
Appeal Decision

Site visit made on 25 January 2025

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Appeal Ref: APP/V3120/W/24/3352471

46 Austin Place, Abingdon OX14 1LX

- 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 Mr Marcus Hooke against the decision of the Vale of White Horse District Council.
 - The application reference is P24/V0443/FUL.
 - The development proposed as described on the Application Form is a 'New Dwellinghouse.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the Council and the Appellant in their appeal documents reference the paragraphs of the National Planning Policy Framework 2023 (the Framework). Since the submission of the appeal, the 2023 version of the Framework has been superseded by the 2024 version which was published on the 12 December 2024. The wording of the relevant paragraphs of the new Framework remain unchanged from the 2023 version (except for new paragraph numbers) and therefore did not require to be reassessed by either party in relation to this appeal. Additionally, this 2024 version of the Framework was amended on 7 February 2025 to correct cross references to paragraph 155 and for the avoidance of doubt is not intended to constitute a change of policy. As such I have considered the appeal on this basis and refer only to the updated 2025 Framework within my decision.
3. I note that the appeal documents include discussion with regards to whether the appeal site has lawful use as garden land as well as whether any structures such as fences erected around the site are lawful. It is not for me under a Section 78 appeal to determine the current correct and legal use of the appeal site or the structures erected hereof. I have therefore made my decision on this basis of the existing conditions. To that end it is open to the Council to pursue enforcement action, or for the appellant to apply for a determination under sections 191/192 of the Town and Country Planning Act if they believe the lawful use and/or development of structures is different. My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

Main issue

4. The main issue is the effect of the proposed development upon the existing site and the character and appearance of the locality.

Reasons

5. The appeal property is located to the side and rear of No.46 Austin Place which is located on a corner site where there is a cul-de-sac coming off Austin Place which is also called Austin Place. The dwellings which make up the appeal site and Austin Place are a group of dwellings that are situated along a crescent. It would appear that Austin Place is a speculative development which appears to date from the late twentieth century. The dwellings maintain a very similar design and layout which consists of pairs of two storey brick dwellings with pitched concrete roof fronting the street. The semi-detached dwellings and spaces in and around dwellings appear higher in status to speculative developments surrounding such as along Parsons Mead where development is more dense consisting of terraced dwellings. Along Austin Place there is a regimented positioning of dwellings which follow the curvature of the road and maintain good setbacks from the street with open front gardens with no boundary walls with many front gardens having a lawn with an access between dwellings beside the front lawn that provides access to garages located at the rear. There is an emphasis on spaces in and around dwellings with gaps between properties being important to the layout in that views are obtained to the tops of trees in rear gardens which are positive characteristics. Additionally, the formally planned estate contains a series of open green spaces, particularly located at corner locations. The lack of boundary treatment, spaces in and around dwellings with areas of lawn to the front garden and vegetation are positive attributes to the character of the street scene and informs the appearance and local distinctiveness of the area.
6. The appeal property is part of the formally developed estate and is part of a semi-detached dwelling with a lawn to the front, side and rear of the property. Whilst unusually there is a boundary fence erected around the front and side of the appeal site, the undeveloped and open form assists in contributing to the positive characteristics of the locality. Also, unlike surrounding dwellings there is no driveway to the front of No.46 Austin Place or the appeal site to the side.
7. Whilst the appeal site is within a designated settlement boundary and in principle would be an appropriate location, the Vale of White Horse Local Plan Part 1 (LP) Core Policy 37 is a design led policy which seeks that development responds positively to the site and its surroundings, creates a sense of place and is visually attractive in terms of scale, height, density, and incorporates landscaping, amongst others. LP Policy 37 is also supported by the South Oxfordshire and Vale of White Horse Design guide (DG) which provides further guidance around character and appearance and how successful places are derived from design which is informed by its context, character and function within the street, amongst others.
8. Unlike the surrounding context, the proposed dwelling would introduce a dwelling to the side of No.46, creating a terrace of 3 dwellings which would be uncharacteristic in an area of planned semi-detached dwellings. Whilst the proposal would have a similar front setback and design to the pair of semi-detached dwellings, there would be a significant loss of green space, particularly to the side as a result of the proposed dwelling, and to the front of both No.46 and the proposed dwelling, which

