



Appeal Decision

Site visit made on 8 November 2022

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2022

Appeal Ref: APP/G3110/W/22/3299234

27 John Buchan Road, Oxford OX3 9QN

- 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 Dean Inseal against the decision of Oxford City Council.
 - The application Ref 21/03538/FUL, dated 15 December 2021, was refused by notice dated 16 March 2022.
 - The development proposed is describe as 'Construction of a new one bedroom two storey dwelling with garden, landscaping, parking and access. Extension of the existing dwelling to provide an en-suite shower room at first floor and larger ground floor sitting room.'
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a new one bedroom two storey dwelling with garden, landscaping, parking and access. Extension of the existing dwelling to provide an en-suite shower room at first floor and larger ground floor sitting room at 27 John Buchan Road, Oxford, OX3 9QN in accordance with the terms of the application, Ref 21/03538/FUL, dated 15 December 2021 and subject to the schedule of conditions appended to this decision.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - whether the proposal would provide satisfactory living conditions for the future occupants of the new dwelling, with regards to adequate and convenient private garden space.

Reasons

Character and Appearance

3. The appeal site is a space at the side of an existing end of terrace dwelling, bound at two sides by retaining walls topped by fences. It is in a residential area that has a mixed character which generally comprises close knit terrace or semi-detached dwellings that address the street, set in a linear pattern with rear gardens. The rear garden spaces in John Buchan Road vary in size, but in the row of properties, of which the appeal site forms the end, rear gardens generally have modest proportions. This row of properties is set back from the road with small spaces to the front of dwellings. These spaces vary in

appearance, some with low boundary walls and/or hedges but I saw that it is not uncommon for these spaces to include hardstanding areas for parking.

4. The proposal would extend the existing short terrace of properties. The footprint of the new dwelling would be slightly smaller than these neighbouring properties. However, the appearance of the front elevation of the new dwelling has been designed so that it would match the scale, form and appearance of the existing dwellings when viewed from the street. This would continue the rhythm of the terrace and the proposed addition would appear consistent with the existing grain of development in this area. The proposal would respond positively to the character of this existing built form in this regard.
5. The existing frontage would be split to serve No 27 and the new dwelling. But as this is an uncharacteristically wide existing frontage, due to the space to the side of No 27, this split would not result in the space to the front of the properties appearing overly cramped. Although a significant portion of this space would comprise hardstanding, this would not be out of keeping with other existing frontages in this row of properties. Moreover, the proposed landscaping at the front boundary would soften the appearance of this feature and again this would be in keeping with other front boundaries I observed in the area.
6. The proposed bike store would be visible at the side of the new dwelling. However, the store would be set well back from the pavement so that it would appear a discreet feature at this new property. The submitted plans also show that there would be space at the rear of the new dwelling to accommodate bins. Furthermore, it seems to me that the proposed rear alleyway would not in itself lead to future occupants of the new dwelling storing bins at the front of the properties, given the short distance that they would have to cover when moving the bins on waste collection day via this alleyway. Both properties would also have outside space to the rear where other residential paraphernalia such as chairs, tables, washing lines and sheds etc. could be contained and therefore these features need not be apparent from the public realm. The site would not appear overdeveloped or unsightly in this regard for these reasons.
7. The new dwelling would substantially infill an existing gap between No 27 and the property at the corner of this road. However, this space is short in depth, and it is diminished further by its high side and rear boundaries, such that this anomalous feature has limited presence in the street scene. The infilling of this space would therefore not result in a harmful loss of an existing important gap in the street scene, nor would it disrupt any consistency of space and gaps in the built form on this part of John Buchan Road, where these are not positively distinctive features.
8. The subdivided existing rear garden would result in two smaller garden spaces. However, the space to the rear of the existing and new dwellings would remain as gardens, albeit with an alleyway to the side and an additional enclosing boundary. The relatively undeveloped space to the rear of these properties would be retained and this layout and pattern of development in the vicinity of the appeal site would not be harmfully altered in this regard.
9. The rear of the new dwelling would be close to the existing rear boundary wall and therefore the plot depth at this aspect would be shorter than other properties comprising the terrace. However, this proposal would result in the utilisation of an already anomalous existing space. The changes at this space

would be confined to the end of the terrace so that it would not harmfully disrupt the linear layout of the body of the existing terrace. The depth of the new dwelling's plot would also only be apparent at immediate neighbouring properties. I find that the proposal's impact on the street's character, in this regard, would be negligible for these reasons.

10. I therefore find that the proposal would not have a harmful effect on the character or appearance of the area. Consequently, it would not conflict with Policies RE2, DH1 and G6 of the Oxford Local Plan (Local Plan). These collectively state that planning permission will only be granted for development of high quality design that creates and enhances local distinctiveness, and amongst other matters, require development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford. It would also not be inconsistent with the National Planning Policy Framework (The Framework) which seeks well-designed places.

