



Appeal Decision

Site visit made on 6 September 2022

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/F1610/W/22/3296445

44 Martin Close, Cirencester, Glos GL7 1XY

- 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 Wood & Stone Construction Ltd against the decision of Cotswold District Council.
 - The application Ref 21/00540/FUL, dated 2 February 2021, was refused by notice dated 2 November 2021.
 - The development proposed is sub-division of existing dwelling into two independent dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The 2018 Planning Permission¹(2018 Permission) permitted a large extension to the existing dwelling. Dispute as to whether the property is already two dwellings is a matter between the Council and the Appellant, as is any issue relating to the current use of the property as a house of multiple occupancy (HMO) of more than six persons. I have, therefore, determined this appeal on the basis of the description of development above and the submitted evidence, including the plans, before me.
3. My attention has been drawn to the Cotswold District Local Plan Partial Update which is an emerging Plan. The Plan is at the Issue and Options stage which is an early stage of preparation. I am therefore unable to establish the extent of unresolved matters or the consistency of emerging policies with those of the adopted Local Plan and national planning policy. I attach limited weight to this matter accordingly, and this appeal has been determined on the basis of the current development plan.

Main Issues

4. The main issues are:
 - whether the proposal would provide satisfactory living conditions for the existing and future occupants of the subdivided dwellings with regards private garden space,
 - the effect of the proposal on the character and appearance of the area, and

¹ Ref 18/00985/FUL

- the effect of the proposal on highway safety, with particular regard to parking.

Reasons

Living Conditions

5. Plans approved by the 2018 Permission provide a modest rear garden for the extended dwelling. The approved three-storey extension, which would form the new dwelling, is stepped back from the original dwelling so the rear garden is narrower at this point. The 2018 Permission also permitted a single storey extension at the rear of the original dwelling which reduces the garden space at this aspect. The appeal property's rear garden is also bound by a footpath, for access to the rear of No. 42. Therefore, the existing modest rear garden of the appeal property is compressed by these features.
6. While I note that one dwelling would be larger than the other, it seems to me, that the smaller dwelling would nevertheless be of sufficient size to accommodate a small family. The proposal would split the existing rear garden space, and this would result in two small gardens serving the two dwellings. Although, these small spaces would be sufficient for a place to sit and dry clothes, they would not be adequate to accommodate other activities. Moreover, the small, fenced areas would have a compound like quality, with a poor outlook in this regard, so that they would not even provide pleasant outside spaces in which to sit.
7. In addition, neither garden would be of a sufficient size to accommodate a range of items such as play equipment or provide space for children to play. In this regard they would not be of an adequate size to allow for activities that a family would reasonably expect to do in their rear garden. These spaces would enjoy a southerly aspect, but this factor alone would not be sufficient to improve the poor quality of the inadequate, outside spaces with a hemmed in character. I find for this reason that the dwellings would not provide satisfactory conditions to ensure a reasonable quality of life for existing and future occupants.
8. I recognise that the new dwelling could be occupied by a single person or a couple, and that one of the bedrooms could be used as an office. However, this is not a given, and the property could equally provide accommodation for a family with children who would reasonably expect and need more space than perhaps a single person.
9. I note the open spaces that are a short walk from the appeal property and the green verge at its front. However, these public spaces would not compensate for the lack of a functional private outside space for future occupants of the dwellings, and their family members that could include young children.
10. I therefore find that the proposal would not provide satisfactory living conditions for the existing and future occupants of the subdivided dwellings, with regards to private garden space. In this respect it would be contrary to Policy EN2 of the Cotswold District Local Plan (Local Plan) which requires that development will be permitted which accords with the Cotswold Design Code, which amongst other matters states, that to ensure adequate garden space, the size of a private garden should relate to the size of the property. It would also be inconsistent with the National Planning Policy Framework (the

Framework) which seeks a high standard of amenity for existing and future users.

