



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/24/3352920

108 Cumnor Hill, Oxford OX2 9HY

- 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 & Mrs Osborne against the decision of Vale of White Horse District Council.
 - The application reference is P24/V0007/FUL.
 - The development proposed as described as the 'Proposed new C3 Dwelling house within curtilage of dwelling 108 Cumnor Hill including engineering works to the embankment. (As amplified by additional information received 19 March 2024.)'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the appeal documents reference 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 Since the submission of the appeal, the 2023 version of the Framework has been superseded by the 2024 version which was published on the 12 December 2024.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 remains 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 have taken the description of the proposed development from the Council's Decision Notice. According to the appeal documents the addition of engineering works has been added and I have taken this into account in this decision. I note that the Council's description is also replicated on the Appellant's Appeal Form.
4. During the appeal process, the Appellant has included an additional plan¹ that was not part of the plans that the Council assessed the application upon. The plan provides further cross sections and information to address the reasons for refusal No.1. The Council has commented on this additional plan in their final comments. The additional plan does not change the nature of the proposal and when judging

¹ 'Retaining Wall and Tree Site Sections,' Drawing No.S-001, Dated SEPT 2024

this information in accordance with the 'Wheatcroft Principles,'² I see no prejudice towards either party in accepting this plan and will base my decision upon it.

5. Reason for Refusal No.3 on the Council's Decision Notice refuses the application on the basis of no information regarding the impacts towards trees being provided as a result of the development. Paragraph 56 of the Framework states that 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.' I note that the Council's evidence from their Tree Officer is satisfied that this matter could be resolved through a condition to which I would also agree. As such a condition in relation to this would resolve this reason for refusal and as such will not be considered further within this letter.

Main issues

6. Taking the above into account, the main issues are the effect of the proposed development upon:
 - The character and appearance of the site and the locality; and
 - The living conditions of surrounding occupiers, with particular emphasis on outlook and sense of enclosure.

Reasons

Character and Appearance

7. The appeal site is located along Cumnor Hill, a single carriageway in each direction leading out of Oxford and towards Chawley and Cumnor. The experience of travelling along Cumnor Hill is transitional and semi-rural, with trees and vegetation being the dominant characteristics of the locality. Whilst there is evidence of dwellings along Cumnor Hill, they are typically detached and setback from the road with setbacks between dwellings where there is an emphasis on visual gaps and spaces in and around dwellings which further emphasise the transitional character of the area. As the road name suggests, topography is also a key characteristic that influences the development and local distinctiveness of the area. To the south east side of Cumnor Hill the land inclines from the road with properties set back behind trees, whereas to the north-west of Cumnor Hill the land slopes downwards, with very steep drops in land at some parts. There are also cul-de-sacs coming off Cumnor Hill, such as Colesgrove that traverses down and around the rear of the appeal site which has a number of detached dwellings at a much lower ground level than dwellings fronting Cumnor Hill. These are some of the positive characteristics of the area that reinforce the qualities of local distinctiveness.
8. The Appeal site is the side garden to No.108 Cumnor Hill. Only part of the land is at the same level as the road edge, with there being a steep drop in land within the site, from east to north west of around 12.5 metres, according to the Appellant's Statement of Case (SoC). Due to the height of the road at the site, views across the locality can be experienced with the tops of nearby dwellings along Colesgrove appearing lower than the road edge. The appeal site is well vegetated with trees

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- along the road edge and vegetation throughout the site with land adjacent to the north.
9. With regards to undertaking development relevant design orientated policies of the Vale of White Horse Local Plan 2031 Part 1 (LP) includes Core Policy 37 which is a design led policy which seeks that development creates a distinctive sense of place through townscape and landscaping that visually integrates with the surrounding, responds positively to the site and its context, and takes into account scale, grain, massing, and height amongst others. The appeal site is also within the boundaries of the Cumnor Parish Neighbourhood Plan (NP) where Policies DBC1 and DBC3 are design led policies which set principles around development being relevant to their nature and location; retaining character including trees and sensitive integration of new development into the landscape and topography; taking care to reflect small scale and fragmented building patterns; and ensuring new driveways and access are no wider than is essential, amongst others.
 10. The proposed dwelling would be two storeys from the rear, but have the appearance of a single storey dwelling to the road. Despite this, the appeal site would require a substantial amount of fill, land profiling and earthworks including the construction of stone retaining walls on two levels being a substantial combined height. The appeal documents are not accompanied by any structural or engineering report which illustrates the technical figures that the reprofiling and infilling of land and retaining walls are sufficient to enable a dwelling to be constructed, and whether any impacts would arise from the tree planting or limitations in terms of extensions to the dwelling which may necessitate removal of permitted development rights. Despite this, the appearance of the substantial retaining walls and reprofiling of land to the rear would present a very manufactured and man-made appearance which is at odds to the current more natural slope and drop in land form that is experienced in this location. Such large retaining walls and manufactured appearance are not a common feature in this location, with the design approach of the proposal being about inventing land to fit the proposal, rather than the topography influencing the way that the site is developed.
 11. To add to the discussion above, the retaining walls would then contain a two storey dwelling, which whilst set back from dwellings at Colesgrove, the retaining walls together with the two storey dwelling would according to the Council's SoC reach a height of 15 metres in built form from the rear. Whilst I appreciate comments from the Appellant's SoC that further planting could go some way to screening the development, I am not convinced that this would mitigate the increase in visual bulk and massing from the engineering works, filling and proposed dwelling which would have a domineering presence that would not be in-keeping with the positive qualities that reinforce character, appearance and the local distinctiveness of the area.
 12. There are also concerns with regards to the parking area which consists of a large area of permeable hardstanding to the front of the property. The proposed parking area would mean that hardstanding and vehicular parking would dominate the front of the dwelling. I can appreciate that some dwellings nearby have also paved their front garden, however these are not as frequent as a small driveway and parking areas, and would not reinforce the positive characteristics of the street scene in this location.

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13. I note that the Appellant's SoC refers to an appeal decision³ whereby a dwelling was approved on a site that had 'hilly topography'. By reading the appeal decision, it is unclear whether the topography is comparable to the proposal, there is certainly no mention of the topography influencing the character and appearance of the area and the dwelling in this case appeared to be a similar scale to existing dwellings and did not require the extent of infilling and engineering works as this proposal does. As such I am not convinced that the appeal is analogous to the considerations made in this appeal and therefore would attract limited weight in this decision.
14. Taking the above into account, the proposed extent of engineering works, filling, retaining walls, together with the construction of the dwelling and associated access would not reinforce the qualities of local distinctiveness and would not be designed taking into account the surrounding context and topography of the area. As such the proposal would cause significant detriment to the character and appearance of the site and the greater area and would be made contrary to LP Policy CP37 and NP Policies DBC1 and DBC3 as described previously.

Living Conditions

15. The Reason for Refusal on the Council's Decision Notice together with the Planning Officer's Report has concerns limited to the visual intrusion of the rear of the site to the surrounding dwellings to the north and west; predominantly being dwellings along Colesgrove. Dwellings along Colesgrove would experience the existing site and dwellings along Cumnor Hill from their rear gardens where the difference in topography is quite noticeable.
16. As discussed in the above matter, there is a clear difference in how the site would be experienced from the rear gardens of dwellings along Colesgrove from the current natural steep drop in land to the proposed highly engineered appearance that incorporates a greater amount of filling and reprofiling of land that increases the bulk, massing and visual presence of the proposal compared to the existing. As the current sense of outlook from the rear gardens along Colesgrove is one that is relatively natural in terms of the natural incline and fall of land along with vegetation and dwellings close to the road edge, the highly engineered approach together with the massing and bulk of filling and additional planting would be very noticeable and negatively affect the experience and feeling of the rear garden space of dwellings to the rear along Colesgrove.
17. I acknowledge that the Appellant's SoC refers to an appeal decision⁴ where an Inspector defined what they felt was overbearing. Given the description of this proposal, this definition would appear to be one that relates to a site that was a more typical tightly-knit residential environment. The use of words such as 'normally associated' and 'often accompanied' illustrate that this is not a one size fits all definition. In this particular case of the current appeal in question, the topography and semi-rural experiences dominate how the dwellings are experienced. Consequently, the visual intrusion of engineering works and the dwelling will provide a negative intrusion to the rear that will have a domineering presence to the rear gardens of dwellings to the rear along Colesgrove that would negatively affect the outlook and sense of enclosure of these properties. Taking this into account, this

³ Appeal Ref: APP/J1915/W/19/3224944

⁴ APP/P1133/W/23/3319221

example appeal is not analogous to the appeal site and carries little weight in this determination.

18. Like the above appeal, the two further example appeals⁵ illustrating that permissions have been granted for dwellings in hilly locations establishes that each case needs to be considered on their own merits. In these particular cases the Inspector cited that trees could mitigate harm and that the schemes were designed to reflect the topography of the site. It is important to note that neither of these appeals assess harm as a result of engineering works and their presence which is quite different within this proposed scheme. As such, I do not consider that these appeal schemes provide any justification for the harm caused within this proposal and would therefore have limited weight in this decision.
19. Consequently, the proposed scheme would cause significant adverse detriment to living conditions towards dwellings to the rear as a result of the increased visual bulk, visual intrusion and massing. The proposal would be contrary to the Vale of White Horse Local Plan 2031 Part 2 Policy DP23 which seeks that development does not result in significant adverse impacts as a result of dominance and visual intrusion, amongst others.

Other Matters

20. I note responses from interested parties with regards to the application and concerns regarding construction traffic; insufficient parking provision; impact towards wildlife; risk of landslip from new engineering works; living conditions in terms of privacy. Given that the proposal has been seen as being detrimental to character and appearance and living conditions, it has not been necessary to delve further into these issues.
21. 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.

Conclusions

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

J Somers

INSPECTOR

⁵ APP/K1128/D/22/3299801; APP/J1915/W/19/3224944
<https://www.gov.uk/planning-inspectorate>