



Appeal Decision

Site visit made on 16 May 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2023

Appeal Ref: APP/G3110/W/22/3306865

2A Wingfield House, Gathorne Road, Oxford, Oxfordshire OX3 8NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs Grant against Oxford City Council.
 - The application Ref 22/01461/FUL, is dated 15 June 2022.
 - The development proposed is erection of a two and a half storey building to provide 2 apartments, 1x1 bed and 1x2 bed with provision of off-street cycle and bin storage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal follows the Council's failure to determine the application Ref 22/01461/FUL within the prescribed period. However, the Council has indicated in its statement, that had it been in a position to determine the application, it would have refused planning permission. The substance of the Council's statement has informed the main issues of the appeal.

Main Issues

3. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the living conditions of occupants would be acceptable, with regard to the provision of outdoor amenity space.
 - The effect of the proposal on the living conditions of neighbouring occupiers, with respect to loss of light, outlook and privacy.
 - Whether the proposal would make adequate provision for appropriate cycle storage.

Reasons

Character and Appearance

4. The appeal site comprises a hard surfaced parking area with a fence-lined boundary positioned to the western side of Wingfield House, and garden land to the rear of 141 and 143 Windmill Road. Due to the open nature of the site, the appeal site in its present form makes a positive contribution to the character and appearance of the area.

5. The site is located on Gathorne Road and close to the corner junction of Windmill Road. Gathorne Road and the nearby streets are characterised by traditional period housing fronting onto the road.
6. The prevailing pattern of development nearby is characterised by residential properties that feature long private rear gardens. While the sizes of the plots may differ, the end corner plots typically enjoy more generous surrounding space compared to the other dwellings. These spacious garden areas, combined with the houses being set back from the road, contribute to an overall sense of openness in the vicinity.
7. The proposed development would extend nearly the entire width and depth of the site, with its side and rear elevations protruding beyond the established boundaries of the rear gardens of 141 and 143 Windmill Road. As a result, a substantial and imposing structure would be situated in close proximity to these neighbouring residential gardens, creating a significant bulk and mass in the area.
8. Furthermore, the proposed side elevation would have a bland, predominantly plain brick appearance. When observed from the junction of Windmill Road and Gathorne Road, this additional building, extending abruptly to the site's boundary, would stand out as an incongruous structure, disrupting the expanse of gardens that currently offer visual balance and harmony. Additionally, due to the plot's size, its location, and the scale of the development, the proposed development would seem cramped and inconsistent with the existing patterns of development in the surrounding area.
9. Consequently, the location, size, and overall mass of the proposed development would be out of keeping with the prevailing pattern of the existing development in the nearby vicinity. Moreover, the presence and substantial size of the proposed development would harmfully diminish the sense of openness that characterises this prominent location.
10. The proposed development would be of a similar height to Wingfield House and have the same roof shape. It would also include sympathetic detailing and materials respectful of Wingfield House that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified.
11. The appellant has drawn my attention to the plot opposite the appeal site, which contains two detached garages. However, these garages are of narrower footprint and lesser bulk when compared to the appeal building. These garage buildings are therefore not directly comparable to the proposal before me which is for a larger building.
12. My attention is also drawn to a property on Gathorne Road with a side garden. Although this is an exception, the overriding character of the area is a well-established rear garden environment. In any event, I have determined this appeal on its own merits based on the information before me and my own observations of the area.
13. Therefore, for the reasons given, the proposed development would have a harmful effect upon the character and appearance of the area. As such, the proposal would fail to accord with Policies DH1, RE2 and G6 of the Oxford Local Plan (2020) (Local Plan). Amongst other things, these policies seek to ensure

development enhances local distinctiveness and is compatible with the site itself and the surrounding area, taking into account the scale, layout and spacing of existing and surrounding buildings. The proposal would also fail to accord with Policies CIP1, CIP3 and GSP4 of the Headington Neighbourhood Plan (2017). Collectively, these policies amongst other things, seek to ensure new development respects and enhances existing local character.

