



Appeal Decision

Site visit made on 31 October 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/G3110/W/24/3345039

231A Banbury Road, Oxford, Oxfordshire OX2 7HN

- 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 Katie Washburn against the decision of Oxford City Council.
 - The application Ref is 24/00344/ful.
 - The development proposed is a change of use of dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4). Provision of bin and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description is taken from the Council's Decision Notice. This is in the interest of clarity.
3. An additional plan has been provided by the appellant, which illustrates an alternative siting for the bin and cycle storage areas and amenity space. Even if these were discussed informally with a Council planning officer, I have determined the scheme of the basis of the plans before the council at the time of their decision, rather than this suggested amended plan as part of my decision. This is because the plan materially amends the proposal and was not subject to consultation.
4. A further drawing is also submitted which provides further detail of the ceiling height of the second floor bedrooms. This drawing does not amend the scheme in any way which interested parties of the opportunity may have wished to comment on, and the Council have had opportunity to comment on the plan. As such, there is no harm to natural justice in my consideration of this plan.
5. The council refer to Policy HD13 of the emerging Local Plan 2040 in a refusal reason. The Council confirm that whilst the Local Plan 2040 is emerging, 'at the time of writing, the policies hold little weight.' As such, I will give this policy little weight in my consideration of the proposal.
6. The Officer Report refers to Policy H16 of the Oxford Local Plan 2036 (2020) (LP). This policy refers to private open space. While not in the refusal reasons, the officer report is clear that there is conflict with H16, and the appellant has had chance to comment on this. As such, I will give this policy significant weight.

Main Issues

7. The main issues in this case are:

- whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to internal space;
- whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to private external space; and
- whether the proposed development would make appropriate provision for bin and bicycle storage, with specific regard to encouraging the use of bicycles, and the living conditions of future occupiers and occupiers of neighbouring properties.

Reasons

Living conditions - internal

8. LP Policy H6 states that the change of use of dwelling to an HMO will only be granted where the development complies with LP Policy H15 and the City Council's good practice guidance on HMO amenities and facilities (GPG). LP Policy H15 states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use.
9. The GPG sets out minimum floor space requirements. In addition, it sets out that any floor area of the room in which the ceiling height is less than 1.5m cannot be counted towards the minimum room size requirements.
10. Two bedrooms are proposed on the second floor of the property, which are in the roof space and served by dormer windows. I observed that both these rooms have an area where the ceiling height is compromised. As set out above, an additional drawing was submitted with the appeal, but this is not annotated in any way. There is no evidence before me therefore that the two rooms, minus the areas below 1.5m ceiling height, meet the minimum floor space requirements of the GPG.
11. As such, based on the evidence before me, the proposed development would not provide acceptable living conditions for future occupiers with specific regard to internal space. The proposal would conflict with the good quality living accommodation requirements of LP Policies H6, H15 and RE7.

Living conditions - external

12. LP Policy H16 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. The supporting text to the policy states that this is important for, amongst other matters, the health and wellbeing of residents.
13. The submitted plans do not show any specific external area that would be set aside for the future residents of the proposed HMO. There is an external area at the rear of the site, however I observed that this is used as an outdoor seating space for the use of the customers of the ground floor commercial unit.
14. This space would therefore not provide any private space for the use of residents. It would not provide any practical space for the drying out of clothes for example.

15. Adequate living conditions for future occupiers in this respect would not therefore be provided. The proposal conflicts with the outdoor amenity space standards requirements of LP Policy H16.
16. The Council also refer to LP Policies H6, H15 and RE7, however none of these specifically relate to the provision of outdoor space. As such, they are not determinative in this instance.

Bin and Bicycle storage

17. LP Policy DH7 states that bike and bin stores should be considered from the start of the design process. The supporting text to this policy sets out that bike storage is essential in Oxford, where travel by bike is already an important mode share, and where an increase is being encouraged. The submitted plans show the bin and bike storage area located on the roof of the single storey rear projection. They would be accessed through a door at first floor level and through an external staircase from the ground floor.
18. This would require residents to carry bicycles up and down from the first floor level. This would not be easy or convenient to use for future residents, and as such they would not be likely to use the facility. The proposed bike storage area would therefore fail to encourage travel by bicycle.
19. The bin and bicycle storage areas would be located directly outside the only window serving bedroom 3. As such, given this close proximity, the occupants of this room would likely be disturbed through odour and lack of privacy. The use of bin bags would not mitigate for this if stored in the same location.
20. In addition, the storage area would also be sited in close proximity to the boundary with the adjoining neighbour. Limited details are provided in this regard. Nevertheless, given the limited scale necessary, were I minded to allow the appeal, a condition securing appropriate details would ensure that the bin and cycle storage areas would not harm the outlook from the nearest neighbouring window and would not lead to an unacceptable loss of light.
21. Given the terraced nature of these properties, there is an existing element of mutual overlooking. The external staircase access also utilises a part of the rear flat roof, which provides opportunity of some brief, oblique views of the rear external area of the adjoining neighbour. However, the need to use the part of the roof next to the boundary would lead to an increased level of overlooking with direct views possible of a large part of the rear outdoor area of the adjoining neighbour. This would be in excess of any existing oblique overlooking and would harm the living conditions of the occupiers of this neighbouring property.
22. The proposed development would not therefore make appropriate provision for bin and bicycle storage, with specific regard to encouraging the use of bicycles and the living conditions of future occupiers and the occupiers of neighbouring properties. There would be conflict with the encouraging the use of bicycles goals of LP Policy DH7, and the protection of the amenity of neighbours and occupiers goals of LP Policies RE7 and H14.
23. The refusal reason also refers to LP Policy H6, however I have not been pointed to any specific part of this policy which relate to this main issue. As such, this policy has not been determinative in this instance.

Other Matters

24. The Council set out that discussions with Council officers prior to the submission of the application/appeal were with HMO licensing officers. The criteria for HMO licenses are a separate matter to planning permission, and therefore matters agreed by the Council HMO officers (or the Council refuse department) are not relevant to the consideration of planning policies.

Conclusion

25. For the reasons set out above, the appeal is dismissed.

B Phillips

INSPECTOR