



Appeal Decision

Site visit made on 1 March 2019

by **Gary Deane BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th March 2019

Appeal Ref: **APP/G3110/W/18/3210070** **18 Osler Road, Oxford OX3 9BJ**

- 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 Porter against the decision of Oxford City Council.
 - The application Ref 18/00850/FUL, dated 28 March 2018, was refused by notice dated 12 July 2018.
 - The development proposed is the demolition of existing dwelling and erection of a one and a half storey building to provide 2 x 2-bedroom dwellings, with associated private amenity space, and bin and cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and erection of a one and a half storey building to provide 2 x 2-bedroom dwellings, with associated private amenity space, and bin and cycle storage at 18 Osler Road, Oxford OX3 9BJ in accordance with the terms of the application Ref 18/00850/FUL, dated 28 March 2018, subject to the conditions set out in the schedule to this decision.

Main issues

2. The main issues are the effect of the proposed development firstly, on the character and appearance of the local area; secondly, on the living conditions of the occupiers of 17 Stephen Road in particular with regard to visual impact and sense of enclosure; and thirdly, whether the proposed access is suitable and adequate.

Reasons

Character and appearance

3. The proposal is to replace an existing bungalow that occupies unkempt land behind 16 Osler Road with a new single building containing 2 dwellings. The new addition would be noticeably larger and taller in built form than its existing single storey counterpart with a footprint that would cover a greater portion of the site. Although close to the rear gardens of some properties that back onto the site, the appeal scheme would still retain reasonable separation to the buildings beyond, which include 17 Stephen Road and 20a Osler Road.
4. With the first floor accommodation set into the roof space and a relatively low eaves level, the proposed building would keep a reasonably low profile within the site. With adequate space around the new building on all sides, it would stand confidently within its plot. For these reasons, I am unable to share the

concern of the Council and others that the proposal would constitute overdevelopment of the site even taking into account other recent housing schemes nearby. Rather than appearing unduly cramped and obtrusive, the proposal would nestle comfortably into the site and respect the more spacious rear gardens beyond its boundaries.

5. The new dwelling would differ in type, scale and height compared with most buildings in the local area, which vary in size, design, age and type. It would not look out of place in that varied context, in which Artisan style properties are not an obvious defining or predominant feature. Because of its coherent design, low profile and sympathetic layout, the new dwellings would respect rather than compete for attention nearby buildings that are for the most part larger and far more visually dominant than the proposal. Its backland position would also contrast with most properties in the local area that tend to directly face the road. However, the location of the existing bungalow is already a departure from the prevailing pattern of existing development around the site.
6. The use of natural timber and timber boarding with grey slates would set the new building apart with those that are close to the site. Even so, developments of contrasting materials and general appearance can often enhance visual interest and add diversity to an area. That would be the case here. As the proposal would be set back from the highway and behind existing properties there would be no discernable effect on the character and appearance of the local street scene. The precise arrangements for cycle and bin stores can be covered by a condition to ensure that any structures are in keeping with the visual character of the area and do not harm trees along the highway frontage of No 16. For all of these reasons, the proposed development would be compatible in its context. It is an appropriate and positive response to the particular characteristics of the site.
7. On the first main issue, I conclude that the proposed development would not significantly harm the character and appearance of the local area. As such, it does not conflict with Policies CP1 and CP8 of the Oxford Local Plan 2001-2016 (LP), Policies HP9 and HP10 of the Sites and Housing Plan (SHP), Policy CS18 of the Oxford Core Strategy 2026 (CS) or Policy CIP 1 of the Headington Neighbourhood Plan (NP). These policies broadly aim to ensure that new development respects local character and appearance.

Living conditions

8. The new built form would be closer to the shared boundary with No 17, which abuts part of the site, than the existing dwelling. The proposed flank wall and roof in particular would be evident from the garden of No 17 and through the windows that directly face the site. Even so, the boundary fence and vegetation would provide some screening. The new side elevation would be modest in width and the eaves height would be set at a relatively low level. Taken together with the separation distance, I consider that the presence of the appeal scheme would not be so great as to overbear, dominate outlook or unduly heighten a sense of enclosure insofar as it would be experienced by the occupiers of No 17 or any other nearby property.
9. Hence, the living conditions of the occupiers of No 17 and of other properties would not be materially reduced as a result of the new development. As such, I find no conflict with LP Policy CP10 and SHP Policy HP14 insofar as they aim to safeguard residential amenity.

