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## Appeal Decisions

Site visit made on 7 June 2011

by **David Saul BSc DMS MSc CEnv FRICS**

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

Decision date: 30 June 2011

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### **Appeal A: APP/G3110/A/11/2149272**

#### **Land rear of 26 to 28 Quarry High Street, Oxford OX3 8JX**

- 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 J Clegg against the decision of Oxford City Council.
  - The application Ref 10/02130/FUL, dated 24 August 2010, was refused by notice dated 31 January 2011.
  - The development proposed is demolition of existing garage and sheds, along with reconstruction of stone wall to create new access. Construction of 6 houses (2 x 3-bed, 2 x 2-bed, 2 x 1-bed). Creation of associated private driveway, parking and new garage for No 32 Quarry High Street and bin collection point. (Amended description)(Amended plans).
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### **Appeal B: APP/G3110/E/11/2149276**

#### **Land rear of 26 to 28 Quarry High Street, Oxford OX3 8JX**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
  - The appeal is made by Mr J Clegg against the decision of Oxford City Council.
  - The application Ref 10/02313/CAC, dated 24 August 2010, was refused by notice dated 28 January 2011.
  - The demolition proposed is the demolition of walls on the site. (Amended description).
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### **Decisions**

1. Appeal A is dismissed. Also Appeal B fails and conservation area consent is refused for the demolition of walls on the site. I have taken account of the views of local residents and other interested parties in reaching these decisions.

### **Procedural Matters**

2. Where feasible, the linked appeals have been addressed together for brevity whilst, in the interests of accuracy, I have used the Council's description of the development and address together with a postcode. Also, the Draft Headington Quarry Conservation Area (CA) Appraisal (Vsn 2 - Aug 2008) has been the subject of extensive consultation and I found no reason to question the conclusions or validity of the document. Despite the draft status, I have therefore attributed significant weight to the appraisal in reaching my decision.

### **Main Issues**

3. The main issues in respect of Appeal A are (i) whether the loss of former garden land would detract from the open character of the site, fail to preserve

or enhance the character or appearance of the Headington Quarry CA and would be contrary to Annex B of PPS3<sup>1</sup> (ii) whether the loss of stone walls would fail to preserve or enhance the character or appearance of the CA (iii) whether additional traffic would cause danger to pedestrians and other road users (iv) whether sufficient evidence has been submitted to demonstrate that the proposal would not exacerbate existing drainage problems. Furthermore, issue (ii) is also a main issue in respect of Appeal B together with a further issue, (v) whether in the light of the merits of the alternative proposals the demolition would be justified.

### **Reasons**

4. The site comprises predominantly overgrown garden land within the Headington Quarry CA, a built up residential area which has an unusual village character created by former quarry workings with organically laid out lanes, cottages and spaces. The proposal would create three new pairs of semi-detached houses on garden land together with a vehicular access, a replacement garage and parking. Some stone boundary walls, a garage and sheds would be demolished. Also, the CA Appraisal identifies that the area is vulnerable to development which would cause the loss of gardens, greenery and traditional boundary walls.

#### *The loss of former garden land*

5. Garden land is no longer listed in PPS 3 Annex B as being previously developed land (PDL) and the proposal would not therefore carry the weight that might previously have been attributed to support the development of such sites. However, PPS3 still requires efficient and effective use of land for housing and I found nothing to persuade me that the exclusion of garden land from the definition of PDL within Annex B would, of itself, make the proposal contrary to the aims of PPS3.
6. The visual impact of the proposal would be reduced by the topography, backland setting, trees and landscaping proposals, whilst the loss of gardens would be slightly offset by smaller new replacements. Also, in the absence of compelling evidence to the contrary, I am not persuaded that the locally significant pattern of long narrow garden strips would be significantly harmed. In addition, the habitat survey demonstrates that the loss of wildlife would not amount to significant harm.
7. The proposal would, however, create six new houses and a sizeable replacement garage building together with considerable surfaced areas including additional off street parking and drives, all in the gardens of existing cottages. Taken together this would amount to such an extensive built intrusion that it would clearly be detrimental to the green and open character of the garden site. Also the site would be visible from some adjoining properties with further glimpsed views from the alleyway and some public views from the highway particularly near to the proposed access. Moreover, the appraisal has identified the intrusive effect of cars parked in front gardens elsewhere in the village and areas of hard-standing including parking spaces would be clearly visible. In addition, the buildings shown on the historic 1880 map would appear to be minor in scale whilst the current level of surrounding

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<sup>1</sup> Planning and Policy Statement 3 (PPS3): Housing

development would reinforce the significance of the relatively open character of the appeal site.

8. The scheme would have some benefits for the CA including the removal of unsightly outbuildings as well as the restoration of a derelict cottage. However, particularly in view of the organic mix of cottages and open spaces in the village, the large scale and open garden character of the appeal site would make an important contribution to the significance of the CA as a whole. Given this level of significance, the PPS5<sup>2</sup> presumption in favour of the conservation of designated heritage assets would outweigh the need for managed change to achieve the identified benefits.
9. For the above reasons, the large scale permanent net loss of garden land would cause substantial and visible harm to the open character of this significant site. The proposal would therefore fail to preserve or enhance the character or appearance of the CA.

