



Appeal Decision

Site visit made on 12 February 2025

By G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2025

Appeal Ref: APP/V3120/W/24/3354972

16 Cumnor Hill, Oxford, OX2 9HA

- 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 Changlong Sun against the decision of the Vale of White Horse District Council.
 - The application Ref is P24/V0571/FUL.
 - The development proposed is the demolition of the existing dwellinghouse and the erection of 2 No detached dwellinghouses with associated works including landscaping.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. The application was determined by Planning Committee, and I have been provided with minutes of the meetings that took place. Some authors of the representations submitted for the appeal infer that the single reason for refusal used in the formal decision notice does not accurately reflect the Planning Committee's discussions and eventual decision. However, the Council's decision has not been challenged in the Courts. Accordingly, I shall treat it as properly representing the Council's stance on the proposal.
3. It is a matter of public record that the Council's officers recommended that permission be granted. Some suggest that their report contains errors and that it does not adequately cover some aspects of the proposal. To my mind, however, it is reasonably comprehensive, providing members with a clear picture of the main policy considerations and issues.
4. The site is located in an accessible location within a settlement on the fringes of Oxford wherein the principle of residential development is acceptable in terms of certain development plan policies. However other development plan policies are also applicable.
5. In its reasons for refusal the Council cites policy CP37 of the Council's Local Plan (LP) - Part 1 and policies DBC1, DBC3 & DBC5 of the Cumner Parish Neighbourhood Plan (NP). The NP was 'made' in May 2021, a few years following the adoption of the LP. I consider these to be the most relevant policies in the context of the main issue identified below.

Main Issue

6. This is the effect of the proposal on the character and appearance of its surroundings.

Reasons

7. The appeal site is located in a part of Cumnor Hill in a residential area of good quality. For the most part, the appeal site's surroundings are comprised of relatively substantial dwellings standing within sizeable verdant gardens. The appeal site currently reflects the main pattern of development in the area in that it is comprised of a dwelling set back from the road in a generous plot, with its rear garden sloping to the rear. Judging from what I saw and perceived, it is this pattern of development and its pleasant attributes that contributes most to forming the area's pleasant special character.
8. The appellant intends to demolish the existing dwelling, to erect a larger replacement dwelling in its place and to build another dwelling in the rear garden. Access to the dwelling to the rear would be provided from Cumnor Hill by way of a drive alongside the new house at the front. The proposal represents a form of backland development.
9. The site lies close to the eastern boundary of the NP. One of the inset maps in the plan identifies it as falling within an area of low density where the provisions of NP policy DBC3 are applicable and within a smaller designated Area of Special Character rendering the proposal to be subject to the provisions of policy DBC5. NP policy DBC1 relates to the whole of the Parish and provides general design principles which should be taken into account when promoting development proposals.
10. The appellant's original planning submissions contains the following statement:

The starting point should be that, whilst the neighbourhood plan is now made, it should not be used as a tool to prevent proposals which otherwise comply with the development plan and NPPF. Whilst these policies can be locally specific they should not conflict with the overarching development plan strategy and objectives.
11. However, the NP forms part of the development plan for the area and I am thus required to have regard to its policies in my decision.
12. The appellant contends that the proposal would comply with most aspects of the NP policies referred to and with aspects of LP policy 37. I acknowledge that the design of the dwellings is acceptable, that visual gaps would be left between buildings, that proposed boundary treatments would prove acceptable where seen in the public realm and ancillary building and parking provision would not prove intrusive.
13. Having regard to the NP's policies referred to, and to the provisions of LP policy CP37, I do not consider that the proposal to erect a dwelling as a replacement for the existing could reasonably be regarded as objectionable. Although larger than that to be replaced, it is of an acceptable design and scale and would fit acceptably into its visual context.
14. The proposed dwelling to the rear would be of a similar appearance. However, its proposed position, to my mind, brings it into clear conflict with aspects of local

policy. It would fail to reflect the strong local character formed by common plot shapes and ratios, indeed, the existing plot would be split in two and the form of backland development proposed would contradict the general pattern of development, thus undermining local character, contrary to one of the design principles of NP policy DBC 1.

15. The requirements of NP policy DBC5 require development proposals to demonstrate that they have paid full regard to the characteristics that contribute to the special area's architectural and historic interest within this relatively small part of the Parish designated as an Area of Special Local Character. I do not consider that has been done. The development pattern proposed runs counter to the grain of the pleasant general pattern of development in the designated area from which its special character is derived.
16. Fundamentally, the development would disrupt the site's role in maintaining the prevailing pattern of development, harming the area's special character. The appellant contends that the dwelling at the rear would largely be screened by extant development and would not be apparent in the public realm. This however represents a failure to appropriately distinguish between the concepts of '*character*' and '*appearance*' in planning practice. The distinction is recognised by the courts, including recently in the Court of Appeal¹. While the buildings may be of an acceptable appearance, it does not naturally follow that they would sit appropriately in their spatial context in terms of character, as the appellant appears to suggest.
17. Whilst the development would run contrary to aspects of local policy I am also required to consider whether any material considerations indicate that a decision contrary to those policies should be made. The most significant material considerations to my mind are the developments which have taken place either side of the appeal site and to the rear in Martin Close. The latter development lies outside the designated special area but represents a form of backland development. To the west of the appeal site, at No 18, backland development has taken place, whilst to the east are two blocks of flats.
18. These are all developments undoubtedly disruptive of the prevailing characteristics of the area. However, it strikes me that they were granted permission prior to the NP being made, and represent a form of development which persuaded the local community to adopt protective policies against further similar harmful development. Ultimately, the wider and prevailing pattern of development within the designated special area remains larger dwellings on larger plots of land and, in line with the objectives of the relevant local policies, this should be protected from piecemeal backland development that would slowly and progressively erode the special character over time.
19. It is my balanced judgment that the scale of harm to local character would be significant and that a successful appeal could encourage others to pursue similar proposals, which if allowed would further undermine the local special character of the area. I am not persuaded that the public benefits of the development cited by the appellant are such as to outweigh the harm I have found.
20. I therefore conclude that the proposed development would harm the character of its surroundings. Accordingly, a material conflict would arise with those provisions of

¹ *Kazalbash v Secretary of State for Levelling Up, Housing And Communities* [2023] EWCA Civ 904

LP policy CP37 and NP policies DBC1 & DBC 5 in that the development fails to respond positively to the site and its surroundings; fails to integrate appropriately to its surroundings and fails to properly reflect local characteristics which led to the area's protective designation.

Other matters

21. The Parish Council objected to the proposal on several grounds, as did many local residents. Having regard to all the evidence presented there is no convincing reason to conclude that privacy interests would be harmed; that flooding may occur; that drainage is an insurmountable issue; that ecological loss could not be appropriately mitigated or that highway safety may be put at risk. I have already dealt with what I consider to be the main planning related matters raised.
22. I have also taken into account the references to the *National Planning Policy Framework* and those to the Joint Design Guide. Reference has been made to other planning decisions and other LP policies, but I consider those to which I have referred to be the most relevant having regard to the facts of the case. I note the appellant's reference to a Court of Appeal judgment², but I have considered all the development plan policies referred to. As I have said, some are generally supportive of development in the area, whilst others are not. Ultimately, a balanced judgement is required having regard to all policies and material considerations.
23. No other matter is of such strength or significance as to outweigh those considerations that led to my conclusions on the main issue.
24. Accordingly, the appeal is dismissed.

G Powys Jones

INSPECTOR

² R (*On the Application of William Corbett*) v Cornwall Council [2020] EWCA Civ 508