



Appeal Decision

Site visits made on 27 June and 14 November 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 22 November 2023

Appeal Ref: APP/G3110/C/22/3304715

Land at 7 Shirelake Close, Oxford, Oxfordshire, OX1 1SN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Mamadou Wane against an enforcement notice issued by Oxford City Council.
 - The notice, numbered 22/00011/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 requirements of the notice are 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.
 - Ground (a) is brought and the fee is paid or the development is fee-exempt.
 - 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.

The appeal on ground (a) and the deemed application

1. 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 Issues

2. The main issues are the effect of the development on:
 - Whether the appeal site is an appropriate location for the development with particular regard to the provision of housing and tourism accommodation:
 - the living conditions of the occupiers of the nearby dwellings, with particular regard to noise and disturbance; and
 - highway safety.

Reasons

Provision of Housing and Tourism Accommodation

3. 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 aim 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. There is no compelling evidence before me to indicate the scheme meets any of the exceptions set out.

4. Occupancy records show that the appeal site has been used for varying periods as short term let accommodation and numbers of occupiers. The appeal building is still occupied for a form of residential use, and the evidence before me indicates that the Council are able to provide a 5-year supply of housing land. Nevertheless, even if the appeal property would not be considered a family dwelling in regard to Policy H5 of the LP, this policy seeks to retain all dwellings. While the scheme only relates to a single property and for a temporary period, the current use has led to the loss of a dwelling.
5. 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 in Oxford's city centre and on 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 loss of residential dwellings.
6. Shirelake Close is not one of the roads specified in Policy V5. However, the site is within the City Centre and there are public and non-car transport options nearby that occupiers of the appeal site could utilise. Notwithstanding this, there is still a loss of a residential dwelling contrary to Policy V5, even if for a temporary period.
7. The development contributes to the supply of a different form of short stay accommodation than hotels, of which there is a need in the area, providing economic and social benefits from the associated spending of its occupiers. However, in the absence of detailed evidence to the contrary, any such benefits would be small given the scale of the scheme.
8. 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.

Living Conditions

9. The appeal property, and those adjacent to it are set away from the main road and parking areas with the river behind. At my visit, while only a snapshot in time and it may be different at other times, it was notable that this part of Shirelake Close was relatively quiet with little background noise.
10. Some vehicular movements would likely be at different times of day to that of a dwelling and include those associated with the management of the premises. However, vehicular movements are not dissimilar to that of a dwelling. In addition, the position of the site, the adjacent properties and their outdoor space means this is not be overly noticeable for nearby occupiers.
11. Nevertheless, although some occupation was for months, given the information indicating the average stay is only a few days, there will be frequent other movements to, from and within the site from arrivals, departures, servicing and other comings and goings.

12. The properties themselves and their outdoor space are close together with other units above and either side of the appeal site. While it is recommended occupiers use the rear entrance, there is no clear control to stop either entrance being used. The lack of lighting and barriers along the section of the river adjacent to the site, which is also the longer route to access the property from the main road and parking space, means occupiers are likely to use the front shared entrance. This is be more so during times of inclement weather or darkness whether on foot or bicycle. In any event, given the proximity of windows and outdoor areas at the adjacent properties, accessing the site from the rear also results in increased noise and disturbance. Insulation within the premises does not address movements at the entrance points or outdoor areas.
13. The shared front access and close proximity of properties and their outdoor spaces adjacent to and above the appeal site means this increased noise and disturbance is more evident and intrusive.
14. There is a noise monitor within the property and occupiers are provided with a house manual. Nonetheless, because occupiers have little connection with the area they are less likely to be concerned about making noise and any consequences of breaching the rules. Moreover, while the number of users may not be significant, where excessive noise and disturbance occurs, there is no clear evidence that the mechanisms in place, or that could be conditioned, would prevent or resolve any breaches quickly. Consequently, incidents of excessive noise could be prolonged, exacerbating the effect on nearby occupiers.
15. Objections to the planning application, and the complaint leading to the enforcement investigations, indicate that despite the management intentions the use for short stay accommodation has previously caused issues with nearby occupiers.
16. As such, the development is harmful to the living conditions of the occupiers of nearby dwellings, with regard to noise and disturbance. It is contrary to Policies RE7, RE8 and V5 of the LP where they seek to prevent development that results in an unacceptable level of noise and disturbance to nearby residents and that the amenity of neighbours is protected.

Highway Safety

17. From my observations on site, which, I appreciate is only a snapshot in time, Shirelake Close is lightly trafficked with the narrowness and curvature of the road resulting in slow vehicle speeds. There are on street parking restrictions outside and near to the appeal property and I did not see any parking on Shirelake Close when I was at the site.
18. No specific parking guidance for short stay accommodation has been put to me. Given the size of the property, and probable number of occupants of the short term accommodation, there is unlikely to be any substantial different number of journeys or parking requirement to that of a dwelling.
19. The parking space associated with the appeal property is only a short distance away. There is no compelling evidence to indicate using this space would be inconvenient and that vehicles instead park on the road. Servicing of the property takes place when there are no occupiers and therefore there is no additional requirement for parking. Moreover, there is public transport that

occupiers could use for journeys during their visit as well as arriving and departing and cycle facilities are provided as alternative modes of transport.

20. Even if vehicles stopped on the road for a short time, rather than use the nearby parking space, the limited traffic along the street means this would not lead to any harmful disruption to the flow of traffic or highways safety concerns.
21. Consequently, the development is not harmful to highway safety. It is therefore in accordance with Policies M1, RE7 and V5 of the LP where they, in part, seek to ensure developments do not have unacceptable transport impacts and promote walking and cycling.

Other Matter

22. The site is located in the Central (University & City) Conservation Area (CA). The significance of the CA, lies in part, in the historic layout and appearance of the grand buildings and the evolution of the city buildings and layout of the city centre and functional link to the University. The appeal scheme does not involve external alterations and given the variety of uses within the CA, would preserve the character and appearance of the CA.

Conclusion on ground (a) and the deemed planning application

23. 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.
24. 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)

25. 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.
26. Extending the compliance period as sought would help the appellant meet any outstanding obligations to occupiers and contractors and reduce inconvenience to those who have made bookings. However, there is no detailed information before me of the amount or dates of subsequent bookings or contracts. This is also the case for the availability of any replacement like for like or other alternative accommodation.
27. 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 reasonably be allowed.
28. The appeal on ground (g) therefore fails.

Conclusion

29. 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

30. 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