



Appeal Decision

Site visit made on 23 January 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/Q3115/W/23/3328237

Ledard, 8 Rotherfield Road, Henley-on-Thames, Oxfordshire RG9 1NN

- 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 Michael Fuller against the decision of South Oxfordshire District Council.
 - The application Ref P23/S0650/FUL, dated 20 February 2023, was refused by notice dated 31 March 2023.
 - The development proposed is erection of single dwelling with set-back top floor, carport and cycle/waste store with associated works using existing access from Peppard Lane.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single dwelling with set-back top floor, carport and cycle/waste store with associated works using existing access from Peppard Lane at Ledard, 8 Rotherfield Road, Henley-on-Thames, Oxfordshire RG9 1NN in accordance with the terms of the application, Ref P23/S0650/FUL, dated 20 February 2023, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The Council has already granted planning permission for the erection of a dwelling plus car port and cycle/waste store on the appeal site (hereafter referred to as the allowed development). The current proposal is similar but it would include an additional storey at second floor level. The allowed development was permitted fairly recently and so it could still be constructed.
3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. The revisions do not materially affect the parts of the Framework pertinent to this appeal and so there is no need to invite comments on it from the Council or the appellant.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The site currently forms part of a garden that lies between Peppard Lane and Ledard and Alameda, a pair of semi-detached dwellings. The surrounding area is residential with the appeal site and properties on the same side of the road set amongst mature and tall trees. These give the southern side of Peppard Lane a wooded feel that can be appreciated as you travel along the road.

6. The proposed house would be of modern design with a flat roof and a block-like form. It would provide accommodation on 3 levels but the walls of the uppermost storey would be set back from the edges of the building on all sides. This design would help ensure the house does not appear unduly massive nor top heavy. Also, the style and simplistic block-like form of the upper storey would be sympathetic to the rest of the house.
7. Many of the local houses are of a traditional style and no more than 2 storeys high. However, other properties near to the site are more modern in appearance, particularly on the appeal site side of Peppard Lane. As such, the contemporary appearance of the proposal would not be unusual to the area.
8. Ledard and Alameda are 3 storeys high, albeit with the upper storey partly within the pitched roof-space. Even so, the proposed dwelling would not appear unusually high when seen alongside the tall, double gable flank wall of Ledard. Also, its height would not look starkly out of place given the variation in the design of local houses.
9. Moreover, the proposed dwelling would be set back from the road and seen behind the tall trees shown to be retained along the site frontage. These would partially filter views of the house from the highway and would ensure it does not appear prominent or uncharacteristically dominant within the street scene.
10. There is no house with 3 storeys and of modern design in the area. Nonetheless, for the above reasons, the proposed dwelling would be compatible with its surroundings. Also, the allowed development would introduce a house of similar modern design onto the plot. The inclusion of a small element at second storey level would not result in a significant change in the appearance of the building. The addition would have no meaningful effect on the visual and natural qualities of the area compared to the allowed development.
11. Therefore, I conclude the proposal would have an acceptable effect on the character and appearance of the area. In these regards, it would accord with policies DES1 and DES2 of the South Oxfordshire Local Plan adopted 2020, policy SD3 of the Joint Henley and Harpsden Neighbourhood Plan and the Joint Design Guide. Amongst other things, these look for development to be of a high quality design that respects the local context, having regard to adjacent buildings' scale, height and massing.

Other Matters

12. A number of other concerns have been raised by interested parties. The proposed car port and cycle/refuse store buildings would be fairly low-key and would reflect the style of the proposed house. Accordingly, they would cause no harm to the character and appearance of the area.
13. The site is the subject of an area tree preservation order. The proposal would have a similar effect on trees compared to the allowed development. Planning conditions could be imposed to protect trees to be retained and that require an approved landscaping scheme to be carried out. Therefore, the development would maintain the wooded appearance and natural feel to the site.
14. Compared to the allowed development, this appeal proposal would introduce additional windows at second storey level facing towards the front and rear of the plot. Even so, the proposed house would be positioned a significant distance away from nearby properties. Also, trees to the front would filter

views towards residences on the opposite side of Peppard Lane. There would be clearer views towards Alameda and Ledard but the relative orientation and positioning would prevent intrusive overlooking into their windows and gardens. A planning condition could be imposed to restrict the use of the flat roof space as a terrace or balcony. Also, obscure glazing to side windows and louvres to the first floor balcony could be required. Such measures would ensure the nearest residences retain satisfactory living conditions.

15. The development would provide sufficient outdoor space to serve future occupiers and it would avoid unacceptable harm to the useability and attractiveness of nearby gardens. It would cause no significant loss of light to any neighbouring properties.
16. The low level of traffic movements generated by the proposal would not prejudice highway safety. Off-road parking facilities are proposed but even if the development leads to roadside parking, this is allowed on local streets and could occur without causing a nuisance. Granting planning permission is not bound to lead to parking on privately owned land outside the appeal site.
17. None of the objections referred to above provide sound reason to refuse planning permission. As such, they do not affect my overall conclusion.

