



Appeal Decision

Site visit made on 5 April 2022

by Mr C J A Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th June 2022

Appeal Ref: APP/G3110/W/21/3286185

84 St. Aldates, Oxford OX1 1RA

- 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 Richard Croxson against the decision of Oxford City Council.
 - The application Ref 21/00374/FUL, dated 3 February 2021, was refused by notice dated 10 May 2021.
 - The development proposed is described on the application form as: *A) Repair and re-erection of the 17th century rear wing as 1 dwellinghouse (Use Class C3)*
B) Construction of 1 dwellinghouse (Use Class C3) on the empty space to the rear of the site.
 - And on the appeal form and decision notice as: *Rebuilding of rear wing of 84 St Aldates to 1 x 4-bed dwellinghouse (Use Class C3). Construction of 1 x 3 bed dwellinghouse (Use Class C3) on the empty space to the rear of the site. Formation of 1no. dormer to South elevation. Insertion of 1no. window to North elevation. (part retrospective)*
-

Decision

1. The appeal is allowed and planning permission is granted for Rebuilding of rear wing of 84 St Aldates to 1 x 4-bed dwellinghouse (Use Class C3). Construction of 1 x 3 bed dwellinghouse (Use Class C3) on the empty space to the rear of the site. Formation of 1no. dormer to South elevation. Insertion of 1no. window to North elevation (part retrospective) at 84 St. Aldates, Oxford, OX1 1RA in accordance with the terms of the application, Ref 21/00374/FUL, dated 3 February 2021, subject to the conditions set out in Appendix A.

Preliminary Matter

2. I have used the proposed description on the appeal form and decision notice to describe what planning permission has been granted for. Whilst not in my gift to change this, given both main parties have used it, and it appears to show what is sought on the submitted drawing, I have adopted its usage here.
3. I acknowledge the detailed planning history of the appeal site, as set out in the evidence of both main parties. In particular, I note that listed building consent was granted by the Council under reference 21/00375/LBC. Therefore, my considerations are limited to determining the appeal against planning permission which is a separate matter from that under listed building controls.
4. Furthermore, neither main party, nor any specialist heritage advisors, or any other interested parties, have raised an objection or concerns in relation to heritage matters. In considering my duties under s66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, to pay special regard to the desirability of preserving listed buildings and to

conserve or enhance the character or appearance of conservation areas, I see no reason to disagree with those assessments. I therefore find at the very least the proposals would preserve these heritage assets as set out in the above statutory duties.

5. Lastly, the appellant has submitted an Energy Statement as part of its appeal submission. The Council concedes at Paragraph 5.20 of its statement that this would meet the technical requirements of Policy RE1 of the Oxford Local Plan 2036 (adopted 2020) (OLP). In this respect, they are content a planning condition could be used to secure the implementation of a final energy statement as suggested by the Appellant. I concur, and have proceeded on the basis that this matter is no longer significantly contested between the parties for the purposes of this appeal.

Main Issue

6. The main issue is whether the proposed layout and density would make an optimum and efficient use of the appeal site.

Reasons

7. The appeal site relates to 84 St Aldates and an associated rear courtyard. It lies within the City Centre of Oxford; albeit just outside the primary shopping area. As such, it lies within a highly sustainable location with many goods and day-to-day services located nearby as well as sustainable travel options, including buses and trains.
8. Policy RE2 of the OLP states that '*Planning permission will only be granted where development proposals make efficient use of land...*' and that '*High-density development (for residential development this will indicatively be taken as 100dph) is expected in the city centre...*'. The local planning authority considered the proposal to be 95 dwellings per hectare (dph) in its Officer Report. However, it conceded in its appeal statement at Paragraph 5.5 that its figure of 95dph was 'an error in the calculation'. It does not, however, provide any further figure which they consider is correct.
9. The Appellant sets out in Paragraph 6.5, first bullet point of their Appeal Statement, that they consider the figure is either 143dph taking into account the whole site, or 129dph if the existing dwellinghouse at 84 St Aldates is excluded. Using either figure, the dph for the appeal proposal would, on the basis of the evidence before me, exceed the indicative 100dph density sought for Oxford city centre locations.
10. Whilst I acknowledge the theoretical position that a higher density might be achievable, the Council has not provided any detailed analysis as to why 143dph or 129dph 'makes a poor use of land'¹ compared to say a 144dph or greater scheme. The local planning authority point to the previous scheme, which was approved for three dwellings, and that the appeal scheme in only seeking two dwellings would result in a lower density. They therefore consider it would therefore be an inefficient use of land in an area where there is an 'acute shortage of housing'².

¹ See Paragraph 5.6, LPA's Statement of Case

² See Paragraph 5.8, LPA's Statement of Case

11. Nonetheless, the fact remains that the proposal would represent a high-density development using the Council's own measure within Policy RE2, and indeed this would be exceeded in this city centre location. Accordingly, the logical conclusion is that if the scheme is a 'high density development' for a centre of Oxford location as the Policy indicates, then it must follow that this is an 'efficient use of land'.
12. Consequently, I conclude that the proposed layout and density would make an optimum and efficient use of the appeal site. As such, the proposal would accord with Policy RE2 of the OLP which seeks the aforesaid aims. For similar reasons, it would also accord with the Policies of the *National Planning Policy Framework* (2021)(the Framework), including those set out in Section 11 'Making effective use of land', and Paragraph 124 which indicate that planning decisions should support development that makes efficient use of land.

Conditions

13. The Council has suggested a number of conditions, which I consider in light of Paragraphs 55 and 56 of the Framework and the national Planning Practice Guidance.
14. Conditions requiring the development to be started within three years and in accordance with the submitted drawings are necessary to provide certainty. A condition requiring material samples being approved and provided on site is necessary and reasonable in order to ensure the proposal preserves the character and appearance of the listed building, conservation area and location more generally.
15. The suggested condition requiring the repair and building work to the 17th Century rear wing to be completed prior to occupation is imprecise and unenforceable in its suggested format. It is unclear as to what specific repairs and building works need to be completed. Instead, re-wording the condition so that a scheme is submitted detailing this, and that it is approved and then carried out in accordance with that approval would be reasonable and enforceable. I have reworded this accordingly.
16. Lastly, a condition requiring the submission of an Energy Statement in accordance with Policy RE1 of the OLP and its implementation is reasonable to ensure that the development reduces future carbon emissions.

Conclusion

17. The proposal would accord with the adopted development plan when considered as a whole and there are no material considerations indicating a decision otherwise than in accordance with it.
18. For the reasons given above, I conclude that the appeal should be allowed.

C Parker

INSPECTOR

Appendix A – Conditions for APP/G3110/W/21/3286185

- 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: Site location plan, Drawing 3691-06, Drawing 3692-06 – Existing first floor, Drawing 3693-06 – Existing second floor, Drawing 3694-06 – Site Survey elevations, Drawing 3695-06 – Existing section AA-BB, Block plan A-0911 S4-C 1, Proposed elevations ADP-ZZ-ZZ-DR-A-1200 S4-C 2, Elevations – Proposed Window Repositioning Rear of 84 St. Aldates A-1210, Alternative Ground Floor Layout with Enlarged Refuse Store ADP-01-00-DR A-0905 S0- P 1, and Proposed floor plans ADP-ZZ-ZZ-DR A-1000 S4-C 2.
- 3) No development of the building/s shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render), where appropriate, to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) Prior to the occupation of the hereby approved dwellinghouses, written details of any repair and building works to the 17th Century rear wing of the appeal building shall be submitted to and approved in writing by the local planning authority. The approved dwellings shall not be occupied until the approved works or repairs are completed in accordance with the approved written details.
- 5) Prior to the occupation of the development hereby permitted, an energy statement shall be submitted to and approved in writing by the local planning authority. The energy statement shall demonstrate that the approved development accords with the requirements of Policy RE1 of the Oxford Local Plan 2036 (or any planning policy replacing those requirements). This includes ensuring that the new dwellings would have at least a 40% reduction in carbon emissions from a 2013 Building Regulations (or future equivalent legislation) compliant base case and including on-site renewable energy and other low carbon technologies (this would broadly be equivalent to 25% of all energy used) and/or energy efficiency measures. The approved dwellings shall only be built in accordance with the approved energy statement.

***** END OF CONDITIONS *****