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# Appeal Decision

Site visit made on 5 May 2015

**by Kenneth Stone Bsc(Hons) DipTP MRTPI**

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

**Decision date: 20 May 2015**

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**Appeal Ref: APP/G3110/W/15/3004768**

**William Morris Close, Cowley Marsh, Oxford OX4 2JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Cantay Estates Ltd against the decision of Oxford City Council.
  - The application Ref 14/01670/OUT, dated 17 June 2014, was refused by notice dated 14 August 2014.
  - The development proposed is described as 'erection of 7 dwellings (2x2 bedroom flats, 1x3 bedroom flat, 2x3 bedroom houses and 2x4 bedroom houses) car parking, access and landscaping.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. The application was submitted in outline but on the application form landscaping was the only matter indicated for which approval was being sought. In the planning statement submitted in support of the application paragraph 1.6 notes that the application seeks full planning permission. The Council have considered the matter on the basis that the application was for outline consent with all matters except for landscaping to be determined at this stage (paragraph 3 of the Officers' assessment in the Officers' report). The Council's description of development as notified to the applicant, on which consultation was undertaken, and as used on the decision notice reflect this interpretation of the nature of the application. Given the plans and details submitted with the application, which are not indicated to be illustrative, and that the matter has not been questioned by the appellant in their grounds of appeal, I have concluded that the application sought outline consent along with approval for access, appearance, layout and scale; and that only landscaping was a reserved matter for which approval was not being sought. I have considered the appeal on this basis.

## Main Issues

3. The main issues are the effect of the proposed development on:
  - the provision of open space for sport and recreation;
  - the character and appearance of the surrounding area; and

- the living conditions of the occupants of the properties in Crescent Close, with particular reference to privacy.

## **Reasons**

4. The appeal site is located at the end of William Morris Close, a cul-de-sac providing access to existing residential development, a free school, and an area of open space. It was formerly a car park in connection with the Lord Nuffield Club. This was a sports facility the club house of which was accommodated in the building that is now the free school, and which incorporated the open space area of the playing fields and the car park. The site is presently enclosed by temporary fencing, however this has not secured it, and there were vehicles parked on the site at the time of my site visit. The open grassed space area has been secured by fencing which restricts public access.
5. To the south and west the site abuts existing residential development.

### *Open space provision*

6. Policy SR2 of the Adopted Oxford Local Plan 2001-2016 (OLP) states that planning permission will not be granted for development that would result in the loss of open-air sports facilities where there is a need for the facility to be retained or the open area provides an important green space for local residents. The policy also provides for exceptions which include circumstances where there is a need for the proposed development.
7. Policy CS21 in the Oxford Core Strategy 2026 (OCS) identifies the Council's aspiration to achieve and maintain an overall average of 5.75 ha of public accessible green space per 1,000 population. This is to be achieved by restricting the grant of planning permission that result in the loss of sports and leisure facilities, with exceptions to the restriction of development that are similar to those identified for Policy SR2
8. The sports facilities protected by policy SR2 are as identified on the proposals map and the parties agree that the site is washed by the relevant colour on the map. However, the appellant has questioned the extent of the annotation in this location as it still covers the free school and recent residential developments. The contention is that the car park area is covered by the colour wrongly; and that the map should have been updated to reflect current development in the area which would remove this car parking site from the open space designation.
9. It is clear that this designation was in place to protect a wider area which has been the subject of developments over time that have reduced its size and scale. Whilst there are developments that have been introduced which are no longer related to the original designation it does not follow that this is the case for the appeal site. The area the subject of this appeal was part of a wider sports facility made up of a club house, car park and playing fields, each contributing to that facility. Whilst the club house has been extracted from that facility, and is now a free school, the remainder of the site remains as the sports facility. The further subdivision of that site, through the introduction of fencing, to detach the remaining elements from each other and preclude public access does not change the use of the area or the policy protection. Whilst the appeal site was previously used as a car park, secured by condition on the permission for the sports facility, the loss of the club house does not change

the use of that area of land, which remains an ancillary use to the main use as a sports facility. On this basis I am satisfied that the policy protection afforded by policies SR2 of the OLP and CS21 of the OCS apply to the site.

10. The proposed development of the site for residential purposes would result in the loss of a section of the remaining open air sports facility and as such would conflict with policies SR2 of the OLP and CS21 of the OCS. The appellant has provided no evidence to demonstrate that the site is not required and there is no indication of any market testing. The Council have confirmed that the area is significantly under provided with accessible green space at 2.95 ha per 1000 population compared to the City average suggested appropriate in policy CS21. The appellant has contested this and directed, my attention to two other close by spaces, that I visited at the end of my site visit. Whilst these were large useable publicly accessible spaces, including playing pitches, there is no indication of the contribution they make to the level of provision required under the policy. Moreover, whilst that on Holloway Road would be the more readily accessible of the two to the future residents of the development this does not address the issue of the overall level of provision per head of population, which is significantly below the policy aspiration, or the contribution the existing open space makes to the quality of the existing area, a further policy objective.
11. The policy protection for open spaces does afford an exception for development that is needed. In this regard the appellant has contended that the significant pressure for housing and the low level of housing provision in the City would amount to such a demonstrable need. The Council have stated that they are meeting the Housing requirement set out in policy CS22 of the OCS and that it can demonstrate a five year housing land supply based on the constrained figure in the OCS. The appellant contests that the Council is providing a five year housing land supply, which they say the Council have provided no evidence for and is simple assertion, and suggests that the substantial shortfall between the objectively assessed need, as demonstrated in the latest Strategic Housing Land Availability Assessment, and the housing supply figures demonstrate significant unmet demand.
12. Oxford is a tightly constrained City with significant pressure for development and particularly housing. The OCS, adopted in 2011 was produced with an understanding of that development pressure, and has been found to be compliant with the National Planning Policy Framework by previous inspectors<sup>1</sup>. The Council acknowledge that there is a significant unmet need and there is continuing dialogue with adjoining Councils to explore ways to address this. I note in this regard the report provided by the appellant by Cundall entitled Unlocking Oxford's Development Potential produced on behalf of surrounding Authorities. I have not been provided with figures to either support the Council's position that a five year housing land supply is available, or evidence to the contrary from the appellant to demonstrate such is not available.
13. What is evident is that the Council are providing a constrained housing supply figure and that there is significant pressure remaining from unmet need. In these circumstances additional housing provision would be a significant positive benefit. However, the limited additional number of units proposed in this scheme would not make a significant contribution to address that need and the policy protection to provide a balanced approach to economic, environmental

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<sup>1</sup> APP/G3110/A/13/2206058

and social development is crucial to ensure an appropriate plan in the context of a plan led system. On this basis I am not convinced that the benefit that would result from this small number of housing units is such that it would outweigh the harm that would arise from the conflict with the protection of the open space.

14. It is a fact that the site would be previously developed land however whilst there is positive support for the reuse of such land this does not necessarily have to be for housing development. Further development to help support or underpin the open area recreational use of the remainder of the site would also comply with that objective. This does not therefore outweigh the concerns I have identified above.
15. For the reasons given above I conclude that the proposed development would materially harm the provision of open space for sport and recreation in the City. Consequently it would conflict with policy SR2 of the OLP and Policy CS21 of the OCS.

#### *Character and appearance*

16. William Morris Close has a variety of buildings of differing heights, bulk, mass and design. At the entrance to the close there are three storey blocks of flats and the free school which is of a similar height to those flats. There is a small terrace of two storey houses between the flats and the appeal site. East of the appeal site and towards the south three storey flats, addressed into Beresford Place, have a principal elevation facing onto the playing fields. To the south and west of the appeal site there are two storey terraced houses. In this regard the provision of a small development of two and three storey buildings is not of itself out of character with the scale of development in the locality.
17. The isolated location of the three storey block however sits forward of the building line of the short terrace formed by 49-59 William Morris Close and presents a significant proportion of its flank elevation to view from the road. The forward position associated with the alignment of the adjoining terrace and the relatively limited detailing on the flank elevation would make this an austere negative feature in the street scene. When viewed in the close relationship with the adjoining terrace the abrupt change in scale would be noticeable and this would be emphasised by the change in levels between the appeal site and the adjoining properties in William Morris Close. I do not accept this would be successfully addressed by the limited difference in the elevational heights of the buildings suggested by the appellant.
18. For the reasons given above I conclude that the proposed development would result in material harm to the character and appearance of the surrounding area. Consequently it would conflict with policy CS18 of the OCS and Policy HP9 of the Oxford City Council Sites and Housing Plan 2011-2026 (OSHP) and policies CP1, CP6 and CP8 of the OLP. Collectively these seek development demonstrating a high quality design that responds to local character including the form and layout of surrounding properties.

#### *Living conditions*

19. The proposed flats have their principal elevations orientated east west. The main frontage faces towards the open grassed playing fields and the flats on the upper floors are laid out with their main outlook in that direction. The rear

elevation, facing properties in Crescent Close, contains the windows to a store, bathroom and kitchen for each of the upper floor flats. This elevation would look across the rear gardens and rear elevations of the properties in Crescent Close at very close order. The building elevation would contain a number of windows which would increase the perception of overlooking for the occupants in those properties both in their gardens and within the houses. Although there would be a relatively acute angle between the façades of the properties the very close relationship would still potentially afford a significant degree of overlooking. The fact that this would be over that element of the garden closest to the houses, and therefore the area of greatest sensitivity would amplify this concern.

20. The appellant has sought to mitigate this impact by obscure glazing. Whilst this may be appropriate on the store and bathrooms, I am concerned about obscure glazing the kitchen windows in the context of the future living conditions for the occupants of the proposed flats. The lack of outlook from this part of the flats main habitable space would not be compensated for by the open plan design of the property given the depth of the flats. Moreover the narrow window on the side elevations would provide only very limited outlook. If the kitchen windows were not obscure glazed it would lead to unacceptable overlooking and loss of privacy for the occupants of the properties in Crescent Close. Even with the obscure glazing I am concerned that the detailing and fenestration on this elevation, given its very close relationship with those properties, would lead to a perception of overlooking that would be uncomfortable for the occupants of the adjoining properties.
21. For the reason given above I conclude that the proposed development would result in material harm to the living conditions of the occupants of the properties in Crescent Close, with particular reference to privacy. Consequently it would conflict with HP12 and HP14 of the OSHP which seek to ensure new development provides reasonable privacy for the occupants of existing properties and that there is a good quality of living accommodation for new developments.

### **Overall conclusions**

22. The proposed development would result in the loss of an area that would compromise land for the use of open space and recreation in a tightly constrained City with significant competing demands for development. This is not outweighed by the limited contribution the development would make to housing provision. The development would compromise the quality of the character and appearance of the area and harm the living conditions of the occupants of adjoining properties. The proposal does not therefore represent sustainable development as required by the National Planning Policy Framework, and conflicts with a number of the core principles set out in paragraph 17, including bullet points 3, 4, 9 and 12.
23. For the reasons given above I conclude that the appeal should be dismissed.

*Kenneth Stone*

INSPECTOR

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