



Appeal Decision

Site visit made on 18 March 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal Ref: APP/G3110/W/21/3285936

184A Fern Hill Road, Oxford OX4 2JR

- 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 Suraj against the decision of Oxford City Council.
 - The application Ref 21/01557/FUL, dated 1 June 2021, was refused by notice dated 21 July 2021.
 - The development proposed is the sub-division of the existing dwelling and two-storey side extension. Change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4). (Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of development as this more comprehensively describes the proposal. As the application is retrospective, references to development relate to development which has already been carried out.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of occupiers, with regard to internal and external space, noise and air quality; and
 - highway safety, with particular regard to parking provision.

Reasons

Character and Appearance

4. Most of the houses on Fern Hill Road are broadly similar in scale and design. Common features include gable roofs and bow or box bay window projections to the front, next to entrance doors. These shared features give the road a strong degree of coherence and uniformity which contribute positively to its character and appearance. The appeal property was erected as an extension to no. 184. Its frontage is flat, has no bay window nor gable feature, and its entrance door is on the side elevation. The appeal property therefore retains the appearance of an extension which is clearly ancillary in use and function, and visually subservient to no. 184.

5. Extensions are not an uncommon feature of the street scene. As an extension, the appeal property therefore integrates well, being read as part of no. 184. However, as a standalone dwelling it appears discordant with its homogenous setting due to its lack of forward projecting features, side entrance, scale and design subservience. As a result, it contrasts starkly with the established street scene, to the detriment of its character and appearance.
6. The development therefore harms the character and appearance of the area. Accordingly, it conflicts with Policies DH1 and RE2 of the Oxford Local 2036 (Local Plan), which require development to create or enhance local distinctiveness through high quality design, which is appropriate in terms of built form and layout.

Living Conditions – Internal Space

7. Policy H15 of the Local Plan requires new dwellings to provide good quality living accommodation for its occupiers, with a requirement that new-build housing adheres to the Nationally Described Space Standard (NDSS). Notwithstanding this requirement, the policy's supporting text says that bedroom sizes for HMOs will be governed by the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 (HMO Regulations). This indicates that the required space standards for HMOs will be different to those for a typical dwelling.
8. All of the proposed bedrooms in the HMO comfortably exceed the minimum GIA for the proposed number of occupiers set out in the HMO Regulations. There is also a kitchen and separate lounge, which provide reasonable levels of communal living space. Irrespective of the marginal shortfall in GIA when assessed against the NDSS, I am therefore satisfied that the level of internal space does provide adequate standards of living for its occupiers.

Living Conditions – External Space

9. Conversely, levels of outdoor amenity space fall significantly short of the required standards. Policy H16 of the Local Plan requires houses with one or more bedrooms to provide a garden which is at least equivalent in size to the original building footprint. In terms of the HMO, the building footprint is approximately 67.8sqm, whereas the external garden measures only 52sqm. As for no. 184, the retained garden measures approximately 33sqm, whereas its building footprint is just over 66sqm. In both cases, this means there is a significant shortfall. As a result, the garden space for both properties is overly cramped and constrained, which is to the detriment of the living conditions of their respective occupiers.

Living Conditions - Noise

10. The appeal property sits adjacent to the A4142, which is a very busy strategic road connecting the A40 to the north and the A34 to the south. As a result, there is a significant level of residual traffic noise around the appeal property. This was clearly evident on my site visit.
11. In noise sensitive locations, Policy RE8 of the Local Plan is explicit that planning permission will only be granted for new residential development, where a noise assessment has been carried out which demonstrates appropriate attenuation measures can be provided to ensure acceptable levels of amenity for end users. Given its sensitive location, a noise assessment is therefore necessary in

this instance. As no such assessment has been submitted, I cannot determine the extent of any noise impact, nor whether any measures could be taken to properly mitigate against any such impact.

Living Conditions – Air Quality

12. Policy RE6 of the Council's Local Plan is clear that residential development should be located away from areas with poor air quality. Much like above, the location of the development immediately adjacent to the A4142 means the air quality is likely to be compromised, given the extent of nearby traffic and the corresponding level of emissions. Even though the development is not "major" development (for which an air quality assessment is specifically required by policy), given its sensitive location, I consider it necessary for the air-quality to be properly considered. Once again, no air quality assessment has been provided. Without such an assessment or some other evidence to demonstrate otherwise, I am therefore unable to conclude whether the development does procure acceptable air quality for its occupiers.

Living Conditions – Overall

13. Bringing these factors together, the development fails to provide adequate external space for the occupiers of both the appeal property and no. 184, which is to the detriment of their living conditions. As a result, the development conflicts with Policy H16 of the Local Plan, the aims of which I have set out. The development also conflicts with Policies RE6 and RE8 of the Local Plan, as it has failed to demonstrate whether the living conditions of its occupiers would be acceptable in terms of noise and air quality.
14. Whilst I find no conflict with Policy H15 concerning internal space, this is a neutral factor, and therefore not a benefit of the scheme that could outweigh the other harm arising.

Highway Safety

15. The Council says the proposed development requires 2 on-site parking spaces in connection with the HMO, as well as one on-site parking space for no. 184, equating to 3 spaces in total. There is no reason before me to disagree with this assessment. On my site visit, there were 4 cars parked comfortably on the driveway fronting the appeal property, thereby exceeding this parking requirement.
16. On this basis, I am satisfied that the development could provide adequate parking in conjunction with its use. In turn, it should not lead to a displacement of vehicles onto the surrounding road network, which could compromise highway safety. The development is therefore consistent with Policies M1, M3 and RE7 of the Local Plan. Together, these policies promote sustainable modes of transport and seek to ensure new development does not adversely affect the local transport network. They also require new development to provide an appropriate level of parking for its proposed use, with the appropriate level being determined on a case-by-case basis for HMOs.

Other Matters

17. Whilst I acknowledge that the appeal property is located within an established residential street, this does not negate the need to ensure acceptable living conditions in terms of noise and air-quality. This is especially true given the

particularly sensitive location of the appeal property at the very end of Fern Hill Road, immediately adjacent to the A4142. Moreover, an absence of Environmental Protection incidents regarding noise in the area does not in itself mean conditions are satisfactory.

18. Although the development does provide low-cost housing which helps contribute to the Council's housing stock, this benefit would not outweigh the harm arising from the development with regard to the main issues of the appeal.

Conclusion

19. Whilst I have sided with the appellant with regard to the third main issue, the development harms the character and appearance of the area and fails to provide acceptable living conditions for its occupiers and neighbouring occupiers. The development therefore conflicts with the development plan as a whole and there are no other considerations, including the provisions of the Framework, that outweigh this finding. The appeal should therefore be dismissed.

James Blackwell

INSPECTOR