skate board ramp is situated almost at the end of the long rear garden of the appeal property, which is a two-storey house in a row of similar houses and gardens in White Road. The ramp is 10.9m long, 6.1m wide and has two opposing curved slopes, separated by an intervening flat surface, with platforms either end 2.1m above ground level. A safety rail 1.1m high runs around the outside edge of the platforms.
5. The occupiers of some houses in White Road may be able to see a skater from rear windows or the upper ends of their rear gardens. However, even at its closest point the ramp is sufficiently distant (approximately 35m) that from the platforms it is not possible to discern activity in these rooms or these more private parts of gardens. There is also, therefore, no reasonable prospect of any unacceptable perception of being overlooked in these regards.
6. A thick belt of evergreen laurel hedge (about 4m high and 3m deep) behind the ramp means that there is no view from the platforms of windows or the rear garden of the house to the rear at No 92 Normandy Crescent. A line of tall conifer trees and shrubs along the boundary with No 49 White Road restricts views from the ramp and platforms towards most of this rear garden and

gardens next to it. However, there is a gap in this planting beside the ramp. While some views in this direction are restricted by large outbuildings and planting in some gardens, or distance, there is direct overlooking of the lower end of the garden of No 49, which currently has a low boundary fence.

7. In the other direction, there are extensive and largely uninterrupted views from the platforms over the lower ends of the rear gardens of a number of houses in White Road. Some, in particular the closest at No 45 and No 43, contain domestic outbuildings (eg garden rooms) or outdoor living or entertaining space (eg decked areas) or well-used or equipped garden play space. These more distant parts of these long gardens are ordinarily where there is a reasonable expectation of enhanced privacy and tranquillity.
8. I appreciate that a skater in motion would appear to a neighbour as a fleeting presence and likely be mainly focussed on the task in hand, rather than what is going on around them. Nevertheless, the ramp fills nearly all the width of the garden and a skater would clearly be noticed in close proximity and cause a tangible perception of being overlooked. Moreover, a skater standing or sitting stationary on the platforms, between 'rides' or at rest, and especially when the appellant has friends present who could not all skate at once, would inevitably lead to actual overlooking, intended or not.
9. The unusually high and unexpected vantage point for skaters would be significantly more intrusive than views from most children's climbing frames and camouflage side netting would not, by virtue of its open weave construction, prevent views towards these gardens. Moreover, at 1.5m high, netting would not affect standing views from the ramp or, if erected higher up, from the platforms. Any existing or proposed garden boundary fence would have to be taken to a height of about 4m to have any meaningful screening effect. Both measures would, in my view, therefore, be somewhat contrived and indicative of the fundamentally inappropriate positioning and height of the ramp and platforms in relation to these parts of gardens in White Road.
10. I accept that children playing in gardens (and similar noise at the nearby primary school) or other normal domestic activity, such as mowing the lawn or barbeques, is likely to result in some noise and will vary depending on the activity. However, none of the typical activities will result in such a distinctive and persistent noise due to the roll and resonance of skateboard wheels on the timber surface of the ramp and 'thuds' at an elevated height, including as skaters land on the platforms. This would occur even if the ramp was used only for a 2 hour duration, twice a week, including at times of the day and year when gardens are most likely to be in active use.
11. I have no reason to doubt that the skateboard activity can be heard at some more distant houses nearby, as I note some local residents have suggested. However, and in the absence of any objective evidence such as a noise survey or assessment, I consider that it is likely to overly disturb use of the closest gardens at Nos 43 to 51 White Road (excepting the appeal site) and No 92 Normandy Crescent. I note that consideration has been given to applying an insulation material to the ramp to try and alleviate noise. However, there are no details of this before me or any acoustic report to confirm that it would have a certain and meaningful effect. Even if it did, it would not outweigh or overcome the adverse impact of overlooking.

12. I acknowledge that there will often be a degree of mutual overlooking and disturbance due to noise in an urban situation. I also appreciate that the appellant has located the ramp furthest from nearby houses in White Road, at the end of these long gardens, and does not use it during hours of darkness. However, the siting of the ramp is nonetheless extremely close to parts of neighbouring gardens which could be well-used during daytime or early evening. The position and height of the ramp, and particularly the platforms, significantly compromise and unduly undermine normal expectations for enjoyment of gardens and domestic activity by existing or future occupiers of the neighbouring houses at Nos 43, 45, 49 and 51 White Road and No 92 Normandy Crescent. Even if a condition to remove the ramp upon the appellant ceasing to own the appeal property met the requisite tests¹, it would not alleviate unacceptable adverse impact meantime.
13. Taking all of the above into account, I find that the development significantly harms the living conditions of the occupiers of these neighbouring dwellings, with particular regard to privacy and noise. It is contrary to the Council's Local Plan² (the LP) Policy H14 which seeks to ensure reasonable privacy for occupants of existing homes, including with regard to overlooking. It also conflicts with the National Planning Policy Framework (the Framework) which aims to achieve a high standard of amenity for existing occupiers and avoid noise giving rise to significant adverse impacts on the quality of life.

Character and Appearance

14. Observed close up, from within the lower end of the garden at the appeal property, the ramp is a large structure in footprint dimensions and is substantial in extent and construction. However, it does not take up a large proportion of the garden and a significant part is low down close to the ground, behind existing boundary fences. Only a small, narrow 'solid' side part and top edge of the slopes at either end project above existing, or the maximum height of new³, boundary garden fences. These parts are broadly comparable in height to a typical eaves level of a domestic outbuilding. The safety rails protrude further upward but are comparable in height to a pitched roof outbuilding and are not solid structures.
15. The upper parts of the ramp, platforms and safety rails are also screened in views from some lower ends of neighbouring gardens by trees, hedgerow or shrubs. The ramp has been mostly painted dark green and has camouflage netting facing up the garden towards the appeal property such that in conjunction with intervening planting it is largely out of sight.
16. Overall, the ramp is an unusual and in some closer views from neighbouring gardens, in part, a noticeable structure. However, it is not an overly 'intrusive' feature in the appellant's rear garden taken as a whole, nor in the context of the openness of neighbouring gardens, the extent and direction of views available to people in those gardens and the siting, size and form of some other nearby outbuildings and planting. It does not, therefore, 'dominate' private residential visual amenity and there is no public view of any part of the ramp.

¹ Framework paragraph 56 and Planning Practice Guidance paragraph 21a-003-20190723

² Oxford Local Plan, adopted June 2020

³ If erected as permitted development (The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended).

17. Considering the above, I find that the development does not harm the character or appearance of the area. It does not conflict with LP Policy DH1 which seeks high quality design. It would also accord with the Framework in that it would function well and be sympathetic to local character, including the surrounding built environment and landscape setting.

Other Matters

18. It has been suggested by some local residents that the ramp may be available for public use, including by children. That is not part of the proposal before me, which is for personal use as a hobby. In this respect, I have no reason to doubt the sincerity of the appellant and I sympathise with his aspirations. I also appreciate that a number of local residents have expressed support for the ramp and I recognise that it facilitates health and well-being and that skateboarding is a recognised sport.
19. Notwithstanding the above, some local residents have objected. I also consider that these benefits could be achieved by using more appropriately located facilities elsewhere. I appreciate that this would be less convenient for the appellant but the planning system operates in the wider public interest, not in any individual private interest. I have, in any event, considered the development and the appeal on its individual planning merits.

Conclusion

20. Notwithstanding my findings on the character and appearance of the area, the proposal would cause significant harm to living conditions and as a result would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
21. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR