



Appeal Decision

Site visit made on 14 April 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 25 May 2022

Appeal Ref: APP/G3110/W/21/3289196

1 – 2 Land to the rear of Collinwood Close, Oxford OX3 8HS

- 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 Haseley Homes (Oxford) Limited against the decision of Oxford City Council.
 - The application Ref 21/02682/FUL, dated 1 October 2021, was refused by notice dated 24 November 2021.
 - The development proposed is described as 'Erection of 2no. single storey buildings to provide 2x1 bed dwellings. Provision of car parking, bin and cycle stores'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no. single storey buildings to provide 2x1 bed dwellings, provision of car parking, bin and cycle stores' at 1 – 2 land to the rear of Collinwood Close, Oxford, OX3 8HS in accordance with the terms of the application, Ref 21/02682/FUL, dated 1 October 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposals on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring properties, having regard to noise and disturbance

Reasons

Background

3. A previous permission has been implemented on the site for the development of a one bed detached dwelling (LPA ref: 12/03245/FUL). Additionally, permission was granted in 2019 (LPA ref: 19/00897/FUL) for an enlarged, single storey, 2-bed dwelling at the site. It is not contested that these previous permissions remain extant, nor that, to a degree they establish the principle of backland residential development at the site.
4. The extant permissions offer a realistic fallback position against which to assess the current proposal, alongside the requirements of the Council's development plan policies.

Character and Appearance

5. The appeal site comprises a currently vacant plot of land that contains scrub and several trees. The site lies behind the gardens of residential properties that front onto Collinwood Close, while it is further enclosed behind the rear gardens of dwellings on Collinwood Road and Downside Road. The site is currently accessed via a route to the side of 1 Collinwood Close that runs beyond its rear garden. The unkempt nature of the land means it does not contribute positively to the character and appearance of the area.
6. The surrounding area has a suburban residential character that comprises of primarily semi-detached, and some detached properties, that share a general consistency in appearance, but vary in their precise detailing. Dwellings in the surrounding area typically front onto the highway and are served by longitudinal plots, albeit plot sizes differ considerably.
7. A development of two detached dwellings to the rear of 6 and 7 Collinwood Close has already been completed in a backland location. The precise nature of that development differs somewhat from the appeal scheme, but it nevertheless reflects that backland layouts are not entirely uncharacteristic of this area.
8. The design of the two dwellings would largely follow the form of the previous permission through being single storey, with a flat roof in a broadly similar location on the site. However, the overall scale and footprint of the development would be increased, while the sub-division of the plot would result in a layout that differs considerably from the extant permissions.
9. The plots would be smaller and certainly less spacious than most of those around them. Nevertheless, the proposed dwellings would be modest in size and therefore sit suitably within their plots. Furthermore, whilst the plot arrangements may not be consistent with the grain of the surrounding neighbouring properties, neither is the layout of the extant planning permission.
10. The proposed dwellings would both be single storey and encircled by two-storey properties. The appeal scheme would therefore not be readily visible from the street scene. Even when viewed from the proposed access, the development would be partly obscured by proposed boundary treatments or seen against a backdrop of more substantial two storey buildings beyond. Therefore, any inconsistencies between the character of the development and the wider prevailing residential grain would not be particularly appreciable from public vantage points.
11. Overall, having regard to the existing fallback position and the site's characteristics, I do not consider that the proposed development would give rise to any meaningful harmful impacts to the character and appearance of the area. Consequently, I do not find conflict with Policies DH1 or RE2 of the Oxford Local Plan 2036 (the Local Plan) (adopted 2020). Together these policies, amongst other matters, seek for development to be of a high-quality design that makes efficient use of land, in a manner compatible with the site itself and its surroundings.

Living Conditions

12. The proposed development would result in 2 single bed dwellings at the site as opposed to a single 2-bedroom dwelling previously approved. The appeal scheme is therefore unlikely to significantly increase the number of occupants at the site. The coming and goings of occupants to 2 single bed dwellings along with associated activities, including visitors, is also unlikely to be considerable. Accordingly, the level of noise and associated disturbance from the appeal scheme is not deemed to be disruptive or materially different to the extant permissions.
13. Even if the Council's suggestion that, compared to the extant permissions, the proposal would double the intensity of activity, noise and disturbance, it is still not considered that this would be so significant as to be harmful. This is due to the surrounding residential context that will have similar characteristics in terms of the nature of activities. Additionally, most of the adjoining residential properties have gardens of significant length which would further help to alleviate any noise or disturbance impacts.
14. The Council also deem that the degree of artificial lighting introduced by the proposed development would be at odds with the character of private rear gardens and cause disturbance to neighbouring residents. However, I am not persuaded that light emitted from the proposed dwellings would be harmful in this highly residential location, or that the levels of artificial lighting would be significantly different to the extant permission.
15. Given the length of the access path to the proposed dwellings from the public highway, it is expected that some external lighting will also be needed at the site. Depending on the precise arrangements, this could result in harmful light spill. However, this could be appropriately mitigated through a planning condition to control external lighting, so that it is subtle in nature. Indeed, the appellant has indicated a willingness to provide low level down-facing lighting at the site, which could be secured via condition.
16. Taking the above points together, I find the proposal will not result in unacceptable harm to the living conditions of neighbouring residents in terms of noise or disturbance. Consequently, I find no conflict with the relevant provisions of Policies H14 or RE7 of the Local Plan, which require that new development is designed so that the amenity of communities, occupiers and neighbours are protected.

Other Matters

17. The officer's report acknowledges that the appeal scheme would not result in any overlooking of neighbouring properties, but does indicate some concern regarding the perceived privacy of neighbouring residents. Despite this, the effect of the development on living conditions of neighbours in respect of privacy was not explicitly stated in the Council's reasons for refusal. Concerns have also been raised by neighbouring residents regarding impacts on privacy, including one party stating that the proposal would impinge on his human rights, due to reduced levels of privacy.
18. In reaching my decision, I have had regard to the Human Rights Act 1998 (HRA). In particular, consideration has been given to Article 8 of the European Convention on Human Rights (as incorporated into the HRA), which relates to

the right for respect for private and family life. Due to its scale, layout, and relationship with neighbouring properties, the proposed development would not give rise to unacceptable harmful impacts to the privacy of neighbouring residents. Therefore, allowing the appeal would not result in a violation of the human rights of any parties.

19. Concerns raised regarding the building process and potential damage to property during construction, though understandable, would be a private matter between the parties involved.
20. I have also considered the various other concerns raised by interested parties, including potential impacts relating to highways, access for emergency vehicles, ecology, flooding, drainage and future occupier's living conditions. However, none of the other matters raised outweigh or alter my conclusion on the main issues.

Conditions

21. The Council has provided draft conditions, if the appeal was to be allowed, which the appellant has reviewed and confirmed as acceptable. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
22. For certainty, I have imposed a condition specifying the approved drawings and a condition requiring that the materials to be used are as specified in the application.
23. A condition requiring the provision of site boundaries prior to first occupation of the dwellings is necessary in the interests of the living conditions of both the future occupiers of the dwellings and neighbouring residents.
24. It is necessary to attach a pre-commencement condition requiring works to be undertaken in accordance with a scheme of ecological enhancements that are to be submitted to and approved by the Council. This is in the interests of protecting and enhancing the ecological value of the site.
25. A condition that the development should be constructed to comply with water consumption targets is reasonable and necessary, to ensure the development meets the higher water efficiency standards set out in policy RE1 of the Local Plan.
26. To secure the development's future sustainability and to comply with the requirements of Policy RE1 of the Local Plan, it is reasonable and necessary to condition that the outlined energy efficiency measures are adhered to.
27. A condition requiring details of a surface water drainage strategy is necessary to ensure the development does not increase flood risk on or off site. However, I have re-worded the Council's suggested condition so that it is precise and enforceable.
28. The removal of permitted development rights in relation to the enlargement of the proposed dwellings, additions or other alterations to their roofs, and preventing the erection of building or structures incidental to the enjoyment of the dwellinghouses is deemed reasonable and necessary. This is to safeguard the living conditions of neighbouring residents, as well as future occupiers of the proposed dwellings.

29. Finally, I have attached a condition requiring the submission of details of any external lighting that is to be provided on the site. This is to ensure that such lighting is controlled in the interest of neighbouring amenity.

Conclusion

30. For the above reasons, having regard to the development plan as a whole and all other material considerations, the appeal is allowed.

Lewis Condé

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Proposed Roof Plan (actually showing Block Plan and Location Map) Rev01 (dated 20-10-2020);
 - Proposed Ground Floor Plans no. 104_GFP02_001 Rev03 (dated 20-06-2021)
 - Proposed Roof Plans (no. 104_RP02_002 Rev02, dated 29-05-2021)
 - Proposed Elevations (no. 104_E02_003 Rev02, dated 29-05-2021)
- 3) The materials to be used in the proposed development shall be as specified in the application hereby approved.
- 4) The boundary treatments hereby approved shall be completed prior to first occupation of the approved development and retained as such thereafter.
- 5) Prior to the commencement of development, a scheme of ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority to ensure an overall net gain in biodiversity will be achieved. The scheme will include details of landscape planting of known benefit to wildlife, including nectar resources for invertebrates. Details shall be provided of artificial roost features, including bird and bat boxes. Any new fencing shall include holes suitable for the safe passage of hedgehogs. The approved details shall be implemented prior to the occupation of the dwellings.
- 6) The development shall be carried out in complete accordance with the energy efficiency measures detailed in the Energy Statement completed by MH Energy Consultants Ltd.
- 7) The development hereby approved shall be constructed to comply with the 2013 Building Regulations Part G2 water consumption target of 110 litres per person per day.
- 8) Prior to the installation of any impermeable areas of development, details of a surface water drainage scheme shall be submitted to an approved in writing by the local planning authority. The design must satisfy the SuDS hierarchy and be compliant with the National Planning Policy Framework and the accompanying Planning Practice Guidance. The dwellings hereby permitted shall not be occupied until the scheme has been implemented in accordance with the approved details.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or enacting that Order) no structure including additions to the approved new dwellinghouses, as defined in Classes A, B, C and E of Schedule 2, Part 1 of the Order shall be erected or undertaken.

- 10) Details and specification of any external lighting, including light levels, shall be submitted to and approved in writing by the Local Planning Authority before the first occupation of the development hereby approved. The development shall be carried out prior to the first occupation of the development and subsequently operated in accordance with the approved details.