#### *The loss of stone walls*

10. Some stone walls would be demolished and the CA is vulnerable to the loss of traditional boundary walls, an important local feature which makes a significant contribution to the overall CA. However, the prominent frontage wall would, in effect, be rebuilt close to the existing position reusing existing stones so that there would be little change in the character or appearance. Other walling to be demolished would be less prominent and, as has been suggested, additional internal stone boundary walls could be built within the site by way of mitigation. Also, it is not clear that any features having particular historical significance would be lost and nor do the plans show an inappropriate bell-shaped entrance. In addition, the replacement frontage wall would protect significant local features identified in the appraisal, including the sense of enclosure and the outlook along this part of the street. For these reasons, subject to conditions requiring the new walls, the demolition would not fail to preserve or enhance the character or appearance of the CA.

#### *Sewage*

11. Local drainage problems have led to concerns over the effects of the scheme which would include the diversion of part of the existing drainage system. However, the Drainage Authority have not objected to the proposal, subject to conditions requiring a suitable scheme, and the appellant has provided a specialist drainage report which concludes that the proposal would enhance rather than harm the system. I therefore consider that sufficient evidence has been provided to demonstrate that a suitable scheme could be required by condition which would not be likely to exacerbate the drainage problems.

#### *Traffic and parking*

12. The narrow highway and the potential for on-street parking provides some potential for congestion particularly at peak times or during refuse collection. Nevertheless, during much of my visit traffic levels were light with few vehicles parked in the road. Moreover, adequate parking would be provided for the modest sized dwellings at this central location and the additional off-street parking for an existing cottage might be expected to reduce pressure for on-street parking. Also, notwithstanding suggestions of excessive traffic speed,

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<sup>2</sup> Planning Policy Statement 5 (PPS5): Planning for the Historic Environment

the built up nature of the area and the limited road width would be likely to result in low vehicle speeds and this view is supported by the appellant's speed check. In addition, the volume of traffic using the new access would be likely to be somewhat limited.

13. The appellant's tracking report statement shows that even very large domestic vehicles would be able to use the site access without conflict with parked cars and the Highways Authority have raised no objection to the current proposal subject to suitable conditions. In my view, the visibility provisions shown on the plans would be adequate for the access given likely traffic volumes and speed. Furthermore, fire tenders could drive on to the site to reach more remote properties and concerns over interference from the bin storage could be addressed by a condition.
14. For the reasons set out above, I consider that the additional traffic movement at the site would not constitute a danger to pedestrian or highway safety.

*Overall conclusions in respect of the main issues*

*Appeal A*

15. I conclude that the scheme would beneficially provide housing in a sustainable location, reuse a derelict cottage and remove unattractive outbuildings whilst, subject to suitable conditions, the loss of stone walls would not fail to preserve or enhance the character or appearance of the CA and the safety of pedestrians or other highways users would not be significantly harmed. Furthermore, sufficient evidence has been provided to demonstrate that a drainage scheme could be introduced without causing harm to the existing system. As a result, in these respects, the proposal would not conflict with the Oxford Local Plan 2001-2016 Policies CP1, CP10, TR4, HE7, NE 14 or the Oxford Core Strategy 2026 Policy CS17 or PPS 5.
16. Although garden land is no longer included within the definition of PDL set out in Annex B to PPS3, the proposal would not be contrary to the aims of PPS3. However, the loss of garden land would be detrimental to the open character of the site and would fail to preserve or enhance the character or appearance of the CA contrary to the aims of PPS5. As a result, notwithstanding my conclusions in respect of other issues, Appeal A should be dismissed.

*Appeal B*

17. The above conclusion in respect of the demolition of the walls is specifically dependent upon the imposition of suitable conditions attached to a planning consent but, having dismissed Appeal A, I can not be certain that any such conditions would be imposed. Also, as the appeal for the proposed scheme has been dismissed and no other approved scheme has been put forward, the demolition would not be justified in the light of the merits of any alternative proposal. As a result, I conclude that, in the absence of an approved alternative proposal or any certainty that suitable conditions would be imposed, the demolition of the walls would fail to preserve or enhance the CA contrary to the aims of PPS5 and Appeal B should therefore fail.

**Other matters**

18. The scale of the proposed works and proximity to neighbouring properties would, during construction, cause some risk of structural harm to neighbouring

structures and also possible traffic disruption. These concerns could however be addressed by conditions requiring appropriate construction techniques and management plans. Concerns over smells from bin storage could be addressed by conditions regulating use and capacity. All other matters raised have been taken into account but do not, either individually or collectively, outweigh the main conclusions reached in this decision.

### **Conclusions**

19. For the reasons given above I conclude that appeal A should be dismissed and that Appeal B should fail.

*David Saul*

INSPECTOR

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