



Appeal Decision

Site visit made on 20 June 2023

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/G3110/W/22/3307178

2 Charlbury Road, Oxford OX2 6UT

- 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 Jermaine Sharpe of The Dragon School against the decision of Oxford City Council.
 - The application Ref 22/00304/FUL, dated 3 February 2022, was refused by notice dated 29 July 2022.
 - The development proposed is described as "Amalgamation of 2 flats to create one dwellinghouse and associated internal and external alterations to building".
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Decision

1. The appeal is allowed, and planning permission is granted for the amalgamation of 2 flats to create one dwellinghouse and associated internal and external alterations at 2 Charlbury Road, Oxford OX2 6UT in accordance with the terms of the application, Ref 22/00304/FUL, dated 3 February 2022, subject to the following 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 2105-MEB-XX-XX-DR-A-2-210A; 211A; 310A and 311A.

Preliminary Matters

2. The application subject to this appeal sought planning permission for the amalgamation of two flats, known as Nos 2 and 2A Charlbury Road, back into a single dwellinghouse. A separate application for listed building consent to facilitate the change of use was approved by the Council on 21 July 2022 (Ref 22/00305/LBC).
3. The Council refers to two Lawful Development Certificate (LDC) appeals in which the respective Inspectors concluded the conversion of two dwellings into one single dwelling would constitute a material change of use for which planning permission would be required¹. The matters before me concern a refusal of planning permission, as opposed to an LDC application, which I must determine accordingly. Consequently, the appeal decisions are not relevant.
4. The property is owned by The Dragon School and is used to accommodate staff. The appellant suggests the use as two flats may not be lawful because there is no evidence of a relevant planning permission for a change of use into

¹ Ref APP/K5600/X/15/3141220 dated 3 August 2016 and APP/X5990/X/13/2190600 dated 20 August 2013.

two units. The appellant states the occupancy of No 2A has been sporadic, also sharing facilities on occasion with No 2. There is insufficient information for me to determine whether, on the balance of probabilities, the material change of use to two self-contained flats took place ten or more years ago, and that use continued after the date of change without significant interruption such that it would be too late to take enforcement action. Or that the use was lawful for some other reason. Similarly, it is beyond the scope of this appeal to reach a finding on whether the change of use back into a single dwellinghouse would be lawful because it would not constitute a material change of use for which planning permission would be required. As explained, I am required to determine the appeal before me. Nonetheless, I have taken the matter of lawfulness into account in the planning balance.

5. It is accepted that the development would preserve or enhance the character or appearance of the North Oxford Victorian Suburb Conservation Area and would preserve the listed building or its setting. There is no reason for me to find otherwise.

Main Issue

6. The main issue is whether the proposed development would cause harm to the housing stock and fail to deliver to mix of housing required to meet the needs of the city.

Reasons

7. The property forms one half of a pair of relatively large semi-detached houses, which has been used as two flats. No 2 comprises the ground floor and has three bedrooms and a bathroom on the first floor. No 2A is also arranged over two floors with living accommodation across part of first floor, and two attic rooms which could function as bedrooms. Access to both flats is via the main entrance. This requires sharing the entrance hall, the staircase and part of the first-floor landing. All external facilities are shared. I accept that the layout requires a degree of cooperation, which is facilitated by the occupants having a shared connection with the school. However, this arrangement may be more problematic if the flats were to be let to unconnected and unrelated occupiers.
8. The Council cites Policy H5 of the Local Plan (adopted 2020), which seeks to resist the loss of one of more self-contained dwellings subject to exceptions, one of which is where essential modernisation is required or to achieve space standards. The appellant argues that No 2A does not meet the definition of a dwelling contained within the glossary to the Local Plan, due to the shared nature of the access and staircase. However, 2A does contain separate cooking, washing and toilet facilities for use by the occupants of that unit only, and there is a lockable door on the first-floor landing. No 2 has a lockable door to the ground floor and a second to the first floor. It also contains all the facilities required for day-to-day private domestic existence. I am satisfied, therefore, that the policy is relevant.
9. It is further argued that the accommodation provided by 2A does not meet MHCLGs Nationally Described Space Standards (2015) based upon a four-person occupancy. According to the appellant's calculations, the accommodation provided is below standard, but only by a marginal amount. Having seen the premises, I do not agree that the accommodation is substandard in terms of the space standards or the shared garden. However, I

do accept that the layout is illogical, for example, the bedrooms at first floor level serving No 2 cannot be reached without using the shared access provided to 2A.

10. I find that the proposal would result in the net loss of one dwelling and there would be conflict with Policy H5. However, I must also consider whether there are any other considerations that would outweigh that conflict.
11. In the Officer report related the listed building application, the Council described the listed building (Nos 2-4 Charlbury Road) as an exceptional pair of substantial early twentieth century semi-detached dwellings. Its significance is considered to derive from the plan form and architectural detailing, and associations with a notable architect. The works pursuant to the listed building consent sought to remove unsympathetic works, some of which arose due to the subdivision. This included partitioning on the first floor landing and the installation of a second kitchen. In granting listed building consent, the Council found that the works would be beneficial as they would better reveal the significance of the listed building. I agree that the works approved are desirable and would have a positive impact on the listed building and its features of special architectural and historic interest. In addition, the proposal would be returning the property to the use for which it was first designed, which would assist in the interpretation of the listed building.
12. I accept that the arrangement is disjointed and unusual with No 2A requiring access through the occupants' space on the first floor within No 2. It is likely that further physical demarcation would be required to enable the flats to function independently. It may be that such works could be carried out sympathetically, but they would inevitably affect the significance of the listed building as the original single dwelling would be sub-divided. I give this consideration significant weight in the planning balance.
13. A further consideration is that the use as two separate units may not be lawful. It is unlikely that the Council would take enforcement action, but it may be problematic should the appellant seek to dispose of the flats to the open market. Given this background, and the explanations given by the appellant, it is probable that the property would remain in use as staff accommodation with intermittent use of No 2A as required. I accept that there is a proven need to secure a mix of residential accommodation across the city, but given the ownership circumstances and planning history, the impact on local housing need in this case would be minimal, in my judgement. Taking all matters into account, I find that the other considerations advanced outweigh the conflict with Policy H5 in this particular instance. Planning permission should be granted, therefore.
14. I have imposed the standard time limit condition and a plans condition to ensure the development is carried out as approved. I have not imposed the Council's suggested conditions relating to window/door details and services within the building since these matters concern the listed building consent.

Conclusion

15. For the reasons given above, the appeal is allowed and planning permission is granted.

Debbie Moore Inspector