- would both have a paved front garden instead of lawn, where as a result the vehicular parking would dominate the front garden area.
9. The proposal would not adhere to the spacious quality of the area and would be experienced as an awkward development that intrudes into the green and undeveloped aspect along the corners of these planned streets. When combined with the loss of positive characteristics such as front lawns and the erosion of green space the appeal scheme would also be at odds with the development surrounding, and would be incongruous to its locality.
 10. Whilst I acknowledge comments in the Appellant's Statement of Case (SoC) with regards to the hedging that is being planted around the boundary, this appears to be used to imply a black and white difference between open and closed, such as trees making a space feel closed and not open which is evidence from a discussion in an appeal regarding open countryside and woodlands¹. The Council in the Decision Notice and Officer's Report are instead concerned with the open, green and undeveloped nature of the site which is a characteristic of this particular locality. The hedges and trees even though they can affect how open a site is, are softer and green and experienced differently to two storey built form which does not typically contribute to the undeveloped and green nature of the site which is a positive characteristic of this locality. As such this example appeal decision does not provide any additional justification for the scheme and is of limited weight.
 11. I have also been presented with previously granted planning applications² where the Appellant feels that there is inconsistency in the Council's approach to developing planned green spaces to the sides of dwellings. These examples are located along Parsons Mead and Benson Road where it is unclear whether these form part of the same development. This area contains more dense developments of terraced dwellings amongst a variety of dwelling types and forms. Application references such as ABG/18325, ABG/16606, ABG/18390/3, ABG/11176/1 were developed on corner plots and it is noted were constructed prior to the current LP. Unfortunately these dwellings have detrimentally altered the character, making later applications more acceptable along these roads. This is not the case for Austin Place which is a crescent with its own distinctive character which is much more intact than Parsons Mead and Benson Road. I do not agree that in this circumstance that the refusal contradicts the approval of these schemes as the character is different and that each application is decided upon its merits.
 12. I am also aware that there are some public benefits of the scheme, such as the development of a small site; contributing to housing needs of the area and the government objectives of boosting the supply of new homes; socio-economic benefits from increased local expenditure as a result of new residents, and the economic benefits from short term employment opportunities from the construction of the proposed scheme which attracts low-medium weight. However, these benefits are not sufficient to outweigh the harm caused to the character and appearance of the area, in which I attach great weight.

¹ Appeal Ref: APP/P1940/C/11/2164949

² ABG/11176/1 - 15 Parsons Mead; ABG/18390/3 - 44 Parsons Mead; ABG/19182/1 - 60 Parsons Mead; P21/V3458/FUL - 62 Parsons Mead; P17/V0379/FUL 89 Parsons Mead; ABG/18325 - 14 Bensons Road ABG/16606 - 21 Hill View

13. Given my above reasoning, the proposed scheme would erode the positive aspects of the planned estate such as the loss of greenspace and openness and cause significant adverse harm towards the character and appearance of the area. The scheme would therefore be contrary to LP Core Policy 37 which is supported by the DG.

Other Matters

14. I note comments from interested parties with regards to traffic and parking, impact to living conditions such as access to light, access to views, loss of privacy and noise from vehicles in close proximity to neighbouring dwellings; noise and disturbance from construction; drainage and sewerage issues; flooding; impact to ecology; and impact to house value.
15. Matters such as access to views or impact to property values are not planning considerations and therefore are not relevant to this determination. I note discussion in the appeal documents that if planning permission was granted then a full drainage survey would be required. There is no evidence that the site is subject to flooding or its impact towards ecology. Even so, given the harm caused to the character and appearance of the area, there would be no need to delve into these areas. I note that with regards to living conditions that the Council considered this and came to the view that the proposed scheme would not cause adverse detriment.

Conclusions

16. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR