



Appeal Decision

Site visit made on 11 June 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2024

Appeal Ref: APP/G3110/W/24/3338347

143 Merewood Avenue, Oxford, Oxfordshire OX3 8EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Aliya Rana against the decision of Oxford City Council.
 - The application Ref is 23/01014/FUL.
 - The development proposed is described as 'the change of use of an HMO (C4) to a children's home for a maximum of four children under the age of 18, with a manager, three carers, of whom two sleep overnight, working on a rota basis (C2) plus the infill/conversion of the car port into living accommodation with additional door and window to South elevation and the provision of bicycle and bin storage to the frontage'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a House of Multiple Occupancy (Use Class C4) to a children's home for a maximum of four children (Use Class C2). Infilling and conversion of carport to create living accommodation, and the provision of bicycle and bin storage to the frontage, at 143 Merewood Avenue, Oxford, Oxfordshire OX3 8EQ in accordance with the terms of the application Ref 23/01014/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. The description of the development in the formal decision has been amended slightly from that within the banner. This is for the purposes of clarity.

Main Issues

3. The main issues are;
 - whether the appeal site is a suitable location for the proposed development, with particular regard to, accessibility to services and facilities, and the local development strategy in respect of specialist care accommodation; and
 - whether the proposed development would provide suitable conditions for future users of the site with particular regard to the convenience of bin and bike stores.

Reasons

Location of development

4. The appeal site which addresses Merewood Avenue is within the mainly residential and built-up Sandhills area of Oxford.

5. The proposed use of the site as a children's home for up to 4 non-related children, who would be cared for by a manager and a series of paid care givers, would constitute a unit of specialist care accommodation.
6. Policy H11 of the Oxford Local Plan 2036¹ (the Local Plan) indicates that specialist care accommodation will only be permitted where, amongst other things, it would have good access to local facilities and services including public transport, shops, and healthcare facilities. Other requirements of this policy include the site being located close to or part of a mixed community, and that the development would contribute positively to the creation and maintenance of mixed and balanced communities.
7. 'Good access' is not defined within the Local Plan. Nevertheless, the active travel strategy contained within the Oxfordshire County Council Local Transport and Connectivity Plan introduces a 20-minute neighbourhood concept. On this basis, I consider that in terms of time, journeys of less than 20 minutes to access services and facilities, would constitute good access. Although not all within the Sandhills area, the evidence demonstrates that within 20 minutes, a wide range of services and facilities may be accessed from the site via bicycle and on foot. These services and facilities include; frequent and regular busses; schools; shops; leisure facilities, and pharmacies.
8. Other indicators of good access, include the safety and attractiveness of the travel routes. A section of a narrow pathway (the pathway) between the appeal site and neighbouring fields is unlit and poorly surveyed. Furthermore, within the Daisy House Location Risk Assessment, it is indicated that this pathway has been known to be used by drug users. However, there is no compelling evidence to suggest that users of this pathway are, or would be, unsafe. Nevertheless, and although the use of the pathway would remain an option for future occupiers and their carers to access local services and facilities, routes using this pathway are unlikely to be attractive - particularly during times of darkness.
9. However, there are alternative routes that could be used by pedestrians and cyclists to access local services and facilities, which do not include this pathway. These routes would involve travelling alongside, and/or crossing the A40.
10. I appreciate that the 2 A40 underpasses which could be used to access local services and facilities are likely to be poorly surveyed. However, between these 2 underpasses, is an above-ground pedestrian crossing over a section of the A40 which is subject to a 30mph speed limit. With caution, future occupiers could safely cross the road using the above-ground crossing, which has good visibility in both directions and a small area between the opposing direction carriageways on which pedestrians can pause. Therefore, if they were to feel uncomfortable or unsafe using the underpasses, future occupiers could use the alternative above-ground crossing to access local services and facilities.
11. Furthermore, there are designated pedestrian and cycleways to either side of the A40, which are separated from the road by grass verges and/or raised barriers. Furthermore, the parts of the routes adjacent to the A40 are generally well surveyed, either by passing cars or from the houses that address the road. Moreover, these sections would be fairly well-lit when the streetlights along the

¹ Oxford City Council Oxford Local Plan 2036 adopted 8th June 2020

A40 are on. The use of the pedestrian and cycleways close to the A40 road, would therefore afford future users, either alone, or with their carers, with attractive and safe means of accessing local services and facilities.

12. For these reasons, future occupiers would have good access to a wide range of local services and facilities.
13. No definition of 'mixed community' is contained within the Local Plan. Nevertheless, 'mixed' may reasonably be understood as the mingling or combination of more than one element, and an ordinary understanding of 'community' is a body of people or things viewed collectively. Therefore, for the purpose of this decision, and in the absence of compelling evidence to the contrary, a mixed community is understood to be the mingling or combination of more than one body or thing.
14. Components of mixed communities are not limited to land uses and building types, and, they are not necessarily limited to a single ward area. They can also include building tenures, as well as social classes, incomes, races, ethnicities, and religions.
15. From the appeal site, good access to a wide range of local services and facilities, many of which are outside of the Sandhills area, can be achieved. The community that future occupiers would form part of would not, therefore, be restricted to the Sandhills area only.
16. Nevertheless, while the Sandhills area contains a high proportion of modestly sized 2-storey residential dwellings, it also includes a primary school and a pre-school. Furthermore, the most recent census data shows that the proportion of residents within the Barton and Sandhills ward identifying as either; Non-white; White non-British; Mixed; Asian; Black; Other ethnic group; and Households with multiple ethnicities, were all greater than the English average. Moreover, the 2021 census data, also shows that there was a greater mix in terms of housing tenure within the Barton and Sandhills ward than was average within England.
17. Therefore, even if the Sandhills ward attracts a higher proportion of families and has a higher proportion of residential properties than is typical of other wards in Oxford, I am satisfied that the appeal site is located within a mixed community area. Furthermore, the delivery of a small children's home on the appeal site, would, albeit in a small way, add to the variety within this area.
18. For the reasons given, the appeal site is a suitable location for the proposed development, with particular regard to accessibility to services and facilities, and, it would not conflict with the local development strategy in respect of specialist care accommodation. Consequently, in these respects, it would comply with policy H11 of the Oxford Local Plan 2036. It would also comply with the parts of the National Planning Policy Framework, that seek to promote healthy and safe communities.

Conditions of future occupiers

19. Even if only one on-site car parking space is required, the proposed plans include parking provision for 2 cars; bicycle and bin storage; and a planter, all on the hardstanding to the front of the residential building. Moreover, there would be sufficient space on the hardstanding for additional bin storage to be provided. A second bicycle parking area is proposed in the rear garden.

20. In the absence of direct and easy access between the rear garden and either the pathway or Merewood Avenue, the cycle parking area in the rear garden would be unlikely to be used for the parking of frequently used bikes. However, the Council has indicated that on-site storage for only 2 bicycles would be required, and I have no reason to conclude that a greater level of provision is necessary. Such provision would be met by the proposed bike parking area on the hardstanding to the front of the children's home. Moreover, there are no steps or significant changes in gradient that would make access between the bike and bin storage areas and the street difficult.
21. In instances where only 1 car would be parked on the hardstanding to the front of the children's home, future users of the property would have easy and convenient access to the bins and bike store, and between these areas and the street. If 2 cars were parked on the hardstanding, as indicated on the proposed plans, such access would be more restricted. However, in most instances, cars parked on the hardstanding would be those of staff members who would be present on site. The role of these staff members would be to care for the resident children. Therefore, and while not ideal, if it were to be necessary for a car to be moved to enable bins or bikes to be got out or returned, this would not amount to an inconvenience. Furthermore, given the low numbers of staff that would typically be on-site at any one time, if staff members were to walk, cycle, or use public transport to access the site, there would be less likelihood of 2 cars being parked on the hardstanding at the same time.
22. For these reasons, the proposed development would provide suitable conditions for future users of the site, with particular regard to the convenience of bin and bike stores. Consequently, and in respect of this main issue, the development would comply with policies DH7, M5, and M1 of the Local Plan. Collectively, these policies set out requirements for refuse storage and bicycle parking provision. In terms of cycle storage, they require provision to be accessible and convenient, to encourage cycling as a sustainable means of transport.

Other Matters

23. Staff would be on-site through the day and night to care for and manage the behaviour of the small number of children who would reside at the property. Furthermore, in common with that which would ordinarily be expected within a typical family, children would only be permitted to be unsupervised when their carers deem that they are ready. For these reasons, the development would not result in levels of noise or activity that would be materially different from some other residential properties in the area that are occupied by families. Nor, for the same reasons, would it cause harm to the living conditions of the occupiers of nearby properties in respect of these matters. Furthermore, no compelling evidence has been put before me from which to conclude that the use of the property as proposed would cause harm to the welfare of other children in the area.
24. During my late morning and mid-week site visit, I was able to park close to the appeal site. Furthermore, during that time, several other available parking spaces were observed nearby. Although I appreciate that there may be times when there is a degree of parking stress within the area, sufficient off-street parking would be provided to serve the development. As such, the implementation of the scheme would not increase parking stress within the

area to the extent that it would cause harm to highway safety or to the living conditions of the occupiers of nearby properties.

Conditions

25. The wording of some of the Council's suggested conditions has been amended where appropriate. This is for clarity and to meet the six tests within paragraph 56 of the Framework.
26. The statutory condition specifying the time period for the implementation of the permission is imposed. For certainty a plans condition is also added, identifying the plans to which the permission relates.
27. A materials condition is imposed to protect the character and appearance of the area. To encourage the use of sustainable modes of travel, conditions are also required in respect of bicycle storage and a travel plan. A condition limiting the number of occupants of the residential institution is also necessary. This is to protect the living conditions of the occupiers of neighbouring properties.
28. The scheme does not include proposals to either extend or alter the area of hardstanding to the front of the building. Furthermore, there would be no enlargement to the roof of the main building and the combined roof area of the 2 proposed bike stores would be very similar to that of the shed that is to be removed. That being the case, the Council's surface water drainage condition is not necessary to prevent increased flood risk.

Conclusion

29. For the reasons given above, and having regard to the development plan as a whole and any other material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except in respect of the bicycle parking, the development hereby permitted shall be carried out in accordance with the following drawings: Location plan produced 09-May-2023, 143MAS:P01 Rev B, and 143MAS:P02.
- 3) The external materials to be used in the infill/conversion of the carport hereby permitted shall be those specified on the application form.
- 4) The residential institution hereby permitted shall not be occupied by more than four children and their carers at any one time.

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- 5) Notwithstanding condition 2, before the development hereby permitted is brought into use, details of the bicycle storage/parking, including dimensions and means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, and before the development hereby permitted is brought into use, the bicycle storage/parking shall be provided as per the approved details. Thereafter, the approved bicycle/parking shall be kept available for the parking and storage of bicycles only.
- 6) The development hereby permitted shall not be occupied prior to a travel information pack being submitted to and approved by the Local Planning Authority. Thereafter, all staff employed to work at the children's home hereby permitted, shall be provided with a copy of the approved travel information pack before first commencing work at the site.

End of conditions