



Appeal Decision

Site visit made on 27 June 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/G3110/C/22/3304386

Land at 43 William Street, Oxford, Oxfordshire OX3 0ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Toby Harris against an enforcement notice issued by Oxford City Council.
 - The notice, numbered 22/00126/ENF, was issued on 7 July 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the property on the Land from dwellinghouse within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) to short term let accommodation (sui generis use).
 - The requirement of the notice is to: cease the use of the property on the Land as short term let accommodation.
 - The period for compliance with the requirement is: 30 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision: The appeal is dismissed, and the notice is upheld.

Preliminary Matters

1. The Council has raised issues relating to the living conditions of nearby residents and highways safety in their statement. These do not form part of the reasons for issuing the notice and as such, I am not able to take them into account.

The appeal on ground (a) and the deemed application

2. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main Issue

3. The main issue is whether the appeal site is an appropriate location for the development with particular regard to the provision of housing and tourism accommodation.

Reasons

4. Policy H5 of the Oxford Local Plan (LP) outlines that planning permission will not be granted for any development that results in the net loss of one or more self-contained dwellings on a site except where it meets one of a number of circumstances. The supporting text states the aims of the policy is to ensure

that given the scale of the objectively assessed housing need in Oxford it will be important to ensure that the existing stock of homes is protected.

5. Occupancy records show that the appeal property has been used by families at times for varying lengths of stay and the use subject to the notice is still a form of residential use. Nonetheless, this is not as a dwellinghouse. That there may be a mix of residential uses in the street already is not a reason in itself to allow the loss of a further dwellinghouse and there is no compelling evidence before me to indicate the scheme meets any of the exceptions set out in H5. Therefore, while it relates to a single property, the current use has led to the loss of a dwelling, contrary to Policy H5.
6. Policy V5 of the LP states that planning permission will only be granted for the development of new sites for holiday and other short stay accommodation in certain locations including on Oxford's main arterial roads where there is frequent and direct public transport to the city centre. It also states that such development should not lead to the no loss of residential dwelling.
7. Marston Road, which is near the appeal site, and has public and non-car transport options that occupiers of the appeal site could utilise, is one of the roads specified in the policy. Nonetheless, William Street itself, where the appeal site is located is not specified in policy V5. Consequently, regardless of the quality of the accommodation, William Street is not on one of Oxford's main arterial roads. No clear evidence has been presented that the site is located in any of the other listed exceptions where new holiday or other short stay accommodation is permitted. In any event, and regardless of the quality of the management and accommodation itself, there is still a loss of a residential dwelling contrary to Policy V5.
8. The development contributes to the supply of a different form of short stay accommodation than hotels, providing economic and social benefits to the area from the associated spending of its occupiers. Nevertheless, in the absence of detailed evidence to the contrary, any such benefits would be small given the scale of the scheme. In addition, limited detailed evidence has been presented to demonstrate that the requirement for short stay visitor accommodation in Oxford is not being met.
9. Therefore, the appeal site is not an appropriate location for the development with regard to the provision of housing and tourism accommodation. It is contrary to Policies H5 and V5 of the LP where they aim to prevent the loss of dwellinghouses and direct tourism accommodation to certain locations.

Other Matters

10. There have been no external changes undertaken to the property as a consequence of its changed use and no evidence of complaints from nearby residents. Nonetheless, even if I were to consider there has been no harm to living conditions or character and appearance of the area, this is a neutral factor that does not weigh in favour of the scheme.

Conclusion on ground (a) and the deemed planning application

11. The development is contrary to the development plan as a whole and there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan.

12. I conclude that planning permission should not be granted for the matters stated in the notice and the appeal fails on ground (a).

The appeal on ground (g)

13. Ground (g) is that any period specified in the notice for compliance with the requirements of the notice falls short of what should reasonably be allowed. The period for compliance is 30 days. The appellant seeks 3 months.
14. The appellant states that it would be time consuming and difficult logistically to cancel bookings that have been made beyond the period for compliance stated in the notice. Extending the compliance period as sought would help the appellant meet any outstanding obligations and reduce inconvenience for those who made bookings. However, although reference is made to bookings up to the end of 2022, there is no detailed information of the amount or dates of subsequent bookings. Therefore, it has not been shown that the 30 days given on the notice is too short, not feasible or falls short of what should be reasonably be allowed.
15. The appeal on ground (g) therefore fails.

Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

17. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Stuart Willis

INSPECTOR