

Appeal Decision

Site visit made on 13 September 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/C3105/W/22/3297233

123 Oxford Road, Kidlington OX5 2NP

- 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 J Mastrogiacomo of Home Plan Design Services against the decision of Cherwell District Council.
 - The application Ref 21/03726/F, dated 3 November 2021, was refused by notice dated 21 January 2022.
 - The development proposed is demolition of existing lean-to structure, erect new single storey extension. Convert existing 3-bed chalet-style house into 3 no separate apartments with offroad parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted with the appeal which show an amendment to the proposed parking arrangement. However, they make some substantial changes to the proposal, and I cannot be certain that all interested parties have had the opportunity to consider them. As the appeal process should not be used to evolve the design of a scheme, and to avoid prejudicing other parties, I have therefore determined the appeal on the basis of the plans considered by Cherwell District Council (the Council).

Main Issues

3. The reason for refusal refers to the effect of the proposal on the living conditions of future occupiers, the living conditions of the occupants of host dwelling and highway safety. However, having reviewed the detailed evidence I consider that the main issues are:
 - i) The effect of the proposal on the safety of road users and pedestrians using Oxford Road;
 - ii) The effect of the proposal on the living conditions of the occupants of 121 Oxford Road with particular regard to daylight levels and overlooking; and
 - iii) Whether the proposal would provide adequate living conditions for the occupants of the proposed and host dwellings, with particular regard to fire safety.

Reasons

Highway safety

4. Access to the appeal site is via Oxford Road (A4260), close to an intersection with Bicester Road. Oxford Road is a main road which connects Kidlington with Oxford and other local routes. There is a bus stop with a lay-by close to the site access. There are no parking restrictions on Oxford Road close to the appeal site. The site frontage is lined by a hedge which obscures visibility of the highway to the north.
5. During my early-afternoon site visit there was a high volume of traffic in both directions, and a steady flow of pedestrians using the footpath on Oxford Road. Whilst a snapshot in time, there is nonetheless nothing in the evidence before me to indicate those observations are atypical of the area.
6. There are several schools located close to the appeal property¹. The site is also located close to a number of commercial uses, a medical centre and a leisure centre. Given the high volume of traffic on Oxford Road, the proximity to an intersection, and the surrounding land-uses, the section of road near the appeal property is likely to be busy with road users throughout the day, particularly during school drop off and pick up, and there are also likely to be a number of people walking along this footpath.
7. The 3 apartments would be provided with a parking space to the front of the site, and the Council and Highway Authority raise no objection to the amount of parking proposed. I have reached the same finding. However, given the overall size of the available space, and based on all I have seen and read, I am unconvinced that vehicles could manoeuvre within the space, and as such vehicles are likely to reverse out of the site. Reversing from the site onto Oxford Road would result in a situation where the driver's visibility would be limited, which would be hazardous to both pedestrians and other road users. Consequently, the proposal would introduce an increase in potential for conflict between road users and pedestrians with the potential for knock on implications for highway safety.
8. Cycle storage for the 3 proposed units would be located in the rear garden, to which only the occupants of flat No2 would have access. The siting as proposed would be impractical for the occupants of flat No2, as cycles would need to be manoeuvred through the house, and there would be no accessible provision for the occupants of flat No1 and No3. This would not be the secure and convenient cycle parking required by the Cherwell Residential Design Guide (2018) (RDG) and the proposal therefore conflicts with the aims of this document. Therefore, whilst the site is well-located in relation to local facilities and services, the proposal fails to provide the necessary cycle storage to support active travel by bike.
9. Planning Practice Guidance (PPG) advises that conditions may be imposed where doing so is necessary to avoid a refusal of planning permission. The Council suggest a condition relating to the approval and provision of secure cycle storage. I agree that such a condition would meet the tests sets down in the PPG and that there would appear to be adequate space to the front of the site to accommodate this. Consequently, were the appeal acceptable in all

¹ the St Thomas More Catholic Primary School, the West Kidlington Primary School and Nursery School and Gosford Hill School (secondary school and sixth form)

other regards, the provision of suitable cycle storage facilities to meet the requirements of the RDG could be controlled by condition.

