
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: 17 October 2024

Appeal Ref: APP/Q3115/W/24/3337360

10 Queens Avenue, Wallingford, Oxfordshire OX10 0NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Bertram (Gareth Bertram Ltd) against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S1967/O.
 - The development proposed is works of demolition and the erection of nine detached and semi-detached two-storey dwellings with access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with all matters reserved for subsequent consideration except for access and layout.
3. The Council indicates that matters relating to the third reason for refusal concerning highway safety have been resolved. Consequently, the Highway Authority has removed its previous objection and the reason for refusal does not need to be addressed in this appeal decision.
4. An application for costs was made by Mr Bertram against South Oxfordshire District Council. This application is the subject of a separate decision.

Main Issues

5. The main issues are whether the proposed dwellings would be in a suitable location, with regard to development plan policies concerning the location of new development; and the effect on the character and appearance of the appeal site and surrounding area.

Reasons

Suitability of location

6. The appeal site comprises the large undeveloped garden of No 10, a two storey detached dwelling located at the end of a private access track running off Queens
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Avenue, a residential cul-de-sac. The site shares boundaries with dwellings on Wantage Road to the north and the neighbouring detached dwelling, No 12.

7. Land to the north-west and south-west bordering the site is currently open and undeveloped. However, outline planning permission was granted in 2017 for a phased development of 555 dwellings, which is under construction¹. A reserved matters application for the final phases of the development was approved in 2023². This includes dwellings within phase five, which will be located directly adjacent to the north-west boundary of the appeal site. As such, I have had regard to this nearby development where it is relevant to consideration of the main issues and other matters raised.
8. Policies STRAT1 and H1 of the South Oxfordshire Local Plan 2011-2035 (2020) (the LP) together set out the overall development strategy and locational requirements for new dwellings, including that development should be within the existing built-up areas of towns and larger villages as defined in the settlement hierarchy.
9. Policy WS1 of the Wallingford Neighbourhood Plan (2021) (the NP) concerning the local development strategy for the town includes criteria that require development to be focused within the built-up area of Wallingford and to restrict inappropriate development in the countryside areas outside the town. The site is not allocated in the development plan and the Council considers that it does not meet any of the criteria in these policies to make such sites acceptable.
10. While Wallingford is defined as a town at the top of the settlement hierarchy, I am not aware that its settlement boundaries or the 'built-up area' are defined in relation to the policies referred to. In this regard, the appeal site is on the settlement edge and comprises an existing dwelling and its curtilage, with established dwellings adjacent to it. As such, it is reasonable to conclude that it forms part of the developed area of the town as a whole. Moreover, the strategic development adjacent to the site is relevant as it will extend the town's developed area well beyond the appeal site, such that it will be encompassed by development on all sides.
11. The Council acknowledges that the adjacent development may change the town's built-up area in the future, but considers that the appeal proposal is, in effect, premature in this regard. The Council also indicates that the first phases of the development are under construction and that phase five, closest to the appeal site, is expected to be completed in 2028. On this basis, where the phased development has started, reserved matters have been approved and there is an established timeline for completion of the dwellings nearest to the appeal site in the relatively near future, it is reasonable in my view to give weight to the adjacent development in the context of this main issue.
12. Reference is also made to Policy H16 of the LP concerning backland and infill development. However, this policy appears to apply to villages, but in any case given the above finding that the appeal site can reasonably be expected to be

¹ Ref P14/S2860/O.

² Ref P23/S0748/RM.

encompassed by development relatively soon, concerns about any conflict with this policy are overcome.

13. Therefore, for these reasons, in the particular circumstances of this case I conclude that the appeal site would not be an unsuitable location for the proposed dwellings due to the lack of conflict with Policies STRAT1, H1 and H16 of the LP and with Policy WS1 of the NP.

Character and appearance

14. Residential development surrounding the appeal site predominantly comprises semi-detached dwellings, with a smaller number of detached properties. Those on Wantage Road have generous rear gardens, while the dwellings on Queens Avenue are on smaller plots. Dwellings are laid out on uniform building lines fronting the roads.
15. While the appeal site would include detached and semi-detached dwellings, their varied orientation and layout around the cul-de-sac does not reflect the characteristic linear layout of the established dwellings. However, given the conclusion on the first main issue, regard should be had to the effect on the wider character and appearance of the area of the approved strategic scale development that will occur close to the appeal site and other dwellings.
16. The approved layout of the adjacent development shows a greater density of development than the established dwellings and a much less linear layout, with blocks of dwellings on smaller plots fronting principal and secondary estate roads. The layout of the appeal proposal would be more in keeping with this form of development. Furthermore, due to the appeal site's position, directly next to the approved development, it would be seen in this context. The much more significant size of the approved development means that the appeal proposal of nine dwellings together with the existing dwelling would not be seen as uncharacteristic of the expanded settlement or otherwise incongruous.
17. Accordingly, based on these findings, I conclude that the proposal would not have a materially harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is not contrary in this regard to the following development plan policies: ENV1 of the LP, concerning the protection of landscape and the countryside; DES1 and DES2 of the LP and HD1 of the NP, which together require high quality development that enhances local character. Policy STRAT1, which is referred to, does not directly concern the effects on character and appearance; the matters raised have been addressed under the first main issue.

Other Matters

18. I have had regard to the representations made by interested parties. Concerns raised about access rights and land ownership are outside the scope of this appeal, which is concerned with the planning merits of the proposal.
19. I have no evidential basis to conclude that other policy matters raised have not been addressed or that the proposal would result in harmful effects on local infrastructure. I also have no basis to find differently from the Highway Authority that safe access to the site can be achieved with the necessary planning conditions in place; or that there would be a harmful effect on local parking. Matters relating to

drainage, refuse storage and collection, and biodiversity could be addressed by conditions. Any effects arising from construction traffic would be temporary and a management plan could be required by condition, if necessary.

20. A number of matters are raised about the effect of the proposed development on the living conditions of existing residents and future occupiers of the neighbouring development that is under construction. Concerns about overlooking and loss of privacy are not for consideration now as appearance of the dwellings, including the layout of rooms and window positions, is a reserved matter. There is no basis to conclude that use of the access road will result in undue noise and disturbance to neighbouring residents, given the long rear gardens on Wantage Road and the set-back from the road frontage of Nos 12 and 14. There is also no reasonable basis to find that construction would harm trees in neighbouring gardens.
21. No 12 neighbouring the appeal site has an upper floor balcony that overlooks the site. While this would face the proposed dwellings on plots three and four, the separation distance is such that while the properties would block the existing open view, they would not have an overbearing effect on the outlook from the balcony. For the same reason, the proposed dwellings would not harmfully affect natural light to the relevant ground floor rooms in No 12, which in any case have a dual aspect with more than one window.
22. Concerns are raised about the proximity of the proposed dwellings on plots one, two and nine to the rear gardens of the nearest dwellings yet to be built in the adjacent approved scheme. While scale is a reserved matter, the description of development indicates that the dwellings on the appeal site will be two storey in height. The three dwellings on the appeal site will be very close to the shared boundary with the neighbouring site and, therefore, also to the rear gardens of the dwellings opposite.
23. For plots one and two the dwellings will be laid out such they will be relatively close together with the widest elevation of each dwelling facing the boundary and neighbouring gardens. The relatively modest size of these gardens combined with the proximity of the two storey dwellings to the boundary would result in the dwellings appearing as a dominant and overbearing presence. This will result in material harm by adversely affecting the reasonable use and enjoyment of the neighbouring gardens. The effects of the dwelling on plot nine would be less marked, but would also be harmful. While landscaping is a reserved matter, the proximity of the dwellings to the boundary means that these overbearing effects could not readily be mitigated.
24. The appellant contends that similar relationships exist between dwellings in the adjacent approved development and that the proposed layout respects separation distances required by guidance. However, I have considered the appeal proposal on its merits in relation to the approved neighbouring development and found that it would be harmful in its own right. As such, these contentions do not overcome the harmful effects that would occur.
25. Policy DES6 of the LP is drawn to my attention in relation to this matter. This requires that development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, including with

regard to dominance or visual intrusion. For the reasons given, the proposal would be contrary to this policy.

26. The Council indicates that it can demonstrate 4.2 years' worth of housing supply. While the LP is less than five years old and a sufficient housing supply was included in the plan, the application in this case pre-dates publication of the current version of the National Planning Policy Framework (the Framework). Furthermore, I am not aware that the Council has an emerging replacement plan. Consequently, for the purposes of this appeal the requirement to demonstrate a five year supply of housing in accordance with the Framework must apply³.
27. As the Council cannot demonstrate the requisite five years' worth of housing supply, the policies which are most important for determining the application are out-of-date⁴ and permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole⁵.
28. The appellant draws attention to a recent appeal decision in which it was found that the Council had at that time 3.49 years' worth of housing supply⁶. I have no basis to find differently and, therefore, give weight to this appeal decision and the housing supply figure that was found.
29. Taking account of this figure, the shortfall from the requisite five year supply is not insignificant. As such, the nine dwellings would make an important contribution to addressing the shortfall in a sustainable location with a mix of dwellings. Moreover, there would be some short-term economic benefit from the dwellings' construction and their occupants could help to support local services within the surrounding area.
30. Conversely, the proposal would conflict with LP Policy DES6, which requires development to demonstrate that it will not have significant adverse impacts on the amenity of neighbouring uses. Moreover, as the proposal would have an unacceptably harmful effect in this regard, it is contrary to the Framework's requirement that decisions should ensure that developments create places with a high standard of amenity for existing and future users⁷. Therefore, on balance, such adverse impacts would significantly and demonstrably outweigh the benefits of this scheme, as assessed against the Framework as a whole. Hence the presumption in favour of sustainable development does not apply.

Conclusion

31. While it has been found in the appellant's favour with regard to the main issues, the proposal is contrary to the development plan and to the Framework as it would cause unacceptable harm to residential amenity. Despite the shortfall in housing provision, the presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the

³ Footnote 79 of the Framework says that the policy in paragraph 76, which sets out circumstances where it is not necessary to identify five years' worth of housing supply, should only be taken into account when dealing with applications made on or after the date of the publication of the current version of the Framework. Paragraph 226 allows for identification of four years' worth of housing where there is an emerging plan at a prescribed stage of progress.

⁴ Footnote 8 to paragraph 11d).

⁵ Paragraph 11d)ii.

⁶ APP/Q3115/W/23/3323268 dated 14 November 2023.

⁷ Paragraph 135f).

development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR