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## Appeal Decision

Site visit made on 15 August 2012

by **P Jarvis Bsc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2012

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**Appeal Ref: APP/G3110/A/12/2171348**

**51, Littlemore Road, Oxford OX4 3SS**

- 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 P Carney against the decision of Oxford City Council.
  - The application Ref 11/02885/FUL was refused by notice dated 10 February 2012.
  - The development proposed is the subdivision of the existing garden serving No. 51 Littlemore Road, demolition of existing garages and erection of detached two-storey four bedroomed dwelling and creation of two parking spaces accessed from an existing vehicular access onto Van Diemens Lane.
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### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues are (a) the effect on the living conditions of the occupiers of adjoining properties and (b) whether there would be satisfactory parking provision for the existing property at No 51 Littlemore Road.

### Reasons

3. The appeal site comprises the rear half of the garden area of No. 51 Littlemore Road, a semi-detached dwelling located along a road of similar properties within a residential suburb of Oxford. The site has a frontage onto Van Diemens Lane at the rear with vehicular access off it to a double garage which serves the existing property.

#### *Effect on living conditions*

4. Whilst most of the surrounding properties are two-storey, the proposed dwelling would be of substantial scale compared to the existing relatively modest semi-detached dwellings which surround the site, particularly those which front Littlemore Road. The adjoining dwelling at 1a Van Diemens Lane, which appears to have been built on the former rear garden areas of Nos. 53 and 55 Littlemore Road, is a larger detached dwelling. However, that occupies a wider plot and with a lower eaves level appeared to sit comfortably within it.
5. The proposed dwelling would, by contrast, have a close relationship with adjoining properties in Littlemore Road, particularly by virtue of its position almost right on the boundary with No. 49. The long, high flank elevation of the dwelling would extend for a considerable length along the common boundary, and in my view this would have a particularly oppressive and unneighbourly

impact on this adjoining property and, in particular, would unacceptably dominate the rear section of the garden which, whilst not the most 'used' part, is nevertheless an integral part of the private garden area of the property. In my opinion its use would be severely compromised by the proximity and overbearing nature of the proposed dwelling.

6. Furthermore, it seemed to me that having viewed the proposal from No. 49, there would be a significant level of overlooking from the first floor bedroom windows in the rear of the proposed dwelling. These windows would overlook the private garden area to the rear of the property and to a lesser extent enable views into the rear rooms of the dwelling itself. Whilst I was unable to view the site from No. 51, I would expect a similar level of overlooking to be introduced in relation to that property. Currently there is little overlooking of these rear garden areas as the existing dwelling at 1a Van Diemens Lane, did not appear to contain any first floor windows in the rear elevation.
7. Policy HS19 of the Oxford Local Plan (2005) seeks to protect the privacy and amenity of the occupants of existing dwellings in relation to overlooking and in terms of whether a development would be overbearing. I have noted that the Council appears to apply a 'rule of thumb' with regard to back to back distances of a minimum of 20 metres. However, this does not appear to be set down in any adopted guidance and whilst this would appear to be satisfied in this instance, it seemed clear to me from the site visit that the neighbours' amenity would be unacceptably compromised having regard to the current level of amenity and the wider character of the area.
8. The Council also considers that the proposal would be overbearing in relation to 1a, but having regard to the relative position of the dwellings and garden areas, I do not find that an unacceptable relationship would be introduced in this respect. Similarly having viewed the site from No. 47, I find this property to be sufficiently distant so as to maintain an acceptable level of amenity.
9. I therefore find that the proposal would have a harmful effect on the living conditions of the occupiers of adjoining properties. It would thus conflict with Policies CP1, CP6, CP8, CP10 and HS19 of the Oxford Local Plan (2005) which seek high quality development in a manner which is compatible with its surroundings and which safeguards the amenity of existing properties. In my view significant weight can be afforded to these policies in accordance with paragraph 215 of the National Planning Policy Framework (the Framework) as they are generally consistent with it.

#### *Parking provision*

10. The appellant indicates that parking provision for the existing dwelling at No. 51 Littlemore Road could be made within the existing front garden of that property and on my site visit I saw that many of the adjoining properties have such arrangements. This would seem to me to be an entirely appropriate and acceptable arrangement and I note that the highway authority raised no objection in this regard.
11. Therefore, subject to a condition to require the provision of a suitable parking area which is sustainably drained and finished with an appropriate surface, the full details of which could be secured via condition, I find that there would be no conflict with LP Policies CP1, CP10 and TR3 which seeks to ensure that

development provides appropriate and safe access and parking to meet the Council's adopted standards.

### **Other Matters**

12. Both the appellant and the Council have made reference to policies within the Oxford Core Strategy (2011) (CS) although none had been cited in the decision notice. CS Policy CS2 seeks to make effective use of previously developed land (PDL) by focussing development on it. However, garden land is no longer defined as PDL and whilst this should not be taken as implying that the land should not be built on at all, the key test is whether the development would harm the local area assessed in the context of relevant policies and all material considerations.
13. The Council has also referred to policies within the emerging Sites and Housing Development Plan Document (2012) which although submitted to the Secretary of State has yet to be subject to Examination in Public. However, on the basis of the information provided it seems to me that only limited weight can be given to these policies albeit I note that Policy HP14, which appears to be the only one relied on by the Council, does not seem to be significantly at variance to existing policies nor inconsistent with the wider aims of the Framework.
14. I note from the evidence provided that the city has a significant housing problem and that, particularly in the area in which the appeal site is located, there is a need for family housing. Furthermore, the appellant has highlighted the shortfall in the Council's five year supply and the contribution that sites such as this can make. It is also clear that the site lies in a sustainable location. However, whilst noting the benefits in this regard, I do not find them sufficient to outweigh the significant level of harm that would be introduced as a result of this development.

### **Conclusion**

15. I therefore conclude that this appeal should be dismissed.

*P Jarvis*

INSPECTOR

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