

Appeal Decision

Site visit made on 21 November 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30.11.2023

Appeal Ref: APP/Q3115/W/23/3324423

2 Chiltern Close, Chalgrove, Oxford OX44 7RN

- 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 K J Ayres against the decision of South Oxfordshire District Council.
 - The application Ref P22/S3404/FUL, dated 14 September 2022, was refused by notice dated 21 December 2022.
 - The development proposed is construction of a new two storey detached 3 bedroom dwelling in the rear garden in between large tree adjacent to B480.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effects of the proposal on the character and appearance of the area, and whether the scheme would be well designed;
 - the effects, if any, on adjoining trees;
 - whether the proposal would provide a satisfactory external amenity space for future occupiers; and
 - the effects of the proposal on the biodiversity value of the site.

Reasons

Character, appearance and design

3. The site has a lawful use as a domestic garden. It is lawned, enclosed by timber fencing of various heights and has a number of semi-mature trees sited within its narrower, north-western end. There are mature trees on neighbouring land, adjacent to the south-western boundary, with leaf litter across the site further evidence of this close relationship. There is a gate separating the site from the garden to the rear of the host dwelling, No 2 Chiltern Close. To access the site, one must currently walk alongside or through the host dwelling and garden.
4. The proposal seeks to construct a detached 3 bedroom dwelling on the appeal site. It would be set back into the wider section of the site with its gable fronted principal elevation facing towards the north-west. Parking for the dwelling would be to the front and side of the host dwelling, and a pedestrian access would also run alongside it and around the edge of the rear garden, which would be fenced off separately, to provide access. The side elevation of

the proposed dwelling would face towards the B480 and would have small vertical windows at first floor level, and a pitched roof form with a single blind dormer window.

5. The surrounding area is typically characterised by two storey modern dwellings arranged as either detached or semi-detached pairs. Chiltern Close itself is laid out around an estate road with a turning head, with parking largely set to the front of dwellings. It is also set a distance away from the nearby main road, the B480, and largely turns its back to it. The appeal site is rather removed from the logically-arranged Chiltern Close and appears to be an area of leftover space, which would have once perhaps formed part of the widened verge.
6. The newer estate adjoining Chiltern Close, Clements Road, has been built with a similarly generous and green set back from the B480, although the properties face towards it and the frontage area is more open. It therefore appears a deliberate and coherent feature. In this context, whilst the site may function as an extended area of garden, it serves a visual role as part of the open and green space between the buildings and the B480.
7. By virtue of its siting and orientation, the introduction of a dwelling onto the site would harm the character and appearance of the area through its incongruous siting and poor relationship with the adjoining roads and other dwellings. It would also appear as a prominent addition to the streetscene, obscuring the view of trees which contribute positively to the area's appearance. The absence of direct road frontage would also result in the dwelling having a poor and contrived relationship with its access and parking area. This would necessitate future occupiers navigating a convoluted walk alongside neighbouring dwellings and gardens to enter and leave the dwelling.
8. Whilst externally the dwelling would appear broadly typical in comparison with others nearby, some of its design features would also detract from the living environment that would be created for future occupiers. In a number of instances, the layout and orientation would dictate there being high level windows in the side elevations facing towards Nos 3 and 4 Chiltern Close to avoid overlooking but would also constrain the outlook for future occupiers. There would be a limited outlook in the kitchen/diner and a number of instances where windows would look out onto boundary fencing at close quarters. The combination of these factors indicates a compromised quality of design and whilst the evidence suggests that aspects could be optimised, I am required to consider the scheme before me.
9. A number of examples¹ of developments in the surrounding area have been brought to my attention and each interact differently with the streets onto which they front, or the B480 in some cases. There are examples of infilling of small sites within existing urban contexts and others which have been coherently designed as part of a larger scheme. Though some examples could be regarded as less than perfect, in my view, each of them still appears to demonstrate a relationship more in keeping with their respective context than would be achieved by the appeal proposal.
10. For the above reasons, the proposal would be harmful to the character and appearance of the area, contrary to, in particular, Policy C2 of the Chalgrove

¹ Including: 4 Hardings, Chalgrove; 61 Brinkinfield Road, Chalgrove; 114 and 116 High Street, Chalgrove; 25 Sixpenny Lane, Chalgrove; and Land to the rear of 60-66 High Street, Chalgrove.

Neighbourhood Plan (2018) (CNP). This Policy seeks to ensure new development reflects and enhances the character of Chalgrove, reinforces local distinctiveness and creates a sense of place.

11. The Council's reason for refusal on this issue also references Policy H1 of the South Oxfordshire Local Plan (adopted 2020) (Local Plan) and CNP Policy C1, which appear to relate more to the location and principle of development as opposed to its integration with the area in terms of its siting, design and relationship to the surrounding built context. The Council's case on the unacceptability of the location of the scheme is not well made out in the officer's report. However, this does not affect my findings of harm in this regard.

Trees

12. The mature trees at the end of the gardens at Nos 3 and 4 Chiltern Close are not protected individually or as part of a group for their specific arboricultural value. Nonetheless, they contribute positively to the streetscene due to their size and the filtering effect they offer in views towards the built form from the surroundings. The site is adjacent to the trees, but given their proximity, the roots are inevitably beneath the site.
13. The Appellant's evidence details that the trees adjacent to the site would not be affected, other than by pruning up to the boundary as the Appellant is otherwise entitled to do. Whilst the Council has not provided evidence of the potential harm to the trees from the proposal, the Appellant only offers that one tree (Tree No 1) is too far from the development to be affected and that using the construction techniques recommended by the NHBC document, *Building Near Trees*², the effects on the second tree (Tree No 2) could be avoided. A plan also details the potential for additional trees to be planted in front of the dwelling.
14. In my view, the evidence submitted in respect of this issue is based on some unsupported estimates on tree heights, distances and assumptions about the suitability of protective construction techniques. Though the trees are not protected, in the absence of a robust site-specific arboricultural assessment as evidence to the contrary, and I am of the view that harm to them would be likely, and the proposed tree planting would not capably offset the harms.
15. For the reasons outlined, the proposal would have a harmful effect on trees, contrary to Local Plan Policy ENV1 which seeks to permit development where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes, in particular, trees, hedgerows and field boundaries.

External amenity space

16. The detached dwelling would be generously sized with two family rooms in addition to the kitchen/diner and each of its three bedrooms would be well proportioned. Whilst the garden would be of the recommended minimum size of 100sqm for a three bedroom dwelling, it would be separated into two pockets of slightly compromised space and would feel dominated by the adjacent trees due to their proximity, with the burden of leaf litter to address on a regular basis.

² NHBC Standards 2011, 4.2 Building near trees

17. Therefore, in my view, the scheme would fail to provide a satisfactory quality of accommodation for future occupiers, contrary to, in particular, Policy DES5 of the Local Plan which aims for development not to be compromised by shading from buildings, leaf litter and anxiety of established significant trees and hedges. It would also fail to accord with expectations in the South Oxfordshire and Vale Joint Design Guide (adopted 2022) which seeks to ensure that the design of development is mindful of the impact of the proposals on the amenity of future and existing adjacent occupiers.

Biodiversity

18. The site is an area of lawn with some semi-mature trees on it. The Council's decision notice highlights a lack of information to demonstrate that there would not be a net loss of biodiversity.
19. Whilst the Appellant highlights that a biodiversity assessment was not requested at either pre-application or application stage, the appeal has been submitted with additional information to demonstrate that some biodiversity enhancements could be incorporated, such as bird and bat boxes.
20. In my view, it does not appear that the requested information satisfactorily demonstrates a biodiversity net gain using a recognised biodiversity accounting metric to the satisfaction of Local Plan Policy ENV3. However, even if a biodiversity net gain were capable of being secured by way of planning condition, this would not alter my view on the other main issues and is, as a consequence, not a decisive matter in this appeal.

Other Matters

21. The Appellant's evidence points to concerns about the Appellant being treated unfairly or support being offered by the Council or Parish Council to other similar developments. Whilst these loose claims are unsupported by evidence, and whilst I too find that the Council's definition of the key issues in the officer's report could have been clearer, I have considered the scheme solely on the basis of its planning merits.
22. Whilst the Council's decision notice refers to Local Plan Policy DES6, this relates specifically to the effects on the amenity of neighbouring users, rather than that of future occupiers. Consequently, I do not consider it relevant in respect of the main issues and do not find that there would be harm to neighbouring occupiers that could not otherwise be controlled by planning condition.

Planning Balance and Conclusion

23. Owing to its effect on the character and appearance of the area, on trees and the poor quality of living environment that would be created for future occupiers, the proposal conflicts with the development plan when taken as a whole.
24. The public benefits of the scheme would result from the introduction of a family-sized dwelling to the local housing stock, which in the absence of evidence to the contrary, would benefit from being well located for access to the facilities and services in Chalgrove. There would be a boost to the local economy during the construction phase and longer-term economic benefits from the occupation of the dwelling by future occupiers. These weigh in favour

of the scheme and attract modest weight, commensurate with the scale of a proposal for a single dwelling.

25. However, the public benefits do not form a consideration of such materiality that they outweigh the identified harms. Therefore, in the absence of considerations to indicate otherwise, the decision must be made in accordance with the development plan.

26. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR