



Appeal Decision

Site visit made on 29 January 2024

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal Ref: APP/G3110/W/23/3322988

36 Feilden Grove, Oxford, Oxfordshire OX3 0DU

- 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 Dr & Mrs Feddersen against the decision of Oxford City Council.
 - The application Ref 22/01660/FUL, dated 6 July 2022, was refused by notice dated 21 December 2022.
 - The development proposed is Demolition of the existing dwellinghouse (Use Class C3). Erection of a building to create 1 x 5 bed dwellinghouse (Use Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of the existing dwellinghouse (Use Class C3). Erection of a building to create 1 x 5 bed dwellinghouse (Use Class C3) at 36 Feilden Grove, Oxford, Oxfordshire OX3 0DU in accordance with the terms of the application, Ref 22/01660/FUL, dated 6 July 2022, subject to the conditions in the attached schedule.

Applications for costs

2. The appellants have made an application for costs. This is subject to a separate decision.

Preliminary Matters

3. In December 2023 the Government published a revised version of the National Planning Policy Framework (the Framework). However, none of the revisions are considered to have a significant bearing on the main issues associated with this appeal.

Main Issue

4. The main issue is the effect of the proposal on the Headington Hill Conservation Area (CA).

Reasons

5. Under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. It primarily derives its significance from its verdant character, which provides a green setting within the context of the more urban and densely populated character of the city.
6. The Headington Hill Conservation Area Appraisal (the CAA) outlines that Feilden Grove incorporates development of a spacious and low-density character within

a tranquil green landscape. Indeed, the tranquil character and the prevalence of mature trees are both features which contribute to the significance of the CA. The latter provides a green backdrop to views of the city centre from the hills to the west.

7. There is some uniformity in the design and scale of the existing dwellings in Feilden Grove. Indeed, the CAA notes that the houses are generally long and low, not rising above two storeys. It also notes that the dwellings are all of a similar date and have a unified character in a shared palette of materials and form, including a mixture of brick, white painted render and hanging tiles.
8. Whilst there may be some uniformity in Feilden Grove, I noted during my site visit that this is not a particularly striking aspect of the CA. Indeed, the most obvious element of uniformity is that the majority of dwellings comprise large detached dwellings in spacious plots, with plenty of space retained to the front and rear of buildings. Indeed, the fact that the dwellings are all from a similar period does not contribute a great deal to the spacious, verdant and tranquil significance of the CA.
9. The existing dwelling at No 36 is a large, detached property, which sits within a reasonably spacious plot. The dwelling is set back from the road and is visible from the neighbouring dwellings to either side and over the steep driveway from the road. Whilst the existing building blends in relatively seamlessly with the existing character of development on Feilden Grove, it doesn't make any particularly important contribution. To the contrary, it has a tired and dishevelled appearance.
10. The proposed replacement dwelling would be slightly taller than the existing and would incorporate a moderately increased width. Despite these minor increases, it still comprises a two-storey scale and a large area would be retained to the front and rear of the dwelling. These are important factors which ensure that the proposal would be in keeping with the prevalent character of the area.
11. The materials would comprise a mixture of brick, timber cladding and render. Whilst the use of timber cladding is not widely prevalent in the surrounding area, the use of multiple materials on building elevations is widespread. As such, the building materials proposed would not result in any harm to the character of the CA, subject to a planning condition requiring final approval of materials on site.
12. The proposed dwelling would have a slightly more modern appearance than surrounding buildings. However, it would not be overtly contemporary. Indeed, given its sensitively considered scale, orientation and layout, it would assimilate well within the street scene, particularly given that mature trees provide visual separation between dwellings when viewed from Feilden Grove.
13. Furthermore, the proposed development would not harm the prevailing spacious, verdant and tranquil character of the area. Indeed, these are the key aspects of Feilden Grove that contribute to the significance of the CA. To the contrary, the development is capable of making a positive contribution to these characteristics, through the implementation of an appropriate landscaping strategy controlled by planning condition.

14. Overall, the proposed development would preserve the character and appearance of the CA and there would be no harm as a result. As such, the proposal complies with Local Plan¹ Policies DH1, DH3, and RE2 insofar as they relate to: ensuring high-quality design; conservation of heritage assets; and built-form and layout. For the same reasons, the development also complies with Policies CIP1, CIP4 and GSP4 of the Headington Neighbourhood Plan (2017-2032).
15. In accordance with Framework Paragraph 205, I attribute great weight to the conservation of the CA. Nonetheless, for the reasons outlined above there would be no harm to the significance of the CA. As a result, it is not necessary to consider whether there are public benefits in the terms of Framework Paragraph 208.
16. The Council's case seems to assert that the retrofitting of the existing building should have been factored into the assessment of compliance with Local Plan Policy RE1. However, that is not what Policy RE1 requires. Whilst I can understand why this might be relevant in considering the overall benefits of the development, given the absence of heritage harm, it is a moot point².
17. As such, subject to an appropriately worded planning condition, there would not be any conflict with Local Plan Policy RE1. So far as the effect of demolition on carbon reduction could be a material consideration, the Council has not advanced any strong evidence to quantify or demonstrate precisely what harm would arise in this regard. Within this context this is not a matter which would indicate a decision other than in accordance with the development plan.

Other Matters

18. Many neighbouring residents have objected to the proposed development. Some of those objections have been addressed in relation to the main issues. With regard to the effect of the proposal on neighbouring living conditions, the proposed dwelling would be located closer to the boundary with No 38, albeit the element of the proposal closest to the boundary would only comprise a single storey. As a result, there would not be an overbearing impact nor would there be any significant loss of light or loss of privacy.
19. The proposal includes 2 windows at first floor level. Both would face towards the front garden of No 38. However, this is not the primary garden space of this neighbouring property and it is not uncommon for front gardens to be overlooked by neighbouring dwellings. Furthermore, the view from the proposed first floor windows is offset such that there would be no significant overlooking of the neighbouring ground or first floor windows. In summary, even taking into account the elevated relief of the appeal site, there would not be any adverse impact on the living conditions of the occupiers of No 38.
20. There would not be any harm to the living conditions of the occupiers of other neighbouring properties. Indeed, this conclusion is consistent with the findings of the Council.

¹ Oxford Local Plan 2036 – Adopted 8 June 2020

² As there is no need for public benefits to be weighed against heritage harm (because there is no harm in this instance)

21. I note that there is a relatively extensive planning history applying to the appeal site. Nonetheless, each case should be considered on its own merits and as such these decisions do not outweigh my findings.

Conditions

22. I have considered the Council's suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects.
23. Conditions relating to timeliness [1] and the identification of plans [2] are necessary to provide certainty. Prior approval of details of materials [3], landscaping [7], cycle storage [10] and bin storage [11] are necessary in the interest of character and appearance. A condition regarding retention of trees [8] is also necessary for the same reason. Conditions requiring the submission and approval of a construction management plan [4] and details of parking [12] are required in the interest of highway safety. In the interest of biodiversity, conditions requiring ecological surveys [5] and enhancements [6] are necessary along with a condition restricting removal of trees and shrubs during certain periods [13]. A condition is necessary to ensure proper implementation of sustainable urban drainage measures [9]. Conditions are also required in [14] the interest of energy efficiency and limiting water consumption [15]. A condition removing permitted development rights for balconies and terraces is necessary in the interest of neighbouring living conditions [16].
24. A condition pertaining to the specification of plant (ground source heat pump) is not considered necessary given the sufficient separation distance to the neighbouring properties.

Conclusion

25. The proposed development would not result in any harm to the character and appearance of the CA. It therefore complies with the development plan taken as a whole. There are no material considerations raised of sufficient weight to warrant a decision other than in accordance with the development plan. The appeal is therefore allowed.

