
Appeal Decision

Site visit made on 28 June 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Appeal Ref: APP/V3120/W/22/3290944

Flat 4, Chelsie House, 104 West Way, Botley, Oxfordshire OX2 9JU

- 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 Ms Sandra Bickford against the decision of Vale of White Horse District Council.
 - The application Ref P21/V2188/HH, dated 27 July 2021, was refused by notice dated 29 November 2021.
 - The development proposed is the erection of a double garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a double garage at Flat 4, Chelsie House, Botley, Oxfordshire OX2 9JU in accordance with the terms of the application, Ref P21/V2188/HH, dated 27 July 2021, and the plans submitted with it, subject to the conditions set out below:
 - 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: 402/0621/RR_001 and 256/0120/RR_002.

Applications for costs

2. An application for costs was made by Ms Sandra Bickford against the Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the development upon parking provision.

Reasons

4. The appeal site is located to the rear of Chelsie House, a flatted development in a predominantly residential area. There is a shared vehicular access to the land to the rear where the proposed garage would be sited. Planning permission exists here for the use of No 4 as a bed and breakfast facility (B&B). That is reference P20/V0482/FUL granted on 11 May 2020 for the 'change of use from a residential dwelling (use class C3) to B&B accommodation (use class C1), including communal area and bike store, together with the demolition of the conservatory and construction of a single storey extension to the rear'.
5. The extant permission is subject to conditions, including a compliance condition in relation to the approved plans and a condition which requires the provision of the vehicular access, parking spaces and cycle storage shown on the

- approved drawings (Condition 4), prior to the use of the development. The condition also requires the parking spaces for the B&B guests to be permanently maintained and marked out/allocated in accordance with the approved plan. The condition was necessary to ensure there was adequate parking to serve the development in accordance with relevant policies.
6. The erection of the garage as proposed would not encroach on the shared access or turning area indicated on the location plan. It would however prevent the provision of 2 of the 4 car parking spaces to the rear of the site, as well as the cycle store required in association with the extant planning permission, as shown on the approved plans. As a result, the Council states that the appeal proposal would lead to a shortfall in car and cycle parking provision to serve the B&B, should the earlier permission be implemented.
 7. The appellant has indicated that they wish to maintain the property as their primary residential dwelling and therefore have no intention of implementing the earlier permission. Notwithstanding this, the extant permission could of course be implemented by a new owner of the site in the future, providing development is commenced within the prescribed timeframe. The principal dispute between the two parties is whether a planning obligation is required as part of a planning permission for the erection of the garage, in order to prevent the implementation of the extant planning permission.
 8. However, that is not a matter pertinent to the determination of this entirely separate (householder) planning appeal, and it is beyond the remit of this S78 appeal for me to pronounce on whether the extant permission for the bed and breakfast use of Flat 4 would be lawful should I allow this appeal for the double garage.
 9. The caselaw referenced by both the Council and the appellant including *Pilkington v Secretary of State for the Environment* [1973] 1 WLR 1527 is not therefore something that I need to consider in this S78 appeal, nor are the parties' disputes as to whether there could or should be a planning condition or S106 agreement to prevent the implementation of the extant B&B permission. Equally, whether or not the Council may have to decide whether it is appropriate to initiate any enforcement action against someone attempting to implement the B&B permission when the double garage is under construction or has been built is a speculative matter and irrelevant to the consideration of this appeal.
 10. There is no objection to the proposed garage for the use of Flat 4 as a residential unit, either in terms of the proposed number of parking spaces for Flat 4, or on any other grounds because no harm would arise from the development. There is no dispute that the double garage for Flat 4 in itself would comply with the Council's development plan policies. The proposed double garage does not conflict with the relevant policies relating to car and cycle parking provision including Policies CP33, CP35 and CP37 of the Vale of White Horse Local Plan 2031 Part 1, Policy DP16 of the Vale of White Horse Local Plan 2031 Part 2, and Policies TR1 and TR2 of the North Hinksey Parish Neighbourhood Plan 2031. There are therefore no reasons to dismiss this appeal.

Other Matters

11. Concerns raised by third parties relating to existing noise and activity are not related to the proposed development.

Conditions

12. The three year period in which the planning permission may be implemented is a statutory requirement. It is also necessary in the interests of clarity to specify the approved plans and that the development shall be undertaken in accordance with these. The plans also show the external materials to be used and so there is no need for a condition specifying this. A condition to secure the garage space for the parking of vehicles is not necessary, given the remaining car parking provision of at least 4 spaces on site to serve the existing dwelling.

Conclusion

13. For the reasons above I conclude that the appeal should be allowed.

Emma Worley

INSPECTOR