



Appeal Decision

Site visit made on 5 June 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/Q3115/W/23/3315306

Land at Newtown Road, Newtown Road, Henley on Thames RG9 1HG

- 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 Knole Homes Ltd against the decision of South Oxfordshire District Council.
 - The application Ref P22/S2545/FUL, dated 8 July 2022, was refused by notice dated 14 October 2022.
 - The development proposed is Erection of a terrace of 3 dwellings (1 x 2 bed, 1 x 3 bed, 1 x 4 bed).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties have set out the relevant planning history related to the site, which includes a previous appeal decision¹. This earlier appeal related to the erection of two 2 bedroom houses and was allowed. I have had regard to this appeal decision insofar as it is relevant to the development before me now.
3. Policy DQS1 of The Joint Henley and Harpsden Neighbourhood Plan (JHHNP 2016) has been cited in the first reason for refusal. However, in December 2022, the latest version of the JHHNP (2022) was 'made'. The main parties agree that Policy DQS1 of the JHHNP 2016 has been superseded by Policy SD3 of the JHHNP 2022. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposal upon the living conditions of the occupants of 303, 305 and 307 Reading Road, with respect to outlook and privacy; and
 - the effect of the proposal upon the character and appearance of the area.

Reasons

Living Conditions

5. The appeal site consists of a parcel of land situated to the northwest of Newtown Road, close to its junction with Reading Road. It currently comprises

¹ Appeal Reference APP/Q3115/W/18/3208117, dated 9 April 2019

- a disused area of tarmac and part of the existing rear garden serving 307 Reading Road, one of 8 terraced properties which lie to the northwest. The Reading Road properties have long, narrow rear gardens which extend towards the Newtown Road Industrial Site, which is to the northeast of the appeal site.
6. On my site visit, I noted that it was common for sheds and outbuildings to be sited in the rear half of the narrow Reading Road gardens. I appreciate that the section of the rear garden closest to the houses of 303, 305 and 307 Reading Road offers the most amenity value to the occupants. However, this does not automatically render the remainder of the rear gardens as unworthy to protection, particularly as they are narrow.
 7. Figure 26 of the Council's Supplementary Planning Document 'Joint Design Guide' (2022) (the SPD) states that there should be a minimum of 10m between the rear elevation of a dwelling and a neighbouring garden boundary for private amenity. As stated by the appellant, the proposed rear elevations are sited between 6.6m and 8.4m from the boundary with No 305. Consequently, the proposal would conflict with this requirement of the SPD.
 8. Whilst the weight to be attached to an SPD is open to interpretation, they are capable of being a material consideration and can be used to provide further guidance on particular issues, as set out in the glossary of the National Planning Policy Framework 2021 (the Framework). In these circumstances, the proximity of the 7 first floor rear windows of the proposal that would look directly over the boundary with No 305, would materially harm the privacy levels the occupants of No 305 currently enjoy. I note that No 305 appears to have a number of large sheds in their rear garden. But this would not outweigh the harm to privacy that I have identified.
 9. In regard to the outlook for the existing occupants of No 305, whilst the distance is not considered sufficient to protect privacy, it is considered that the distance from the boundary and the relationship with the dwelling and the rear garden would be sufficient to ensure that the outlook currently enjoyed by No 305 would not be materially harmed.
 10. Given the siting of the first floor windows on Unit 1, and its relationship with No 307, any overlooking would be at such an obscure angle, it is not considered that the privacy of No 307 would be materially harmed. The proposal would introduce 2 storey elevations in close proximity to the revised boundary with No 307. However, given the distance from the rear of No 307 and the size of the garden that would be retained, it is not considered that the proposal would be materially harmful to the outlook currently enjoyed by No 307, from either the rear garden, or the dwelling itself.
 11. The officer's report also cites harm to 303 Reading Road, but not in the reason for refusal. Given that the boundary to the existing garden to No 303 is over 10m away, the proposal would not harm the living conditions of the existing occupants of No 303, either in regard to privacy or outlook.
 12. The lack of objection from the occupants of the Reading Road properties does not alter or outweigh my findings above.
 13. Therefore, I am satisfied that the proposal would not harm the living conditions of the occupants of 303 and 307 Reading Road, in regard to both privacy and outlook, nor would the proposal harm the outlook currently enjoyed by the

occupants of 305 Reading Road. However, the proposal would harm the living conditions of the occupants of 305 Reading Road, with respect to privacy. Consequently, the proposal would be contrary to Policy DES6 of the South Oxfordshire Local Plan 2011-2035 (Local Plan) (adopted 2020), which states that proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses in relation to, amongst others, loss of privacy, daylight or sunlight.