10. Whilst the site has the capacity to provide suitable cycle storage facilities, nonetheless, I conclude that the proposal would result in dangerous manoeuvres which would have a significantly harmful effect on highway safety. The proposal would therefore be contrary to the safety objectives of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (2015) (LP) which encourages places that promote pedestrian movement and integrate different modes of transport. It would also be contrary to the National Planning Policy Framework (the Framework) which sets out how development should provide safe and suitable access to the site for all users.

Neighbouring residents' living conditions

11. It is proposed to demolish and rebuild an existing single storey flat roof extension and insert two windows in the side elevation. These windows will serve bedrooms and would be positioned close to the site boundary allowing for clear and direct views of the windowed rear elevation of 121 Oxford Road and the associated private rear garden over boundary treatment. Consequently, the privacy of the occupants of No 121 would be compromised through direct overlooking. Whilst a degree of overlooking can be expected in urban areas, including from existing windows, such a degree of overlooking goes beyond existing and reasonable levels.
12. Whilst the proposed extension would be slightly deeper than the existing single storey extension, any shading effects to the rear windows of No 121 would be similar to those currently experienced given the north-easterly orientation of the dwelling. Similarly, the outlook from these windows would be comparable to that currently experienced. Therefore, the proposal would not appear overbearing in nature.
13. For the foregoing reasons I find that the proposal would significantly harm the living conditions of the occupants of 121 Oxford Road through loss of privacy. Therefore, the proposal conflicts with those aims of LP Policy ESD15 and saved Policies C28 and C30 of the Cherwell Local Plan (1996) which require that new development should consider the amenity of existing and future development. I also find conflict with para 130 of the Framework which requires that developments ensure a high standard of amenity for existing users.

Existing and future occupants' living conditions

14. The existing dwelling would be extended and subdivided to provide 3 self-contained flats and the host dwelling would cease to exist. Even if I were to take the existing accommodation to comprise the host dwelling for the purposes of determining this appeal, the proposal would not result in any loss of outlook to existing openings or additional opportunities for overlooking and associated loss of privacy. The proposed extension and alterations would not result in any loss of light to existing openings. Consequently, I find no harm to the living conditions of the occupants of the host dwelling.
15. Matters relating to fire safety would be covered under separate legislation and therefore have had no bearing on my consideration of the planning merits of the proposal.

16. I find that the proposal would result in adequate living conditions for existing and future occupants. I therefore find no conflict with those aims of LP Policy ESD15 which require that new development should consider the amenity of existing and future development. I also find no conflict with para 130 of the Framework which requires that developments ensure a high standard of amenity for existing and future users.

Planning Balance

17. The Council has confirmed that it is not able to demonstrate a five-year supply of deliverable housing sites. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date and paragraph 11. d) ii. of the Framework is engaged. There is no information about the scale of the shortfall in housing supply.
18. I have found that the proposal would result in significant harm to highway safety and neighbouring amenity. Therefore, the proposal conflicts with those aims of LP Policy ESD15 and saved policies C28 and C30 of the Cherwell Local Plan (1996).
19. When judged against some of the core planning principles the proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. However, good design, including consideration of the effects on highway safety and living conditions, is also a key aspect of sustainable development. Consequently, the proposal would conflict with the development plan when taken as a whole. Given the consistency between the policies with which a conflict has been identified and the Framework I give substantial weight to this conflict.
20. I acknowledge that the additional 2 dwellings would make a small contribution towards the district's housing supply and that the proposal would use previously-developed land. The Framework's objective is to significantly boost the supply of homes and to make an effective use of land. This factor weighs in favour of the scheme. In light of the shortfall in the Council's five-year housing land supply, I attach moderate weight to the development's positive contributions to the social and economic objectives of the Framework.
21. The proposal would result in significant harm to highway safety and neighbouring amenity. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework. Consequently, the decision should be taken in accordance with the development plan with which I have identified conflict.

Conclusion

22. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations the appeal is dismissed.

Nichola Robinson

INSPECTOR