Conditions

18. I have considered the list of conditions suggested by the Council against the tests for conditions as set out at paragraph 56 of the Framework. Where necessary I have made amendments in the interests of precision.
19. Many of the suggested conditions refer to details that have already been approved by the Council, seemingly in connection with the allowed development. These details have not been provided as part of the appeal. However, they have already been found acceptable by the Council and I am mindful that the allowed development provides an alternative to the current proposal. As such, I am satisfied the conditions that refer back to previously approved details are appropriate and sufficiently precise.
20. In the interests of clarity and certainty I impose a condition that requires the development to be carried out in accordance with the approved plans. I have used the list of plans set out in the appellant's letter dated 18 March 2023 but only referred to those that show the proposed development. For completeness, I have also included reference to the proposed site section drawing.
21. Tree protection measures and landscaping works (conditions 3 and 4) are needed to ensure the development safeguards the natural features and attractive appearance of the site. Conditions 5 and 6 are required to minimise the ecological impacts of the scheme and to ensure it delivers onsite biodiversity enhancements. Conditions 7 and 8 are needed to ensure a satisfactory appearance.
22. Visibility splays are needed in the interests of highway safety (condition 9). However, I see no reason why these should be provided prior to the commencement of development and so I have re-worded the condition to require the splays before first occupation of the dwelling. Conditions 10 and 11 are imposed in the interests of highway safety and to ensure the provision of off-street parking in accordance with development plan policy.

23. Condition 12 is included to ensure the development incorporates a suitable drainage system and does not cause flooding. Condition 13 is needed to ensure the development safeguards the environment, wildlife and local residents from light pollution. Condition 14 is needed to ensure the development represents a high standard of sustainable design that addresses the effects of climate change. Conditions 15, 16 and 17 are needed to prevent unacceptable overlooking onto neighbouring properties.
24. Paragraph 54 of the Framework states that conditions which restrict national permitted development rights should not be used unless there is clear justification to do so. The Council suggests such a condition to safeguard the amenities of adjoining properties, the character of the area and protected trees. However, the Council's brief justification fails to clearly explain why the removal of a range of permitted development rights is needed to make the proposal acceptable in these regards. As such, I consider the condition is unnecessary and so it has not been imposed.
25. A written ministerial statement¹ includes the Government's expectation that local energy efficiency standards for buildings will not be set that go beyond current or planned building regulations. Moreover, the Building Regulations have recently been amended to require the provision of electric vehicle charging points as part of new dwellings. As such, the suggested planning conditions on these issues are not needed.

Conclusion

26. The proposal would accord with the development plan policies when read as a whole. Therefore, I conclude the appeal should succeed.

Jonathan Edwards

INSPECTOR

¹ Planning - Local Energy Efficiency Standards Update, Statement made on 13 December 2023, Statement UIN HLWS120, Statement made by Baroness Penn, Parliamentary Under Secretary of State for Levelling Up, Housing and Communities

Schedule Of 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: PL/PRO/SITE/1014, PL/PRO/SITE/1015, PL/PRO/PLAN/1016, PL/PRO/SITE/1017, PL/PRO/PLAN/1020, PL/PRO/PLAN/1021, PL/PRO/ELEV/1030, PL/PRO/SECT/1040 and PL/PRO/PLAN1050.
- 3) The development hereby approved shall not commence until the tree protection measures as approved under application P23/S1428/DIS have been put in place. Thereafter the measures shall be retained in situ for the duration of construction works to complete the development.
- 4) The landscaping scheme as approved under application P23/S1428/DIS shall be implemented prior to the first occupation or use of the development hereby permitted. Thereafter it shall be maintained in accordance with the approved scheme. In the event of any of the soft landscaping so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, replacement planting, as the case may be, of a species first approved by the local planning authority, shall be planted and properly maintained in a position or positions first approved in writing by the local planning authority.
- 5) The development hereby permitted shall be implemented in accordance with all the ecological avoidance and mitigation measures set out in section 4.2 of the Preliminary Ecological Appraisal (United Environmental Services Ltd, 4 May 2022, UES03614/04).
- 6) The development hereby permitted shall be implemented in accordance with the biodiversity enhancements approved under application P23/S1428/DIS. All biodiversity enhancements shall be delivered prior to first occupation of the development.
- 7) Any changes in levels shall only be carried out in accordance with details approved under application P23/S1428/DIS.
- 8) All materials to be used in the external construction and finishes of the development hereby permitted shall accord with details approved under application P23/S1428/DIS.
- 9) Prior to the first occupation of the development hereby permitted, the vegetation on each side of the access for the carport shall be reduced to a height not exceeding 0.9 for a distance of at least 2.0m in each direction from the said access and thereafter retained as such.
- 10) Prior to the first occupation of the development hereby permitted, the parking and turning areas shall be provided in accordance with the approved plans and shall be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage principles, and thereafter the areas shall be retained unobstructed except for the parking and turning of vehicles associated with the development.
- 11) The garage/carport accommodation hereby permitted shall be retained as such and shall not be adapted for living purposes.

- 12) Prior to the first occupation of the development hereby permitted, a surface water drainage scheme shall be implemented in accordance with the details approved under application P23/S1428/DIS.
- 13) No external lighting shall be installed on the site other than in accordance with details approved under application P23/S1428/DIS.
- 14) Any external heating or energy generation system to be used in the development hereby permitted shall only be carried out in accordance with details approved under application P23/S1428/DIS.
- 15) Prior to the first occupation of the development hereby permitted, the first floor en-suite window in the west-facing elevation and any glazing on the west-facing and east-facing sides of the first floor balcony of the dwelling hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight. The glazing shall thereafter remain in perpetuity.
- 16) Prior to the first occupation of the development hereby permitted, the timber louvres on the south-facing first floor balcony shall be provided as shown on the approved plans and thereafter they shall remain in situ.
- 17) With the exception of the first floor balcony as shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no other parts of the roof of the development hereby approved shall be used as a balcony or terrace nor shall any access be formed thereto.