14. It would also fail to meet the guidance within the SPD which seeks to protect neighbouring amenity. It would also conflict with paragraph 130 (f) of the Framework which states that development should have a high standard of amenity for existing users.

Character and Appearance

15. As briefly noted above, the appeal site is situated at the entrance to Newton Road Industrial Site, which consists of a number of large commercial and industrial buildings. 309 Reading Road, situated on the opposite side of Newtown Road, is a large detached flat roofed structure, a former commercial building and since converted to residential flats. The brick built terrace along Reading Road are also seen in the immediate context of the appeal site.
16. The height of the proposal, given the large scale of the existing and former commercial buildings that the proposal would be seen in the context of, would be appropriate to its immediate setting. It would also be a similar height to the residential properties along Reading Road. Consequently, the height of the proposal would be appropriate in the streetscene. Furthermore, the presence of the existing terrace along Reading Road would ensure that the bulk of the small terrace of 3 dwellings would be respectful of the character and appearance of the area.
17. The dwellings would be positioned forward of the building known as 'Broadway House' to the northeast. However, due to the variation in the existing building line of the buildings either side of Newtown Road, the height, siting and bulk of the proposal would not be incongruous to the area. Furthermore, I note that the extant permission for 2 dwellings, which has been implemented², would be sited slightly closer to the road than the proposal would be. I consider that there is a real prospect that this would be implemented and therefore, I attach material weight to this fallback position.
18. The siting of the development and its relationship with 'Broadway House' would also be acceptable as a gap would remain between the proposal and Broadway House, allowing the spatial character of the area to be unharmed. Whilst it is acknowledged that the side elevation of the proposed Unit 1 would be close to the boundary with No 307, it is considered that the layout has made the most efficient use of space on a fairly constrained site. The building depth relative to the plot depth would not be materially harmful to the local context.
19. The appeal scheme would therefore not cause harm to the character and appearance of the area. The proposal would be in accordance with Policies DES1 and DES2 of the Local Plan, which together seek to ensure that all new development is of a high quality design that uses land efficiently while respecting the existing local context, responding positively to the site and its

² Confirmed by lawful development certificate reference P22/S1006/LDE

surroundings, and physically and visually enhancing and complimenting the surroundings. The proposal would also accord with Policy SD3 of the JHHNP 2022, which requires development proposals to respond positively to the setting of the surrounding area, having regard to the character of adjacent buildings and spaces, including scale, orientation, height and massing.

20. It would also be in accordance with the advice contained within Section 5 of the SPD which requires development to respect the local context whilst striving for excellence in architectural quality and sustainability, whilst ensuring the scheme complements/responds positively to the character and local vernacular of the area.
21. The development is also in accordance with the principles within Chapter 12 of the Framework, which seek good design sympathetic to the local area. It would also be in accordance with the Planning Practice Guidance (PPG) in regard to design, which reiterates the requirement of the Framework and states that significant weight should be given to development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents.

Other Matters

22. There is a dispute as to whether the presumption in favour of development as set out by paragraph 11 (d) of the Framework would apply, given the JHHNP 2022 has become part of the development plan two years or less on which the decision is made. I return to this matter in my Overall Balance and Conclusion section below.

Overall Balance and Conclusion

23. I have found that the proposal would comply with Policies DES1 and DES2 of the Local Plan and Policy SD3 of the JHHNP 2022. However, I have found conflict with Policy DES6 of the Local Plan, by virtue of the harm to the living conditions of the occupants of 305 Reading Road, with respect to privacy. Therefore, the proposal would conflict with the development plan as a whole.
24. Set against this, the development would provide 3 dwellings, in a sustainable location, that would help increase local spending, and some additional green infrastructure. Moreover, it would generate some modest economic benefits through the creation of employment and the purchasing of materials and furnishings. I have also found no conflict with the development plan in terms of character and appearance of the area.
25. In these circumstances, even if the 'tilted balance' at paragraph 11 (d) of the Framework were engaged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
26. For the reasons given above, I conclude that the appeal should be dismissed.

Laura Cuthbert

INSPECTOR