14. The proposal would also conflict with the design objectives of the National Planning Policy Framework (Framework), which seeks to ensure developments are sympathetic to local character.

Living Conditions with regard to outdoor amenity space

15. Policy H16 of the Oxford Local Plan (2020) (Local Plan) states 1 or 2 bedroom flats and maisonettes should provide either a private balcony or terrace of usable level space, or direct access to a private or shared garden.
16. The proposed development would not provide either a private balcony or terrace of usable level space but would instead share the existing outdoor amenity space to the rear of Wingfield House. The outdoor amenity space would be accessed via a pathway to the side of Wingfield House and to the rear of the building.
17. The submitted plans indicate a notable lack of outdoor amenity space surrounding the proposed development. Although the future occupants would have access to a shared amenity space located at the rear of Wingfield House, the occupants of the proposed development would not have direct and convenient access to this existing shared outdoor area. The proposed positioning of the development to the side elevation of the existing Wingfield House would necessitate an inconvenient process for the future occupiers. They would be required to exit their main entrance door, traverse a narrow pathway along the side of Wingfield House, and then enter the garden located at the rear of the building. Consequently, the occupiers would be unable to access any outdoor amenity space immediately from their property, resulting in a lack of seamless connection between their indoor and outdoor spaces.
18. This fragmented arrangement would pose difficulties for future occupiers in carrying out daily activities such as clothes drying or enjoying garden activities and relaxation with outdoor seating. The impracticality is especially pronounced for the occupants of the maisonette, who would need to navigate a flight of stairs before reaching the narrow and elongated route leading to the outdoor amenity space. Furthermore, this disjointed setup would not provide a practical or secure environment for children to play freely without constant supervision, especially for those residing in the first-floor maisonette.
19. Consequently, the proposal would yield an indirect outdoor amenity space that is disconnected from the proposed development. Such a configuration would prove neither convenient nor practical for future occupiers. This would result in a poor standard of outdoor amenity space being provided by the proposal.
20. I acknowledge that there are recreational spaces within a reasonable walking distance of the appeal site. However, the Local Plan is clear that developments must provide some form of 'private' amenity space. As the recreational spaces are public spaces they would be shared with non-residents and are therefore not a private space.

21. The Council has raised concerns about the amount of outdoor amenity space for existing occupants of Wingfield House. The proposal would re-landscape and alter the layout of the existing outdoor amenity space to the rear of Wingfield House. Nevertheless, the size of the space would remain the same as the existing. Whilst the outdoor amenity space would be shared by occupants of the proposed two additional flats, given the size and shape of the space it would still be a usable space and would not represent over-intensification. Therefore, based on the information before me, I am satisfied that the proposal would provide an acceptable amount of outdoor amenity space for the existing occupiers of Wingfield House.
22. For the reasons given above, the proposal would not provide adequate living conditions for the future occupants of the proposed development having regard to outdoor amenity space. As such, the proposal would fail to accord with Policies H16 of the Local Plan, which amongst other things, seeks to ensure development has direct and convenient access to a private or shared outdoor amenity space. It would also fail to accord with Policy RE7 of the Local Plan, which amongst other things, seeks to ensure the amenity of occupiers is protected.
23. In addition, the proposal would fail to accord with the Framework (para 130), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Living Conditions of neighbouring occupiers

