



Appeal Decision

Site visit made on 20 September 2011

by P B Jarvis BSc (Hons) DipTP MRTPI

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

Decision date: 12 October 2011

Appeal Ref: APP/G3110/A/11/2156238

1 Upland Park Road, Oxford OX2 7RU.

- 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 Glen de Unger against the decision of Oxford City Council.
 - The application Ref 11/00029/FUL, dated 21 December 2010, was refused by notice dated 19 April 2011.
 - The proposed development is the demolition of the existing detached house and erection of one pair of semi-detached four bed houses and one detached four bed house.
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Procedural Matter

1. The appellant has submitted a revised site plan (Site Plan – rev A, drawing no. 11-558-610). It was confirmed at the site visit that the Council has no objection to this plan and in my view the revisions are not significant, therefore I have taken it into account.

Decision

2. The appeal is allowed and planning permission granted for the demolition of the existing detached house and erection of one pair of semi-detached four bed houses and one detached four bed house at 1 Uplands Park Road, Oxford, OX2 7RU in accordance with the terms of the application 11/00029/FUL dated 21 December 2010, subject to the conditions annexed to the end of this decision.

Main Issues

3. The main issues are (a) the effect of the proposal on the character and appearance of the area taking into account the effect on the preserved trees and (b) whether there would be a satisfactory standard of amenity space for the occupiers of the proposed dwellings with.

Reasons

1. The appeal site lies on the corner of Upland Park Road and Banbury Road within a residential suburb of the city. Upland Park Road is a cul de sac of mainly detached dwellings of mainly traditional appearance although there are a few examples of more modern infill. The dwellings provide a fairly built up frontage to the road with varying gaps to boundaries. Overall however I would concur with the findings of the Inspector in relation to a previous appeal
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decision relating to the site¹ who found that the trees and other vegetation in many of the front gardens help to give the road a pleasant and relatively spacious character.

Effect on character and appearance

2. There is a belt of tall mature trees on the Banbury Road frontage of the site such that the dwelling is not readily seen as part of the frontage of this road. It is more related to Upland Park Road and generally the traditional forms and designs which are apparent in this road have been adopted in the proposed design. The dwellings would be set closer to the road frontage than the existing dwelling but would not be significantly closer than adjoining properties.
3. I note that in comparison to the previous scheme for four dwellings, the built form now proposed would be set further away from the Banbury Road frontage and would comprise two separate blocks. In views along Upland Park Road, the semi-detached pair would appear as a wider building than the immediately adjoining dwellings, but similar to nos. 2 – 4 Upland Park Road opposite.
4. Unlike the Council I consider that the gaps provided would be sufficient to enable the built form to be read as two separate blocks. In addition, whilst the buildings extend in depth into the site, the overall design is articulated well to reduce the massing of the building form such that in my view they would not appear overly bulky, particularly when compared to the modern dwellings which they would adjoin along Upland Park Road. Furthermore, the use of traditional detailing and design would provide interest to the streetscene, including Banbury Road. Overall, I consider that the proposed building forms would integrate well within this context and pattern of development.
5. The site frontage would accommodate a good proportion of soft planting which would break up the hardsurfaced parking and access areas. In my view this would create a frontage which would respect and reinforce the established character of the streetscene.
6. With regard to the preserved trees, I note that, unlike the previous scheme, the nearest house would be sited clear of the canopies and only a small single storey element to the rear would encroach on the outer limit of the root protection area. The layout of the proposed dwelling indicates a large open plan kitchen/living/dining room to the rear ground floor with a number of openings to the rear and side. Whilst the presence of these trees will no doubt have some effect, it seems to me that this layout would minimise the impact. I consider that in this respect, there would not be any undue pressure for future tree works. With regard to the relationship of the trees with the proposed garden areas, I deal with this later.
7. Having regard to the existing pattern and scale of built form along Upland Park Road, particularly at its eastern end where the site is located, I consider that the development would provide an appropriate design solution to the site. The siting of the dwellings would not result in any undue pressure on the preserved trees and overall I find that the character and appearance of the streetscene and wider area would not be harmed. I thus conclude that in this respect the scheme would accord with Policies CP6, CP8, CP11 of the Oxford Local Plan

¹ APP/G3110/A/10/2126210

2001-2016 (2005) (LP). It would also comply with Policy CS18 of the Oxford Core Strategy 2026 (adopted March 2011) (CS) which seeks a high quality urban design which responds appropriately to the site and its surroundings.

Whether there would be a satisfactory standard of amenity space

8. I note that the proposed garden areas differ in size and shape compared to those proposed for the previous scheme the subject of the appeal already referred to. Whilst they are of similar depth, they have been increased in width. In my opinion this results in a more appropriate sized garden for the proposed dwellings. However, the general orientation and relationship with trees and buildings on the adjoining sites and the orientation of the proposed dwellings is not substantially different albeit the garden area for house 3 would be less affected by the preserved trees.
9. The appellant has submitted a detailed garden daylight analysis in accordance with the BRE publication *Site Layout Planning for Daylight and Sunlight – a guide to good practice* (1991) (BRE guidance). This guidance suggests that through careful layout and design the sunniest parts of the site should be reserved for gardens and sitting out whilst using the shadier areas for parking. It recommends that the availability of sunlight be checked and that the worst situation is to have significant areas on which the sun does not shine for a large part of the year. The equinox (21 March) is recommended as a good date for an assessment. In order to avoid areas being permanently in shade at the equinox it is recommended that a layout be redesigned but where this is not possible it is suggested that no more than 40%, and preferably 25%, of any of the listed amenity areas should be prevented by buildings from receiving any sunlight at all on the 21 March.
10. The appellant's assessment demonstrates that only the garden area for house 3 comfortably meets the 'preferred' standard, with the others only meeting the minimum standard. It is notable that whilst the 'score' for house 1 is 32%, the area which receives no direct sunlight is the area immediately to the rear of the dwelling where it is reasonable to expect there to be a patio or similar sitting out area. The BRE guidance itself stresses that such minimum standards do not guarantee large amounts of summer sun and that for critical areas, such as patios and terraces, a more detailed study can provide further information.
11. The appellant has conducted a lighting study for June 21 which although primarily intended to show the effect of the preserved trees, also shows that the area immediately to the rear of house 1 still does not receive any direct sunlight at the times indicated, albeit that it is a much smaller area than noted above. However, much of the remainder of the garden does appear to receive sun at these times and it seems to me that the provision of a large patio or terrace which extended into the 'sunnier' part of the garden would provide a suitable sitting out area.
12. I note that the outlook of the garden to house 1 would also be affected by the close proximity of the flank elevation of the dwelling at no. 3 Upland Park Road and by the conifers in the rear garden of 393 Banbury Road. However, I do not find this to result in an unacceptable level of enclosure.
13. As noted above the lighting study was produced to show the effect of the preserved trees and in my view it demonstrates that there would be no

significant impact, even if the trees were to be treated as a solid barrier, which in my view is not what is suggested by the BRE guidance.

14. In these circumstances and taking into account all the above factors, I find that the standard of amenity space would be acceptable and would provide an appropriate living environment for the proposed occupiers. It would thus comply with LP Policies CP1, CP10, HS19, HS20, HS21, NE15 and NE16 which seek a high standard of design and environment for proposed occupiers, compatible with its context and an appropriate level of quality private open space. It would also satisfy CS Policy CS18.

Other Matters

15. I have taken into account other matters raised by third parties, including those of the adjoining neighbour who is concerned with regard to overlooking and loss of privacy. However, given that the dwellings would be sited further from the common boundary at a reasonable distance and that the existing tree screen within the neighbour's garden gives some screening, I do not find that an unacceptable relationship would be introduced.

