
Appeal Decision

Site visit made on 19 September 2024

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/G3110/W/24/3345514

55 Field Avenue, Oxford OX4 6PA

- 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 Mr Mario Krrashi against the decision of Oxford City Council.
 - The application Ref is 22/01673/FUL.
 - The development proposed is demolition of the existing garage, W.C. and store. Erection of a two storey side and rear extension to create a 1 x 1 bed dwellinghouse (Use Class C3). Removal of 1no window to the rear elevation. Provision of car parking, private amenity space, bin and cycle stores, and a dropped kerb. Installation of air source heat pump.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant indicates that the original description of development has changed. Therefore, the above description reflects the amended description shown on the appeal form.

Main Issues

3. The main issues are:
 - whether occupiers of the proposed dwelling would have adequate private outdoor amenity space;
 - whether the size of the proposed dwelling would provide an adequate standard of accommodation;
 - whether the proposed parking arrangements for No 55 would provide safe access for its occupants; and
 - whether safe access from the proposed dwelling in the event of flooding would be possible.

Reasons

4. The appeal property is a two storey semi-detached dwelling in a residential road of similar dwellings and terraces. The surrounding area is residential in character.

Amenity space

5. Policy H16 of the Oxford Local Plan 2036 (2020) requires that the amount of private garden space should be at least equivalent to the dwelling's footprint. The proposed dwelling would have a footprint of 40m² and, in accordance with the policy, the garden should be at least this size. At 23m² the garden would fall materially short of this. Despite its regular shape, the practical use of the garden would be further challenged as a result of the presence of an air source heat pump and cycle shed. The fact that the reduced size of No 55's garden would not meet the policy's requirement is not sufficient reason to set aside the conflict that would arise with regard to the proposed dwelling.
6. The policy includes a number of other factors to assess whether adequate space has been provided. With regard to the surrounding context and layout of existing plots, the majority of gardens within the surrounding area are substantively larger than that of the proposed dwelling. Nos 53 and 59 neighbouring the appeal property have similar small dwellings adjoining them with similar-sized gardens to the current proposal. However, I accept the Council's argument that these developments pre-date the current policy and the size standard it requires. As such, I agree that they do not provide positive precedents in terms of size and orientation with regard to sunlight. Moreover, these are limited examples of properties with gardens that are smaller than is characteristic of the surrounding area.
7. The occupants of the new dwelling would have access to a choice of parks and other open space in the surrounding area. However, in this case this does not outweigh the extent of the shortfall from the required size of private amenity space. Accordingly, I conclude that the proposal would not provide adequate private outdoor amenity space for occupants of the new dwelling due to the conflict with Policy H16 of the Local Plan.

Standard of accommodation

8. Policy H15 of the Local Plan requires dwellings to comply with the Nationally Described Space Standard (NDSS). The standard for a two-storey, one-bed house is 58m². The proposed dwelling would have an internal floor area of 62m² and so would exceed the standard.
9. The Council contends that the first floor study could be used as a bedroom, despite it being below the size standard for a single bedroom. As such, the size of the property would not meet the standard for a two-bed house of 70m². I acknowledge that the description of the development is for a one-bed dwellinghouse; however, this alone does not determine the possible use of rooms in the light of their layout shown on the submitted plans.
10. My attention is drawn to a recent appeal decision in Oxford where the same issue was considered¹. In that case, the Inspector found that there is no way to control the use of the first floor study and that it is more likely that it would be used as a bedroom. It appears that the study in that case might have been a larger room than in the current proposal. Nonetheless, in all other respects the issues and

¹ APP/G3110/W/23/3331213 dated 21 March 2024.

policy context in the earlier appeal and this one are the same. In this respect, I am mindful that appeal decisions should be consistent and I have no reasonable basis to depart from the finding in the earlier appeal that the use of the room cannot be controlled and that there is a strong likelihood, despite its limited size, that it would at some point be used as an additional bedroom.

11. I have had regard to the appellant's contention that a study is an essential requirement, particularly as working from home is now commonplace. However, this does not necessarily require a separate room and, therefore, this contention does not overcome the above findings. Matters raised concerning the density of development do not have a direct bearing on this main issue. Consequently, I conclude that due to its likely occupation as a two-bed dwelling the proposal would not meet the requisite size standard in the NDSS and so would not provide an adequate standard of accommodation for future occupants. It is, therefore, contrary to Policy H15 of the Local Plan.

Parking and access

12. The Highway Authority indicates that the car parking layout for the existing dwelling is unacceptable as the spaces do not meet the required dimensions; and do not leave the requisite 1.2 metres unfettered access to the front door.
13. The main parties do not agree about the size of the spaces or the extent of the access that would be available. However, from the site inspection it is clear that use of the space in front of No 55's front door would impede access to and from the property. This is particularly apparent compared to the neighbouring properties, Nos 53 and 59 where similar development exists, due to the appeal property having a front porch extension. This results in a smaller parking area without the necessary gap between the parked vehicle and front door. Consequently, occupation of the space would cause an obstruction to safe use of the door, including in an emergency.
14. While parking policy may only require one space at each dwelling, three are proposed in total and shown on the submitted plans. I must, therefore, determine the appeal on this basis. Planning conditions would not overcome the above findings. The appellant contends that the parking arrangements could be implemented as permitted development. However, it is reasonable to assume that the only basis for the change proposed is to accommodate the new dwelling. As such, the parking arrangements form part of the current planning application. The fact that the appeal site is close to public transport routes does not have a direct bearing on this main issue.
15. Accordingly, for these reasons, I conclude that the proposed parking arrangements for No 55 would not provide safe access for its occupants. The proposal is, therefore, contrary in this regard to Policy RE7 of the Local Plan, which requires development not to have unacceptable transport impacts on occupiers. It is also contrary to the National Planning Policy Framework, which states that in determining applications it should be ensured that safe and suitable access to the site can be achieved for all users².

² Paragraph 114b).

Flooding and access

16. The appeal site falls within Flood Zone 2 and, therefore, a Flood Risk Assessment (FRA) was submitted, as required by local and national policy. Policy RE3 of the Local Plan requires that an FRA should demonstrate, amongst other things, that safe access and egress in the event of a flood can be provided.
17. I note that while the Council did not consider this requirement was demonstrated in the FRA, if there were no other overriding reasons for refusal, it would have sought further information on this issue. The appellant contends that access in the event of flooding could be provided through creating a gate to the rear boundary fence to the adjacent footpath, which could be secured by condition. However, it appears that the end of the path to the rear of the property also falls within Flood Zone 2 and, therefore, safe access via this route might not be possible.
18. For these reasons, this matter remains unresolved. As such, while this issue is not determinative for the appeal given the conclusions on the other main issues, I must conclude that the proposal is contrary to Policy RE3 of the Local Plan as it has not been adequately demonstrated that safe access from the proposed dwelling in the event of flooding would be possible.

Other Matters

19. The appellant draws comparisons between the proposed dwelling and a number of other developments in the surrounding area. However, any similarities that may exist do not overcome the above findings with regard to the main issues. I accept that the proposal would result in an additional small home in a sustainable location, but this is not sufficient reason to set aside the above findings of material harm and conflict with the development plan.
20. I have had regard to the representation from an interested party, despite the appellant's contention that no objections were made. This raises some matters addressed under the main issues; other matters raised would not result in a different overall conclusion.
21. I acknowledge that the appellant may be frustrated by the process leading to the Council's decision in this case. However, the procedural matters raised are not within the scope of this appeal, which concerns the planning merits of the proposal.

Conclusion

22. For the reasons given it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR