



Appeal Decision

Site visit made on 5 January 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/G3110/W/22/3305180

480 Banbury Road, Oxford, Oxfordshire OX2 8EN

- 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 Chris Bright, Oxhold Limited, against the decision of Oxford City Council.
 - The application Ref 22/00547/FUL, dated 3 March 2022, was refused by notice dated 25 May 2022.
 - The development proposed is 'Construction of a 2-bedroom detached dwellinghouse (C3 use) to be known as 480a Banbury Road with associated amenity, secure bicycle parking and recycling and refuse storage provisions'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the appeal form, as opposed to the original application form. This is in the interest of brevity and accuracy.

Main Issues

3. The main issues are the effect of the proposal on: a) the character and appearance of the surrounding area; b) the living conditions of existing and future occupiers; and c) biodiversity.

Reasons

Character and Appearance

4. The appeal site consists of a narrow strip of land running between nos. 480 and 482 Banbury Road. The plot largely comprises a dry disused ditch and contains some limited scrub/vegetation. The land is open to no. 480, adjoining its front garden as well as running along the side of the dwelling, albeit at a slightly lower level. The site is set behind a mature hedgerow but remains visible from public vantage points along Banbury Road.
5. Banbury Road is a heavily trafficked arterial route into the city. It covers a significant length and therefore its character is rather diverse. Nevertheless, the section in which the appeal site sits is residential in nature and contains primarily detached or semi-detached dwellings. For the most part, the dwellings in the surrounding area do not have a consistent style of design. However, a common feature of the properties in the immediate vicinity is that they tend to be of a generous size and sited within relatively sizeable plots,

typically set back from the highway. Although some houses are sited quite close together, the general scale and layout of buildings still achieves a spacious character.

6. The proposed development would be located on a tight, narrow plot. Due to the limited scale of the plot, the proposed dwelling would be narrow in width and appear far smaller than the majority of dwellings in the surrounding street scene. This narrow width, together with the limited separation distance between the property and the neighbouring dwellings at nos. 480 and 482, would combine to make the proposal appear as a cramped form of development. This cramped and rather contrived appearance would be further accentuated by the comparatively substantial scale of neighbouring properties.
7. The proposed building line, use of materials, and use of design cues taken from the nearby built form would not successfully assimilate the proposal into the streetscene, given its overall scale and cramped appearance.
8. The appellant has provided examples of other schemes for small scale infill dwellings that have been approved, as well as wider types of developments nearby to demonstrate the area has a mixed character and appearance. I do not know the circumstances of each of these developments, including their planning histories. Nevertheless, they occupy slightly differing contexts, whilst the current proposal would remain at odds with the built form in which it would be viewed against. As such, my view does not turn on the examples provided by the appellant.
9. The presence of a mature hedge to the front of the property alongside additional planting may restrict views of the proposed development, however, it is likely to remain visible from public vantage points. In any case, I do not consider the use of vegetation to screen inappropriate development offers suitable mitigation, especially since such planting cannot be guaranteed in perpetuity.
10. Overall, the proposal would appear out of context with its immediate surroundings. Although reasonably localised in its extent, the effect of the scheme would be to unacceptably harm the character and appearance of the area. Accordingly, the development would not comply with Policies S1 or DH1 of the Oxford Local Plan 2036 (adopted 2020) (the 'OLP'). Together these policies, set out a presumption in favour of sustainable development and require that proposals are of a high-quality design that create or enhance local distinctiveness. The proposal would also conflict with the aims of OLP Policy RE2 which seeks to ensure that development makes efficient use of land in a manner that is compatible with the surrounding area.
11. I also find conflict with the aims of Section 12 of the National Planning Policy Framework (the Framework) in respect of promoting high-quality development and well designed places.
12. From the evidence before me, it is unclear whether the appeal site forms part of the garden of no. 480. As such, I am not convinced that Policy G6 of the OLP, which relates to the development of garden land, is applicable in this instance. However, it remains that the proposal conflicts with the policies referred to above.

Living Conditions of Existing Neighbours

13. Even if the proposed development were considered to reduce the available garden space of no. 480, that property would retain sufficient, useable, outdoor amenity space to serve its occupants. No. 480 would also continue to have a broadly comparable plot size to neighbouring dwellings. Furthermore, the condition of the appeal site land, along with its position relative to the remaining garden land at no.480, is such that it is unlikely to be frequently used by the existing residents, if indeed it does form part of the curtilage to the existing dwelling.
14. The proposal would introduce a single storey element near the rear garden boundary with no. 482. Despite its proximity to the boundary, the overall height and scale of the single storey element would not give rise to overbearing impacts or loss of outlook to that neighbouring property. Meanwhile, the 1.5 storey element of the proposed dwelling would largely be situated between the flank walls of the adjacent dwellings, such that no harmful overbearing impacts or loss of outlook would arise.
15. The use of rear garden space adjacent to neighbouring dwellings is a fairly typical occurrence, even, where homes may be served by large gardens. Furthermore, the proposed development's rear garden is of a size and configuration that is unlikely to be heavily used or accommodate several persons at any one time. Accordingly, the proposed layout of the private amenity space is also not deemed to be harmful to the living conditions of neighbouring residents, including in terms of noise and disturbance.
16. Additionally, concerns raised regarding the potential for loss of privacy, arising from the proposed first-floor rear stairwell window, could be suitably dealt with via a planning condition on the grant of any planning permission.
17. I am therefore satisfied that the proposal would not result in harmful impacts on the living conditions of neighbouring residents. Consequently, in regard to the second main issue, I find no conflict with the relevant provisions of Policies RE2, RE7 and H14 of the OLP. Together the policies, amongst other matters, seek to ensure that new development is designed so that it is compatible with its surroundings and that the amenity of communities, occupiers, and neighbours are protected.
18. The Council's decision notice also refers to Policy RE1 of the OLP, but I do not find this directly applicable to this main issue.

Living Conditions of Future Occupiers

19. Policy H15 of the OLP establishes that all proposals for new build market homes must comply with the Nationally Described Space Standards (2015) (the NDSS).
20. There is debate regarding whether the Gross Internal Area (GIA) of the proposed dwelling would meet the NDSS. The Council contends that the property should be considered as a two-bedroom unit for 4 occupants, whereas the appellant highlights that it would be a two-bedroom unit for 3 occupants and therefore subject to a reduced floorspace requirement. Either way, the proposal is relatively close to the required standards for a four-person dwelling and is also configured in a manner that is conducive to everyday living. I am also content that habitable rooms would be served by adequate natural light.

As such, even if there were conflict with this aspect of the policy, I am satisfied in this instance that no harm would arise. Likewise in respect of indoor space, the proposal would not conflict with Policies S1, DH1 or H14 of the OLP.

21. Turning to the provision of outdoor amenity space, there is no dispute that the overall quantum of space to serve the proposed dwelling is appropriate. Although Policy H16, relates specifically to outdoor amenity space standards, it does not define the location where garden space should be provided. The policy does however identify several criteria in which to determine whether outdoor amenity space is of suitable quality. This includes consideration of the location and context of the development in relation to the existing layout of residential plots, the degree to which garden space may be enclosed or overlooked, and the useability of the space.
22. In this instance, the proposed rear garden is of such a diminutive size and narrow layout that it is unlikely to be of significant practical use. The main useable garden space would therefore sit to the front of the property, this appears to be in marked contrast with surrounding development. In coming to this view, I note that no. 482 has a larger front garden than rear, but unlike the appeal scheme, it still has a private rear garden that is of a scale that can comfortably accommodate a range of activities.
23. The location of the main garden at the front of the proposed scheme, alongside the busy Banbury Road, is also unlikely to result in an enticing space in which to spend time and relax, or for children to play. Additionally, despite the presence of existing vegetation and potential further planting, the proposed front garden is also likely to offer very little privacy to its users. This is due to a combination of overlooking from the adjacent properties as well as some visibility from the public highway. As such, I consider the outdoor amenity space that the appeal scheme would provide is of insufficient quality.
24. The Council has also referred to the cramped nature of the proposed garden due to its inclusion of cycle and refuse storage space, but I am less concerned by this issue subject to the precise design of the storage facilities.
25. The appellant has also referred to a relatively recent decision of the Council¹ in which a dwelling has been approved served primarily by a garden to the front of the property. However, I have very limited details of that scheme, or its context, and it does not provide justification for the proposal before me.
26. Overall, the proposal would provide inappropriate living conditions to future occupiers due to the inadequate provision of private, useable outdoor space. The scheme is therefore contrary to Policies S1 and DH1 of the OLP.
27. Although not stated in the decision notice, the proposal would also be contrary to Policy H16 of the OLP, which both main parties have referred to in their appeal submissions. However, similarly to the first main issue, I am not convinced that Policy G6 of the OLP (referred to by the Council) is applicable in this instance.

¹ Application Reference 22/00982/FUL

Biodiversity

28. At the time of my site visit, the appeal site contained limited vegetation. This primarily consisted of the hedgerow to the front of the site, that is proposed to be retained, as well as recently cut brambles and patches of scrub.
29. The Council is satisfied with the proposed ecological mitigation that the appellant has put forward. However, it has indicated that the site had previously contained trees which have been removed and that the proposed development does not suitably mitigate for their loss.
30. I note the Council's reference to the previous condition of the land, albeit I have no detailed information about the vegetation that was to be found on the site or its biodiversity value. The Council also acknowledged the previous removal of trees from the site did not require planning permission. As such, the proposal must be considered based on the current condition of the site.
31. Accordingly, based on the information before me I am satisfied that the proposal would comply with the aims of Policies G1, G2, G7 and G8 of the OLP. The policies together provide support for the protection and enhancement of biodiversity, notably, green and blue infrastructure networks. This includes not allowing for the loss of features such as hedgerows and trees where it would have significant adverse impacts on public amenity or ecological interest. Likewise, the proposal is not deemed to conflict with Paragraph 175 of the Framework with respect to maintaining green infrastructure.

Other Matters

32. The delivery of a new house would make a limited but beneficial contribution to the supply of housing in the area. It would also be capable of providing a variety of other modest social and economic benefits associated with the development of a new home in a sustainable location. However, I do not consider these benefits would outweigh the harm that I have identified.
33. I recognise that the Council's development plan emphasises the need to make efficient use of land, including through increasing housing densities within the city. However, development still needs to respect the character and appearance of its locality, while increased densities should still provide appropriate living conditions for future residents.
34. Having regard to the evidence before me, including definitions provided within the OLP and the Framework, I do not consider the proposal would involve previously developed land (PDL). However, even if it were to involve PDL, this would not overcome the concerns raised above.
35. I note the appellant's frustrations with the manner in which the Council dealt with the application, including the availability of the officer's report, but the appeal has been determined on its own merits.

Conclusion

36. The appeal scheme conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. Therefore, for the reasons given above and considering all other matters raised, the appeal is dismissed.

Lewis Condé

INSPECTOR