Living Conditions

11. Policy H16 of the Local Plan requires that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. The supporting text of the Policy clarifies that flexibility is also important so that design can respond to the often complicated needs of infill development.
12. The proposed patio area immediately to the rear of the new dwelling, as well as providing space for bin storage, would be limited to a small outside seating area or a space to dry clothes given its size. However, the additional rear outside space would be of a suitable size and shape to allow future occupants of the new dwelling reasonable circulation around it and for people to dine, to dry clothes and/or for children to play if need be. In these respects, the combined outside spaces would be proportionate in size to the proposed small dwelling and useable for the purposes intended. The outside spaces would also benefit from a south easterly aspect and would be pleasant spaces to use in this regard.
13. The additional rear outside space would be accessed by an alleyway, which is not a common feature in the layout of existing residential plots in the area. However, the proposal would result in outdoor space to the rear of the new dwelling, and in this regard, it would be generally in keeping with surrounding properties. Moreover, although this outside space would not flow from the patio area at the rear elevation of the dwelling, it would be less than 20m from this patio.
14. The alleyway providing access would be narrow with right angle turns. But it seems to me, given this short distance between the dwelling and the outside space, it would not be unacceptably awkward for future occupants to carry washing or other items to use in the space or to carry equipment that would help maintain it. I also note the separate covered space, shown on the plans, at the side of the new dwelling would negate the requirement to wheel bikes along this alleyway. The proposal, for the reasons outlined, would provide sufficient and a practical, useable outside space to allow future occupants of the dwelling to carry out activities that would reasonably be expected in such a garden space.

15. The outside space would be overlooked by occupants of surrounding dwellings, particularly from the first floor level of nearby dwellings. But this space, which is currently part of the private garden space of No 27, can already be overlooked from these surrounding properties given the relatively close knit, linear pattern of development in this area. The degree to which this space would be overlooked would be little different to the degree of overlooking that occupants of the existing dwelling already experience when in this space, and the extent of this overlooking is what would be expected in such a suburban setting.
16. Furthermore, the use of the alleyway accessing this outside space would be limited to the occupants of No 27 and the new dwelling. The submitted plans also show that this outside space would be bound on all sides and for the sole use of occupants of the new dwelling and therefore private in these respects. The presence of the alleyway for these reasons would not in itself result in this space feeling significantly less private than surrounding gardens.
17. Occupants of the new dwelling would not have clear view of the additional outside space from the ground floor elevation of the new dwelling. In this regard it would not be a space that a parent would be content to leave small children unsupervised, and this would limit its usefulness for some families. However, this would be a one-bedroom dwelling, not designed for a family with children and therefore this would not likely be an issue in this case.
18. For the reasons outlined I find that the proposal would provide satisfactory living conditions for future occupants of the new dwelling, with regards adequate and convenient private garden space. It would be consistent with Policy H16 of the Local Plan which sets out outdoor amenity space standards for the area.

Other Matters

19. My attention has been drawn to an appeal decision relating to a previous proposal. The proposal was for 2 flats and distinctly different in this regard from this proposal. The decision was also made in a different policy context than the proposal before me. It has not altered my findings in this case for this reason.

Conditions

20. The Highways Authority requested a condition relating to alterations to the public highway. However, while the approved plans include alterations to the existing frontage of the property, there is no indication that this would require additional works to the highway. Moreover, if required this could only be undertaken with approval from the Highways Authority and Planning Practice Guidance (PPG) states that conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Given these circumstances, I therefore do not consider it necessary to impose a condition covering this matter in this case.
21. The conditions I have imposed are based on those suggested by the Council. Where necessary I have altered the suggested wording to ensure the conditions are clear and effective.
22. In addition to the statutory requirement time limiting the consent, a condition is necessary requiring that the development must accord with the approved

- plans in the interest of certainty. A condition controlling the materials to be used is necessary to protect the character and appearance of the area.
23. A condition requiring obscured glazing for the first-floor bathroom windows of the existing and new dwelling is necessary to protect the privacy of occupiers of the neighbouring properties.
24. I have had regard to the PPG on other regulatory regimes when considering the suggested water consumption condition. However, in the case of water efficiency the standard referenced is optional. Furthermore, Policy RE1 of the Local Plan state that this would be required in respect to new residential development. It would be relevant to planning in this regard and therefore would be reasonable in this case.
25. Conditions for approval of the bike and bin storage facilities are necessary in the interest of certainty and to protect the character of the area.
26. A condition securing practicable biodiversity enhancements is consistent with the requirement of Local Plan Policy G6 and is reasonable in this respect. However, given the details in the application regarding the nature of the site I find no reason for requiring the details of this matter to be submitted prior to the development commencing.
27. A condition ensuring the dwelling is constructed compliant with the energy gains set out in the submitted Energy Statement is necessary for certainty.
28. Approval of the boundary details is necessary in the interest of the character and appearance of the area, and to protect the living conditions of occupants of the existing and new dwelling.
29. The appeal site is within the Cowley Marsh Controlled Parking Zone and Policy M3 of the Local Plan seeks car-free development in these areas. Therefore, a condition ensuring that future occupants of the property are excluded from obtaining a permit for on-street parking is consistent with the objectives of Policy M3 and is reasonable and necessary for this reason. The condition has been amended, in consultation with the main parties in this appeal, to reflect the local approach to securing this outcome and to ensure it is effective.
30. A drainage condition is necessary to ensure appropriate management of surface water arising from the new development.
31. The Council considers that the removal of permitted development rights is necessary, as minor changes to, and enlargement of the new dwelling should be subject to further consideration to safeguard the appearance of the area.
32. The Framework at paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. While the appeal site is small, permitted development carried out under Classes A and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) take the size of the curtilage into account. However, roof alterations have the potential to significantly increase floor space at a property and this could include an increase in the number of bedrooms. Given the circumstances at this site outlined above, it is reasonable that such enlargements should be subject to further consideration. I therefore find that it is necessary in this case

to remove permitted development rights which allow roof alterations in the interest of residents' living conditions and the character of the area.

Conclusion

33. My findings above lead me to conclude that the development is in accordance with the development plan as a whole and all relevant material considerations, including the Framework. Therefore, the appeal is allowed.

A J Sutton

INSPECTOR

Appendix

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:
Location Plan KSA/1182/PL/06, Block Plan KSA/1182/PL/07, Proposed Elevations KSA/1182/PL/05 Rev. A, Proposed Ground Floor Plan & External Layout KSA/1182/PL/03 Rev.3, Proposed First Floor Layout KSA/1182/PL/04 Rev. A, and Proposed & Existing Drainage KSA/1182/PL/08.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials outlined in the application hereby approved and retained as such thereafter.
- 4) First floor windows, that serve bathrooms/shower rooms, on the rear elevation of the development hereby permitted, shall be fitted with obscured glazing and retained as such thereafter.
- 5) The new dwelling hereby permitted shall be constructed to comply with the 2013 Building Regulations Part G2 water consumption target of 110 litres per person per day.
- 6) Prior to works above slab level in the development hereby permitted, a scheme of ecological enhancements shall be submitted to and approved 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 new dwelling and retained thereafter.
- 7) Prior to occupation of the new dwelling hereby permitted, the energy efficiency measures detailed in the Energy Statement (dated 20 September 2021) shall be installed in the new dwelling and thereafter maintained and retained.
- 8) The new dwelling shall not be occupied until details of and provisions for the bike storage facility has been submitted to and approved in writing by the Local Planning Authority. The approved bike storage shall then be provided on site prior to the first occupation of the new dwelling and retained thereafter for the purposes of bike storage only.
- 9) The new dwelling shall not be occupied until details of and provisions for the bin storage has been submitted to and approved in writing by the Local Planning Authority. The approved bin storage shall then be provided on site prior to the first occupation of the new dwelling and retained thereafter for the purposes of bin storage only.
- 10) The new dwelling shall not be occupied until details of the boundary treatments has been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall then be

provided on site prior to the first occupation of the new dwelling and retained thereafter.

- 11) The new dwelling hereby permitted shall not be occupied until the Order governing parking at the new dwelling on John Buchan Road hereby permitted has been varied by the Highway Authority to exclude the new dwelling, subject to this permission, from eligibility for residents and visitor parking permits.
- 12) The development hereby permitted, including roofs, driveways, and patio areas shall be drained using Sustainable Drainage measures (SuDS). This may include the use of porous pavements and infiltration, or attenuation storage to decrease the run-off rates and volumes to public surface water sewers and thus reduce flooding. Soakage tests shall be carried out in accordance with BRE Digest 365 or similar approved method to prove the feasibility/effectiveness of soakaways or filter trenches. Where infiltration is not feasible, surface water shall be attenuated on site and discharged at a controlled discharge rate no greater than prior to development using appropriate SuDS techniques and in consultation with the sewerage undertaker where required. If the use of SuDS are not reasonably practical, the design of the surface water drainage system shall be carried out in accordance with Approved Document H of the Building Regulations or its equivalent. The drainage system shall be designed, installed, retained and maintained to remain functional, safe, and accessible at the dwelling hereby permitted, thereafter.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order amending, revoking and/or re-enacting that order, with or without modification), no development falling within Classes B and C, Part 1 of Schedule 2 of the said Order shall be carried out without subsequent planning approval of the Local Planning Authority.