



Appeal Decision

Site visit made on 6 September 2017

by **R C Kirby BA(Hons) DipTP MRTPI**

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

Decision date: 22nd September 2017

Appeal Ref: APP/G3110/W/17/3175515
16 Chester Street, Oxford OX4 1SN

- 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 RHHS Repository Limited against the decision of Oxford City Council.
 - The application Ref 17/00608/FUL, dated 8 March 2017, was refused by notice dated 3 May 2017.
 - The development proposed is demolition of existing garages and erection of 1no. two storey one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposal on the living conditions of the dwelling's intended future occupiers, having particular regard to its size, and its effect upon the living conditions of nearby occupiers with regard to privacy.

Reasons

Intended Future Occupiers

3. The aim of Policy HP12 of the Sites and Housing Plan 2011-2026 (SHP) is for new homes to have rooms and corridors that are comfortable, able to accommodate furniture and household equipment that would be expected in that part of the home, and allow for convenient circulation and access. In this regard, the policy states, amongst other matters, that planning permission will not be granted for new dwellings if any single dwelling provides less than 39 square metres (m²) of floorspace (measured internally).
4. The appellant submits that the new dwelling would be suitable for a single person and has calculated that the gross internal floor area would be 42.05 m². Of this, 23.87 m² would be on the ground floor and 18.13 m² on the first floor. The staircase would have an area of 3.04 m². The Council does not dispute these calculations. The new dwelling would have a greater floor area than that required by SHP Policy HP12 and as such there would be no conflict with the space standard set out within it.
5. However, in March 2015, the Government introduced Technical Housing Standards – Nationally Described Space Standard (NDSS). A written ministerial

statement (WMS) published on 25 March 2015 stated that after 1 October 2015, existing Local Plan policies relating to water efficiency, access and internal space should be interpreted by reference to the nearest equivalent new national technical standard.

6. In accordance the WMS, the Council indicate that it is the NDSS which is applied to new housing in the area. I have no reason to disagree with the Council's approach in this regard. The NDSS sets out requirements for the gross internal floor area (GIA) of new dwellings at a defined level of occupancy, as well as floor areas and dimensions for key parts of a home.
7. Table 1 of the NDSS does not include a standard for a 1 bedroom, 1 person, 2 storey house. The Council consider that the standard set out in this table for a 1 bedroom, 1 person single storey house (39m² with a bathroom, or 37m² with a shower room) is not appropriate to apply in this case. That is because it considers that a 2 storey dwelling would be occupied by more than 1 person. It considers therefore that the minimum floor space should be 58m², which is the standard for a 1 bedroom, 2 person, 2 storey dwelling.
8. Whilst I note the Council's concern, it is not substantiated. It seems clear to me that the dwelling would be likely to be occupied by a single person, as the space for people to sleep would be very limited. The study is small and the floor area of this room would fall well below the standard set out for a single bedroom in the NDSS. It is therefore unlikely that this room could accommodate furniture generally associated with a bedroom. Furthermore, the bedroom indicated would have a floor area of 7.63m², which having regard to the NDSS, would only be suitable as a single bedroom, not a double. I therefore find that on the basis of the evidence before me that the dwelling would be likely to be occupied by a single person only.
9. Recognising that the proposal does not fall within the table set out in the NDSS, it seems reasonable therefore to consider whether or not the new dwelling would provide satisfactory space to place furniture and items necessary for day to day living. The ground floor would be open plan and whilst of a modest size, the submitted drawings indicate that there would be space for a small kitchen and dining area, and space for a settee and television. Whilst the new dwelling would be likely to be sparsely furnished, it would provide areas for the intended future occupier to cook a meal, eat and relax. There would be sufficient circulation space within the dwelling for the intended future occupier to undertake their day to day living. Furthermore there would be space on the first floor to put a desk and chair within the study and space for a seating area in the atrium.
10. In light of the foregoing, I consider that the dwelling would be of sufficient size to provide comfortable living accommodation. The living conditions of the intended future occupiers would not be adversely affected as a result. There would be no conflict with the aims of SHP Policy HP12 or the NDSS.

Nearby Occupiers

11. The new dwelling would have a balcony on its rear elevation. There would be a low screen along the length of the balcony and full height screens to the sides. Although it is not clear from the submitted drawings whether or not the side screens would be of a solid design, the appellant has indicated that they would be privacy screens which would prevent overlooking of nearby gardens. The

design of these screens could be the subject of a suitably worded planning condition to ensure this.

12. However, although the appellant considers that the views from the balcony would be towards nearby garages, users of it would also be able to see into the rear gardens of nearby properties. Such views would be in close proximity and at an elevated level. A loss of privacy to these gardens would be likely to occur as a result of the use of the balcony. Furthermore, given that the balcony would be the only outside space for the dwelling, there would be a high probability that it would be regularly used by the intended future occupier, sometimes for long periods, such as when eating upon it or entertaining. On warm days and evenings, such use would be likely to coincide with nearby occupiers enjoying their outside space, thereby exacerbating the harm that I have identified.
13. In light of my findings, I share the concerns raised by nearby occupiers and the Council that the use of the balcony would result in a loss of privacy to nearby occupiers as a result of overlooking private garden spaces. This would be harmful to nearby occupiers' living conditions. The proposal therefore conflicts with the overlooking and privacy aims of SHP Policy HP14. There would also be conflict with the core planning principle of the Framework in that a good standard of amenity for all existing and future occupants of land and buildings would not be provided. The Council has referred to Policy CP.1 of the Oxford Local Plan 2001-20016 in its decision notice. This policy makes no reference to living conditions and it has not formed part of my consideration of the proposal.

Other Matters

14. The appellant suggests that a balcony was included in the design after taking advice from the Council. Whilst I note the appellant's frustration that the planning application was refused, amongst other matters, because of the use of the balcony, I am obliged to consider the appeal proposal on its merits. I have found that harm would result to neighbouring occupiers' living conditions for the reasons given. This matter does not therefore alter the conclusion that I have reached.

Conclusion

15. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR

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