Character and Appearance

11. The appeal property is a town house style dwelling in a row of similar style properties. However, the approved extension of No 44 has resulted in this property being almost double the width of neighbouring dwellings. Dwellings in this row have modest sized rear garden spaces which back onto larger gardens of properties on Chesterton Lane.
12. Regardless of issues with the current internal configuration of the property the approved plans for the extension to the dwelling already permitted two entrance doors on the front elevation of the existing dwelling. Moreover, this proposal would not increase the mass of the property, nor would it significantly alter the appearance of its front. It would not appear any more cramped than the approved built form when viewed from the street for this reason.
13. The splitting of this existing rear garden space would create rear gardens that would be smaller than neighbouring plots. But the footpath bounding these spaces would help retain a sense of undeveloped space at the rear of the properties and this would minimise the appearance of this slight variation. Therefore, although the size of these spaces would be harmful from a living condition perspective, for this reason, this change would not harmfully disrupt the prevailing pattern of development in this row of dwellings, where limited garden space is a characteristic feature.
14. In light of this, I find that the proposal would not have a harmful effect on the character and appearance of the area. In this regard it would not conflict with Policy EN2 of the Local Plan and the associated Cotswold Design Code, which require proposals should be of design quality that respects the character and distinctive appearance of the locality. It would also be consistent with the Framework in relation to seeking well-designed places.

Highway Safety

15. Several of the dwellings at the entrance to Martin Close have garages and off-street parking spaces. Properties in the terrace row, of which the appeal property forms a part, generally have at least one off-street parking space at their respective fronts. Some of these dwellings also have integrated single garages.
16. However, there are limited on-street parking spaces on the highway fronting the site. Moreover, although I saw on my site visit, no parking restrictions such as yellow lines on the carriageway immediately fronting the three-storey extension at No 44, this section of the road appears to be intended to allow vehicles to safely turn when exiting this part of the Close, rather than to be used for on-street parking. I noted that this space was particularly significant for motorists accessing Nos 46 and 48 given the limited room to turn at this relatively narrow end of the cul-de-sac.
17. The proposal would create two separate dwellings capable of accommodating two households. Whilst I appreciate that one dwelling would be larger than the other, both would be of a sufficient size to provide accommodation for families, and, it seems to me, that the occupants of these respective dwellings would be likely to have one or more cars.

18. Although the proposed 4 person dwelling would have one off-street parking space, the new dwelling would, contrary to many surrounding properties, have no off-street parking space. Future occupiers of the new dwelling would therefore have to park their vehicles on the street, and this is likely to be immediately at the front of their property for reasons of convenience or necessity. However, I see nothing preventing motorists parking in this space currently. Moreover, the current lawful use of the property has a floor space, if used as a family home, that could accommodate 8 persons, or as a small HMO, for 6 individuals living independently. Either way the existing property likely involves a number of vehicles that far exceeds the existing off-street parking capacity at this substantially extended dwelling. Therefore, there is already pressure for vehicles, associated with the existing dwelling, to park on the street, including in this turning space.
19. In the event this appeal was successful, and the original dwelling was to function as either a single-family dwelling or a small HMO, its current capacity would be decreased by the subdivision of the property, and this would be likely to reduce the number of vehicles associated with that property. Future occupiers of the new dwelling would, given its size, be likely to have one to two vehicles. As such, cumulatively the numbers of vehicles associated with the sub-divided dwellings would, if not similar, not be significantly greater in number to that which could occur under the current lawful use of the property as outlined above. For these reasons, the proposal would not materially increase the existing pressure on parking spaces in the area, and in turn would not have an unacceptable impact on the current levels of highway safety near the appeal site.
20. The new dwelling could be used as a small HMO, and this would probably lead to a greater number of vehicles associated with the property than if it was to be occupied by a family. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so, and this could be applicable in this case. If the appeal was allowed a condition could be used to prevent the new dwelling being used as an HMO.
21. In reaching this decision, I have noted concerns regarding existing parking conditions near the appeal property, including the effect this has on access for refuse collection and emergency vehicles. However as outlined above the subdivision of the already large dwelling would not result in a material change to the current highways conditions, and these issues have not altered my assessment on this matter for this reason.
22. Therefore, in light of the above, I find that the proposal would not have an unacceptable effect on highway safety, with particular regard to parking. In this respect it would not be contrary to Policy INF5 of the Local Plan which requires that development will make provision for residential vehicle parking where there is clear and compelling evidence that such provision is required to manage the local road network.
23. It would also be consistent with the Framework which seeks to ensure safe and suitable access to the site can be achieved for all users and requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Planning Balance and Other Matters

24. The residential units at 1 City Bank Road/ 1 a, b, and c Silchester Gate have extremely limited outside space. However, these residential units along with the property at 9 Black Jack Street are considerably closer to the town centre than the appeal property. Furthermore, the appeal property, although within the settlement of Cirencester, is outside the A429 main road that bounds the core of the town. Therefore, the locational context of these residential units is distinctly different from that of the appeal property.
25. 5 Limes Close and 32 Cotswold Avenue are examples of dwellings with small gardens on streets surrounding Martin Close. However, these were permitted when the policy context was different from now. The examples cited are therefore not directly comparable with this proposal, and I find no evidence of inconsistency in decision making for the reasons stated. They have not altered my findings in this case.
26. The potential effect of the proposal on the integrity of the North Meadow and Clattinger Farm Special Area of Conservation (SAC) and the Cotswold Beechwoods SAC was a matter raised by the Council after the appeal was submitted. There also appeared confusion on the part of the Council as to which SAC may be affected. Be this as it may, Natural England has indicated, in respect to consultation on other proposals in the district, that new residential units are likely to have a significant effect on the integrity of the SACs as a result of an increase in recreational pressure. It was therefore appropriate for the Council to raise this matter. However, as I have found harm in respect to other issues in this case there is no need to consider this matter further in this appeal as this would not lead me to a different decision.
27. The proposal would comply with the Nationally Described Space Standards as required by Policy H1 of the Local Plan. However, the provision of adequate internal space, space for bins and absence of adverse impacts on the character and appearance of the area, highways and neighbouring residents' living conditions should be an expectation for all relevant development. These matters do not therefore weigh in favour of the proposal.
28. I have found the proposal would have a similar number of vehicles to that associated with the existing use. In any event if fewer vehicles were to result from the development, this would be a limited benefit as this would only be associated with just two dwellings.
29. This aside, the proposal would result in an additional, small open market home. It would provide accommodation of the type which is identified as being most in need in the area, could be used by households with lower earnings, and would contribute to the Government's objective of significantly boosting the supply of homes, and the mix of dwellings in the area. The principle of this use in this built-up area has support in the Local Plan and the Framework. The dwelling would be well related to services and alternative modes of transport to cars. It would also be an efficient use of land.
30. The appellant suggests biodiversity gains could be secured by condition, and this would provide an environmental benefit. There would also be local economic and social benefits from the future occupants' contribution to council tax and support of local services and businesses. These matters weigh in

favour of the development. However, the benefits identified would be limited given the scale and nature of the proposal.

31. The evidence indicates that the Council may find it difficult to demonstrate a 5 year housing land supply (HLS) in 2023/24, but the main parties were silent on the current HLS position. In the event the Council was unable to demonstrate a 5 year HLS now, paragraph 11 of the Framework and the presumption in favour of the development would be relevant. However, even when considering the benefits cumulatively, the adverse impacts identified in this case in respect to living conditions would significantly and demonstrably outweigh the small benefits outlined in this case, when assessed against policies in the Framework taken as a whole.
32. My attention has been drawn to several other Local Plan Policies which are not at issue in this appeal. However, neither this nor the limited benefits of the appeal proposal outweigh the harm I have found, nor the conflict with the Local Plan Policies relevant to these matters, that are generally consistent with the Framework.

Conclusion

33. For the reasons stated above and having regard to the development plan as a whole, and all relevant material considerations, including the Framework, the appeal is dismissed.

A J Sutton

INSPECTOR