



Appeal Decision

Site visit made on 28 May 2025

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th July 2025

Appeal Ref: APP/Q3115/W/24/3354383

Land at Newtown Road, Henley-on-Thames RG9 1HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Owen Yarnold, Knole Homes Ltd against the decision of South Oxfordshire District Council.
 - The application Ref is P24/S2145/S73.
 - The application sought planning permission for Erection of terrace of 4 dwellings (amended tree planting plan, contaminated risk assessment and drainage design received 1st February 2024), without complying with a condition attached to planning permission Ref P23/S2980/FUL, dated 9 April 2024.
 - The condition in dispute is No 2 which states: That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, 1392-P4A, 1392-P1, 1392-P2 and 1392-P3, except as controlled or modified by conditions of this permission.
 - The reason given for the condition is: To secure the proper planning of the area in accordance with Development Plan policies.
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Decision

1. The appeal is allowed and planning permission is granted for erection of terrace of 4 dwellings (amended tree planting plan, contaminated risk assessment and drainage design received 1st February 2024), at Land at Newtown Road, Henley-on-Thames RG9 1HG, in accordance with the terms of the application Ref P24/S2145/S73 and subject to the Schedule of Conditions attached to this Decision.

Main Issues

2. The main issues are whether disputed condition 2 is necessary or reasonable with regard to: i) the character and appearance of the area; ii) the quality of the proposed development, and iii) carbon reduction.

Reasons

Character and appearance

3. Based on my observations the appeal site forms part of an area with a varied character, which includes buildings with different roof designs. However, the proposed building would principally form part of the street scene along Newtown Road. In particular, whilst there is a degree of variation in the scale and appearance of individual buildings along this road, these mainly feature flat or shallow pitched roof forms. In this context, the appeal site already benefits from an extant planning permission for a development of

4 dwellinghouses in a two storey design with a mansard style roof, arranged in a staggered terraced form fronting onto Newtown Road. This was granted under planning permission ref: P23/S2980/FUL ('the approved scheme').

4. The mansard style roof of the approved scheme, which is in part recessed behind the walls of the building and features steep roof slopes and a flat central section, reflects the flat and shallower roof forms of buildings along Newtown Road.
5. The proposed external changes include alterations to the roof design, which results in an increase in the building's height and the insertion of front and rear dormers to make use of the resulting attic space.
6. Relative to the approved scheme, the ridge height of the building would only be marginally increased. As such, there would be no significant increase in the bulk and mass of the proposed building, relative to that in the approved scheme. The revised design would also retain the arrangement and levels of the dividing parapet walls and chimneys, as incorporated in the approved scheme.
7. The size and style of the proposed dormer windows reflect the windows already approved and these align with those along the lower floors. In particular, in respect of the front elevation, the new dormer windows would be centralised.
8. On the approved scheme, the roof ridge heights were designed to step-down with the sloping topography of the site. In the proposed scheme this is not the case and the two central units feature a slightly higher ridge height to the two end units. Because the sloping topography of the appeal site is modest. This, combined with the staggered arrangement in the terrace means that from the ground, the extent of the roof line relative to the topography of the site would be largely imperceptible and is unlikely to have any discernible effect on the overall design of the scheme.
9. Moreover, the above arrangement and the centralised dormer windows would introduce a degree of symmetry to the new design, when viewed from Newtown Road. Also, the dormer windows would add interest to the roof design and assist in mitigating the modest increase in bulk and massing associated with the proposed scheme.
10. For the above reasons and having regard to the approved scheme, the proposed scheme is of an acceptable scale and design and would not harm the character and appearance of the area. As such, this accords with the design aims of Policies DES1 and DES2 of the South Oxfordshire Local Plan 2011- 2035 ('LP') and Policy SD3 of the made Joint Henley and Harpsden Neighbourhood Plan Review 2022 ('NP'). Together, these policies seek to secure developments of a high quality design which enhance the character of the area.

Quality of the proposed accommodation

11. Based on the submitted floor plans, the inclusion of the roof space accommodation would add about 30-35sqm of internal living space to units 2 and 3. In terms of layout, Unit 2 would still be a 3-bedroom dwelling but would feature a larger third bedroom and gains a study. Unit 3 would gain a third bedroom and study. Consequently, Units 2 and 3 could potentially accommodate larger families, and thereby generate demand for larger outdoor amenity space.
12. Based on the Council's adopted Joint Design Guide 2022 ('Design Guide') the minimum requirement for private amenity space for 3-bedroom dwellings is

100 sqm. The overarching aim of the Design Guide is intended to assist in the process of developing high quality development and in assessing its design quality.