24. The proposal would include a high-level habitable room window to the western side elevation of the maisonette. The neighbouring properties at 141 and 143 Windmill Road (No 141 and No 143) have several existing windows in their rear elevation, some of which serve as habitable rooms. The positioning of the proposed side elevation window would directly face the rear upper floor habitable room window of No 141. Moreover, the gap between the proposed development and the rear elevation of No 141 is estimated to be around 10 metres, which falls short of providing an adequate separation distance. Consequently, this arrangement would significantly compromise the privacy of the occupants of No 141.
25. A condition could be imposed to secure the height position above internal floor level for the proposed high-level habitable room window of the maisonette, and to ensure it is obscure glazed. However, a high-level obscure glazed window would result in an undesirable reduction of both outlook and natural light entering the habitable room of the proposed development.
26. Moreover, the inadequate separation distance between the proposed development and the neighbouring properties at No 141 and 143 would result in a loss of privacy to their rear garden spaces. Additionally, the proposal would represent a significant mass of built form, located uncomfortably close to both No 141 and 143. As a consequence, the influx of natural light into the rear gardens of No 141 and 143 would be diminished, owing to overshadowing caused by the imposing presence of the proposed development.
27. Consequently, the proposed development would assume a dominating presence when viewed from the windows and rear gardens of No 141 and 143, creating an enclosing effect. This intrusive aspect would lead to a considerable loss of

light and diminished outlook, harmfully compromising the quality of living conditions for the occupants of these neighbouring properties.

28. Although No 141 and 143 currently have views of Wingfield House, the proposed development would result in a significantly reduced degree of separation distance. As such, it would have a more substantial impact on the overall privacy and visual dynamics between the properties.
29. For the reasons given, the harm caused by the loss of light, outlook and privacy would be unacceptable to neighbouring occupants living conditions. As such, the proposal would fail to accord with Policies RE7 and H14 of the Local Plan. Collectively, these policies seek to ensure that the amenities of neighbouring occupiers are protected, and that new development provides reasonable privacy, daylight and sunlight for neighbouring occupants.

Cycle storage

30. Concerns have been raised regarding the adequacy of information provided regarding cycle storage in relation to the proposed development. However, there is currently no definitive evidence indicating that it would be unfeasible to sufficiently accommodate cycle storage within the proposed development. Neither Policies M5 or DH7 of the Local Plan explicitly prohibit the conditioning of final details pertaining to these matters in the event that planning permission is granted. Consequently, the proposed development would not be in direct conflict with these policies.

Other Matters

31. The proposal would make a small contribution to the delivery of housing for the area and would make efficient use of land on a site that is in a sustainable location. However, these modest benefits would not be sufficient to outweigh the harm I have identified.
32. Letters of objections have been received from local residents. In addition to matters I have addressed above, the letters of objection raised other concerns including ecological impact, pollution, and lack of parking. These other factors are not in dispute between the main parties and as I am dismissing the appeal, I do not need to give these matters further consideration.
33. The proposal would provide some biodiversity benefits through the provision of a bird box and the planting of native plants and hedging. Although a matter of note, it does not outweigh my findings in respect of the harm identified.
34. My attention has been drawn to a previous planning permission on Margaret Road (21/03220/FUL). However, unlike the proposal before me, this other scheme would not result in any undue loss of light, outlook or privacy to neighbouring occupiers. Additionally, the scheme would be placed on the site of existing garage units, thereby replacing an existing built form. Thus, this previous permission is not directly comparable to the current appeal. Its relevance is therefore limited for the purposes of my determination of this appeal.

Planning Balance

35. I have found no harm in respect to cycle storage. However, this is a neutral effect and does not outweigh the harm resulting from the other main issues.

36. Although there would be some benefits to the proposal, as set out above, these benefits would attract only limited weight and would not outweigh the harm identified.
37. The appellant claims that the Council may not have a 5-year housing land supply (5YHLS). Nevertheless, even if I were to conclude there is a shortfall in the 5YHLS as suggested by the appellant, the harm I have found arising from this proposal is so significant that the adverse impacts of granting permission relating to the main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

38. The proposal would conflict with the development plan as a whole, and there are no other considerations worthy of sufficient weight, including the provisions of the Framework, which would outweigh this finding. Therefore, I conclude that the appeal is dismissed and planning permission is refused.

Helen Smith

INSPECTOR