Luke Simpson

INSPECTOR

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:
 - Site Layout and Location Plan – Drawing P193-006
 - Ground Floor Plan – Drawing P193-001A
 - First Floor Plan – Drawing P193-002B
 - Second Floor Plan – Drawing P193-003 (1:50 @ A1);
 - South and North Elevations (1/2) – Drawing P193-004B
 - East and West Elevations (2/2) – Drawing P193-005B
 - Proposed Site Overview – Drawing P193-012
 - Existing Site Overview – Drawing P193-013
 - Boundary Treatments – Drawing P193-011
 - Site levels – Drawing P193-007
 - Existing floor plans and sections FED/E1
 - Existing elevations FED/E2
 - Proposed Surface Water Drainage Layout and Details – Drawing 2166/01 P3
 - Proposed Block Plan – Drawing P193-010 (1:200 @ A1)
 - Roof Plan – Drawing P193-008 (1:50 @ A1)
- 3) Prior to commencement of development above slab level, samples of the exterior materials proposed to be used shall be made available for inspection on site and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 4) Prior to commencement of development (including demolition), a Construction Management Plan (CMP) shall be submitted to the Local Planning Authority and approved in writing. This should identify;
 - The routing of construction vehicles,
 - Access arrangements for construction vehicles,
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours (to minimise the impact on the surrounding highway network)
 - Control measures for dust, noise, pest control, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary

The approved CMP shall be adhered to during the construction of the development.

- 5) Prior to the commencement of development, a further ecological survey shall be commissioned to establish if there have been any changes in the presence of roosting bats or nesting birds, and identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, new ecological measures and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. In such an instance, the development shall only be carried out in accordance with the approved ecological measures and timetable.

- 6) Prior to first occupation of the dwelling hereby approved, details of ecological enhancement measures including at least one bat roosting device and one bird nesting device shall be submitted to and approved in writing by the Local Planning Authority. Details must include the proposed specifications, locations, and arrangements for any required maintenance. The approved devices shall be fully constructed prior to occupation of the approved development and retained as such thereafter. Any new fencing will include holes suitable for the safe passage of hedgehogs.
- 7) Prior to first occupation of the dwelling hereby approved a landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscaping proposals as approved by the Local Planning Authority shall be carried out no later than the first planting season after first occupation of the development hereby approved.
- 8) Any existing retained trees, or new trees or plants planted in accordance with the details of the approved landscape proposals that fail to establish, are removed, die or become seriously damaged or defective within a period of five years after first occupation or first use of the development hereby approved shall be replaced. They shall be replaced with others of species, size and number as originally approved during the first available planting season.
- 9) Prior to first occupation of the dwelling hereby approved the Sustainable Urban Drainage Strategy (SuDS) (Drawing 2166/01 P3) shall be implemented in full and as specified in the approved strategy. This provision shall be retained and maintained in perpetuity.
- 10) Prior to the occupation of the dwelling hereby approved, further details of the cycle store including elevations, shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the dwelling, the approved cycle storage shall be provided on site in accordance with the approved details and retained for this purpose only thereafter.
- 11) Prior to occupation of the dwelling hereby approved, further details of the bin store including elevations, shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the dwelling the approved bin storage shall be provided on site in accordance with the approved details and retained for this purpose only thereafter.
- 12) Prior to occupation of the dwelling hereby approved, further details of the parking layout including the electric vehicle charging points shall be

submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the dwelling hereby approved, the approved layout and charging points shall be provided on site in accordance with the approved details and retained for this purpose only thereafter.

- 13) No removal of hedgerows, trees or shrubs, or works to or demolition of buildings or structures that may be used by breeding birds, shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.
- 14) Prior to commencement of development an energy statement confirming measures to ensure that the dwelling hereby approved achieves at least a 40% reduction in carbon emissions from a 2013 Building Regulations (or future equivalent legislation) compliant base case, shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby approved and thereafter shall be retained as such.
- 15) The development hereby approved shall be constructed to comply with the 2013 Building Regulations Part G2 water consumption target of 110 litres per person per day.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or enacting that Order), no part of the roof of the dwelling hereby approved shall be used as a balcony or terrace nor shall any permanent access be formed to the roof.