13. There are no differences in the approved and proposed footprints, and consequently the garden sizes for the dwellings would be as approved.
14. In determining the approved scheme, the Council came to the view that the garden areas for Units 1 and 4 would be marginally (5-10 sqm) below the 100 sqm recommended minimum standard for 3-bedroom dwellings. However, given the location within a town with good access to public open space, such a shortfall would be acceptable. Moreover, as approved, the garden size for Unit 2, which is also a 3-bedroom unit is smaller than those approved for Units 1 and 4.
15. The above illustrates that the standards in the Design Guide can be applied flexibly and consideration was also given to the availability of nearby public open space. This is also a matter of judgement for the decision maker.
16. The gardens for Units 2 and 3 are about 11m deep and reflect the widths of these units and are of a regular shape. The gardens would be secure, private and easily accessible from their respective dwellings. These gardens also incorporate sufficient space to accommodate a shed for storage, seating areas and leisure activities commensurate with a family dwelling. The proposed gardens sizes are also representative of those associated with family dwellings in the area.
17. Along with the proposed gardens, the additional floorspace allows for more flexible residential accommodation, which would improve the overall quality of Units 2 and 3.
18. Drawing on the above reasons, I am satisfied that the quality of Units 2 and 3, with regard to private amenity space would be acceptable.
19. As such, the proposal does not compromise the overarching aim of the Design Guide and accords with Policy DES5 of the LP, which requires the provision of private outdoor garden or outdoor amenity space for all new dwellings and also says that the amount of land that should be provided for the garden or amenity space will be determined by the size of the dwelling proposed and by the character of surrounding development.

Carbon reduction

20. LP Policy DES10 requires a 40% carbon reduction through renewable and low energy sources when compared to the 2013 Building Regulations compliant base case.
21. The approved scheme was supported by an Energy Statement and the accompanying SAP calculations to evidence how this policy requirement could be met. This showed a reduction in carbon emissions when compared to the Target Emission Rate ('TER').
22. The appeal submissions include Energy Statement Update and SAP Calculations (September 2024). These are based on the proposed scheme, which includes the retained use of air source heat pumps. Further, the fabric of the building has also been considered and contributes to a reduction in carbon through the installation

of high performance glazing, a reduced air pressure test figure and by maximising insulation where feasible.

23. The resulting percentage reductions in carbon emissions when compared to the TER are the same for plots 2, 3 and 4 and 1 percentage point higher for plot 1. Therefore, the proposed scheme retains similar energy performance ratings as the approved scheme. As such, the proposal meets the Council's Carbon Efficiency requirements and accords with LP Policy DES10 of the South Oxfordshire Local Plan 2035 and similar aims of Policies SD1a and SD1b of the NP.

Conditions

24. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original permission unless they have already been discharged. As I am not aware of any of the original conditions being discharged, I have imposed these for the same reasons given in respect of the original permission.
25. Conditions 3, 4 and 5 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for these to take the form of 'pre-commencement' conditions to have their intended effect. Where necessary and in the interests of clarity, flexibility and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

26. I have found that the removal of disputed condition 2 would not harm the character and appearance of the area, the quality of the proposed accommodation or effect the carbon efficiency of the scheme. Accordingly, I conclude that the appeal should succeed in respect of the removal of condition 2 but with a new condition 2 to reflect the proposed drawings.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans: Site Plan No. 1397/P1/A; Plans & Elevations No. 1397/P2/B and Tree Planting Plan No. 1397/P4/A, except as controlled or modified by conditions of this permission.
- 3) Prior to the commencement of development hereby permitted, except for any demolition, a full surface water drainage scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The design of the surface water drainage system shall be in accordance with the non-statutory technical standards for sustainable drainage systems, including details of BRE 365 soakage testing, levels, size, position and construction of all drainage works. The drainage scheme shall be sized to accommodate a minimum of the worst case 1 in 30 year storm, with evidence to demonstrate that the site can accommodate the worst case 1:100 year storm + 40% Climate Change storm, without any flows exiting up to this storm event and any storage on site not causing a nuisance or flooding to property. A surface water discharge to a Thames Water recorded foul sewer will not be permitted under any circumstance. The surface water drainage scheme shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted.
- 4) Prior to the commencement of development, except for any demolition, a construction phase surface water management strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy must demonstrate how surface water will be managed throughout the construction phase. The construction phase surface water management strategy shall be implemented in accordance with the approved details prior to the commencement of the development hereby approved and thereafter maintained for the duration of the construction phase.
- 5) Prior to the commencement of development, except for any demolition, a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The foul water drainage scheme shall include details of method, levels, size, position and construction of the drainage scheme. If the foul water drainage system is to be adopted by the Water Authority, then it must be designed in accordance with the latest Water Authority design and construction guidance. If the foul water drainage system is to remain private, then it must be designed to accord with Part H of the Building Regulations requirements and shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted.
- 6) Except in the case of any building work hereby permitted, no change in the levels of the land shall take place unless in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority before any development commences on site. This scheme shall include details of existing and proposed ground levels.

- 7) No development above slab level shall take place until a photographic schedule of all materials to be used in the external construction and finishes of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority.
- 8) The first floor en-suite window in the north-west elevation of Unit 1 hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight (or other means of opening to be first agreed in writing by the Local Planning Authority) prior to the first occupation of the accommodation and shall be retained as such thereafter.
- 9) Notwithstanding the provisions of the Town and Country (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order), no development as specified in Schedule 2, Part 1, Class A - Extensions; Class B - Roof Extensions; Class E – Outbuildings and Class F - Hardsurfacing shall be undertaken without obtaining planning permission from the Local Planning Authority.
- 10) Prior to first occupation, all carbon reduction energy efficiency measures shall be implemented in accordance with the Energy Statement Update and SAP Calculations (September 2024) hereby approved and a Verification Report shall be submitted to the Local Planning Authority and approved in writing. The Verification Report shall demonstrate (with photographic evidence) that the energy efficiency measures have been implemented. These measures shall be retained and maintained as such thereafter in accordance with the Energy Statement Update and SAP Calculations (September 2024) and Verification Report.
- 11) The air source heat pumps hereby approved shall meet Microgeneration Installation Standard: MCS 020 to qualify as permitted development. If this MCS Certification cannot be met, the approved air source heat pumps shall be so installed, maintained, and operated so as to ensure that the rating noise level from the equipment does not exceed the background noise level at the boundary of the premises. Measurement and rating of noise for the purposes of this condition shall be in accordance with BS4142 (2014) 'Method for rating industrial and commercial sound'. The measurement location shall be 1 metre from the facade of the nearest noise sensitive receptor. In the event of unacceptable noise or vibration being caused by the installed plant, machinery and equipment, the persons responsible/owner shall investigate and undertake works to resolve the problem to the satisfaction of the local planning authority.
- 12) Prior to the first occupation of the development, vision splays measuring 2.0 metres by 2.0 metres shall be provided to each side of the access and the vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.9 metres as measured from carriageway level.
- 13) The development hereby permitted shall not be occupied until the existing redundant sections of dropped kerb access onto 'Newtown Road' are permanently and effectively closed in accordance with a scheme to be first

submitted to and approved in writing by the Local Planning Authority.

- 14) Prior to the first occupation of the development hereby approved, the parking and turning areas shall be provided in accordance with the approved plan 1397/P1/A and shall be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage (SuDS) principles, and shall be retained unobstructed except for the parking of vehicles associated with the development at all times.
- 15) Prior to the construction of the development hereby approved above slab level, details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be implemented prior to first occupation of the development and thereafter retained in accordance with the approved details.
- 16) Prior to the construction of any development above slab level, a scheme for the landscaping of the site, including the planting of trees and shrubs, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme. The scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 17) The tree protection details as shown on the approved Arboricultural Report and Tree Protection Plan (GHA Trees ref: GHA/DS/162230:23) shall be put in place prior to any on site works including demolition commencing and thereafter retained in situ for the duration of the construction phase.
- 18) Prior to the commencement of the development above new slab level, details (including specification, position, height, orientation) of a scheme of biodiversity enhancements to be provided, including bird/bat boxes shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed in conjunction with a suitably qualified ecologist. Thereafter, the development shall be implemented in accordance with the approved details and all features provided prior to first use.
- 19) No external lighting shall be installed on the site other than in accordance with details, which have first been submitted to and approved in writing by the Local Planning Authority. The details shall include location of the external lights and product specification.
- 20) Prior to the occupation of any dwellings, a SUDS compliance report prepared by an appropriately qualified Engineer must be submitted to and approved by

the Local Planning Authority. This must suitably demonstrate that the sustainable drainage system has been installed and completed in accordance with the approved scheme (or detail any minor variations). This report should as a minimum cover the following;

- 1) Inclusion of as-built drawings in DWG or DXF format,
- 2) Inspection details of key SUDS features such as flow controls, storage features and volumes and critical linking features or pipework undertaken, with appropriate photographs and evidence of inspections incorporated,
- 3) Details of any remediation works required following the initial inspection,
- 4) Evidence that that remedial works have been completed.
- 5) CCTV survey.

21) Prior to the occupation of any dwellings, a foul water drainage compliance report prepared by an appropriately qualified Engineer must be submitted to and approved by the Local Planning Authority. This must suitably demonstrate that the foul water drainage system has been installed and completed in accordance with the approved scheme (or detail any minor variations). This report should as a minimum cover the following;

- 1) Inclusion of as-built drawings in DWG or DXF format,
- 2) Inspection details of key foul water drainage features such as the manhole chambers, and critical linking features or pipework undertaken, with appropriate photographs and evidence of inspections incorporated,
- 3) Details of any remediation works required following the initial inspection,
- 4) Evidence that that remedial works have been completed.
- 5) CCTV survey.

22) Prior to the first occupation of the development hereby approved, an Electric Vehicle Charging Point shall be installed for each dwelling and thereafter retained as such.