Conditions

16. The Council have provided a list of suggested conditions which I have considered in the light of Circular 11/95. In addition to the standard time condition, it will be necessary to approve details of materials, landscaping and tree protection (including all underground works and above ground storage) in the interests of the visual amenity of the area and to minimise any possibility of damage to the preserved trees. In my view such conditions would be adequate to prevent damage to the trees and further management as suggested by the Council would not be necessary. Acceptable details of means of enclosure are indicated on the revised site plan therefore it is not necessary for further details to be submitted.
17. I agree that full details of the method of construction and surfacing of the parking areas should be approved to ensure that they provide sustainable drainage solutions. The visibility splays are also indicated on the revised site plan and therefore a condition is only needed to ensure that they remain unobstructed in the interests of highway safety.
18. The Council has suggested a condition to vary the Order relating to the Controlled Parking Zone on Upland Park Road to reduce the possibility of future on-street parking pressure. However, both the County Highway Authority and the Council have indicated that the proposed off street parking is acceptable in this sustainable location and I note that secure cycle parking is also provided for each dwelling. In my view the parking provision would be adequate and I am therefore unclear as to the necessity for such a condition.
19. The Council have also suggested a condition to deal with any potential contamination. However, there does not appear to be any evidence that the site is or may be contaminated and given its existing use, which appears to have been in existence for some years, the probability of any such contamination is in my view, low. Two conditions have also been suggested to control permitted development rights. I agree that it would be necessary to control further extensions and alterations to the dwellings and the erection of

buildings and structures in the curtilage in the interests of the visual amenity of the area and to maintain a high quality development.

Conclusion

20. Overall, for the reasons set out above, and having regard to all relevant matters, including the previous appeal decision, I find that the proposed scheme would relate well to its context, would not place undue pressure on the preserved trees and would provide an acceptable living environment for proposed and existing occupiers. I therefore conclude that the appeal should be allowed.

P Jarvis

INSPECTOR

ANNEX – 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: 08-558-100 (location plan); 11-558-610 (Site Plan – rev A); 558-601 (Ground and First Floor Plans); 558-602 (Second Floor and Roof Plans); 558-603 (South and East Elevations); 558-604 (North and West Elevations).
- 3) No development shall take place until samples of the materials to be used in the construction of all the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include a survey of existing trees showing sizes and species, indicating any to be removed and showing in detail all proposed tree and shrub planting (including replacement tree planting), to include species, sizes and density, treatment of paved areas and areas to be grassed.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 6) No development shall take place until full details of protection of the preserved trees on the eastern edge of the site and any other trees to be retained have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include barrier fencing or ground protection materials to defend the Root Protection Areas and Construction Exclusion Zones and shall be in accordance with BS 5837:2005 (Trees in Relation to Construction). Construction work shall not begin on site until all approved

- measures have been put in place and they shall be retained for the duration of construction on site in accordance with the approved details.
- 7) No development shall take place until a detailed method statement relating to works within the Root Protection Areas of retained trees has been submitted to and approved in writing by the Local Planning Authority. Such details shall avoid damage through excavation, ground skimming, vehicle compaction and chemical spillages including lime and cement. The development shall only be carried out in accordance with the approved statement.
 - 8) Unless already specified on the approved plans, from the date of this permission no trees shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped nor shall any shrub or hedge be cut down, without the written approval of the local planning authority.
 - 9) No development shall take place until details of the location of all underground services and soakaways in the form of a service plan, taking account of the need to avoid all root protection areas, have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved statement.
 - 10) No development shall take place until details of plant operational zones, plant and material storage areas and cabin locations have been submitted to and approved in writing by the local Planning Authority. The development shall only be carried out in accordance with the approved statement.
 - 11) No development shall take place until full details, including means of enclosure, of the bin and cycle stores have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the details relating to that unit have been provided and the areas shall thereafter be retained as such.
 - 12) The means of enclosure indicated on drawing no. 11-558-610 (Site Plan – rev A) shall be completed before the dwelling to which it relates is occupied.
 - 13) No development shall take place until full details of the construction of the parking areas, to include sustainable drainage systems, have been submitted to and approved in writing by the local planning authority. The parking areas shall be provided in accordance with the approved details prior to the occupation of the dwelling to which it relates and retained solely for the parking of vehicles thereafter.
 - 14) The parking areas shall not be used until the visibility splays indicated on the approved plans have been provided and these splays must remain unobstructed above 0.6 metres measured above footway level.
 - 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no enlargement or alteration of the dwellings or their roofs or the provision of any building or structure within the curtilage of any dwelling hereby permitted shall be constructed or erected.