Proposed access

10. The Council and others raise concern that access by emergency services and others would be restricted or impeded by the long narrow footway leading from Osler Road into the site. The photographs provided show that cars parked inconsiderately at the front of No 16 further reduce the effective width of the footway. In recognition of this obvious access difficulty for emergency services, Oxfordshire Fire and Rescue Service (F&RS) state that a full fire suppression system should be installed, which could be covered by a condition. On that basis, F&RS raise no objection. In a statement that forms part of the appellant's evidence, an Approved Buildings Inspector takes the same approach. On the evidence before me, I have no reason to disagree. My attention has been drawn to statement by the RTPI that reminds Planning Authorities with regard to their responsibility for fire safety. However, this is primarily a matter for building regulations.
11. On related matters, the footway leading into the site, although long and narrow would present little problem for most users even those carrying a bicycle between the road and the intended storage facilities. I note that the Council raises no objection insofar as access for less mobile people is concerned.
12. On the third main issue, I conclude that the proposed access would be suitable and adequate to serve the proposed development. Therefore, I find no conflict with LP Policy CP10, which aims to ensure that access to the site is practicable.

Other matters

13. As reasonably generous distances would separate the properties that adjoin the site and the new dwellings the proposal would not cause any significant loss of privacy through overlooking or natural light. The proposal will be car free and so the development would not add to the high demand for on-street vehicle parking. While there is concern that the proposal, if allowed, would set a precedent for further backland development, each case should be assessed on its individual merits, as I have done. There is no persuasive evidence that the proposal would adversely affect trees or wildlife, significantly add to local pollution, or exacerbate a risk of flooding. A condition could be imposed to ensure that the site is properly drained.

Conditions

14. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require that the development be carried out in accordance with them as this provides certainty. To ensure the satisfactory appearance of the development and to protect the visual character of the local area, a condition is imposed with regard to external materials. For the same reasons and additionally to safeguard the trees along the highway frontage of No 16, a condition is imposed to require details of refuse storage.
15. Conditions should not set requirements above the Code for Sustainable Homes Level 4 equivalent in respect of energy performance so I have included a condition to this effect in the interest of sustainability. A condition requiring the provision of cycle storage for the new dwellings is also reasonable and necessary in the interests of promoting sustainable transport. ^[1]_{SEP}To reflect the advice from the F&RS, a condition is imposed to require the installation of a full

fire suppression system. I have also imposed a condition to ensure that surface water drainage is satisfactory.

16. Additional extensions and alterations to the new dwellings or additional outbuildings within the site could affect the visual character of the area as well as the living conditions of nearby residents. Therefore, it is necessary to remove some permitted development rights by condition to safeguard the character of the local area and residential amenity.
17. A condition is imposed to restrict the eligibility of future occupiers to obtain parking permits so that the development does not add to the demand for on-street parking. The site is located close to a recorded early Saxon burial that is likely to form part of a dispersed Anglo-Saxon cemetery of the 6th century. A condition is therefore imposed to require a written scheme of investigation so that archaeological interests are protected.
18. Where necessary, I have amended the Council's suggested conditions for clarity, concision and to more closely reflect national policy. The Planning Practice Guidance states that conditions requiring compliance with other regulatory requirements will not meet the test of necessity and may not be relevant to planning. Accordingly, I have not imposed the conditions suggested by the Council that require compliance with building regulations.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 1606/PO1-P, 1606/PO2-P, 1606/PO3-P, 1606/PO4-P, 1606/PO5-P, 1606/PO6-P, 1606/PO7-P, 1606/PO8-P, 1606/PO9-P, 1606/P10-P, 8160597/4101 Rev A and 8160597/4102.
- 3) No dwelling hereby permitted shall be occupied until evidence has been submitted to and approved in writing by the local planning authority to demonstrate that a sprinkler system has been installed in accordance with the relevant British Standard(s). The approved sprinkler system shall be permanently retained thereafter.
- 4) No ground clearance, demolition or construction work shall take place within the area edged red on drawing number 160/PO4-P until a programme of archaeological work has been implemented in accordance with a written scheme of investigation and timetable that has previously been submitted to and approved in writing by the local planning authority. No demolition, development or site clearance works shall take place other than in accordance with the approved written scheme of investigation.

- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the disposal of surface water from the site, which includes sustainable drainage measures. Development shall be carried out in accordance with the approved details and completed before any of the dwellings hereby permitted are occupied.
- 7) Notwithstanding the details shown on the approved plans, no dwelling hereby permitted shall be occupied until cycle storage, refuse storage, recycling and collection facilities have been provided in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority. The approved cycle storage, refuse storage, recycling and collection facilities shall be permanently retained thereafter.
- 8) No development shall take place until arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that: a) no occupiers of the approved development shall apply for, obtain or hold an on- street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and b) any occupiers of the approved development shall surrender any such permit wrongly issued or held. Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 9) The dwellings hereby permitted shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Home have been met and the details of compliance provided to the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by Classes A to E (inclusive) of Part 1 of Schedule 2 of the Order shall be carried out.

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