



Appeal Decision

Site visit made on 11 October 2005

By **Philip Willmer BSc Dip Arch RIBA.**

an Inspector appointed by the First Secretary of State

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Date

18 NOV 2005

Appeal A Ref: APP/G3110/A/05/1183423

Lawn Upton House (Grounds), David Nicholls Close, Littlemore, Oxford, OX4 4QX.

- 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 The Trustees of J.H Newman School against the decision of Oxford City Council.
- The application (Ref.04/02293/FUL), dated 20 November 2004, was refused by notice dated 2 March 2005.
- The development proposed is construction of 18 flats and access. Demolition of existing sheds and associated landscaping.

Summary of Decision: -The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Appeal B Ref: APP/G3110/E/05/1183422

Lawn Upton House (Grounds), David Nicholls Close, Littlemore, Oxford, OX4 4QX.

- 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 The Trustees of J.H Newman School against the decision of Oxford City Council.
- The application (Ref.04/02294/CAC), dated 20 November 2004, was refused by the Council by notice dated 1 March 2005.
- The demolition proposed is prefabricated teachers' building, timber sheds and brick outbuildings.

Summary of Decision: The appeal is allowed and conservation area consent is granted in the terms set out in the Formal Decision below.

Procedural Matters

1. In respect of Appeal B I have adopted the description of the development used by the Council in their decision notice as this more accurately describes the buildings that would be demolished. I have proceeded accordingly.

Main Issue

2. The site is situated adjacent to a grade II listed building, Lawn Upton House. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Further, the appeal site lies within the Littlemore Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.
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3. I consider therefore that the main issue in both appeals is the effect of the proposed development on the setting of the listed building on the character and appearance of the conservation area in which it stands.

Planning Policy

4. The development plan for the area includes the Oxford Local Plan 1991-2001 adopted in September 1997 (LP). The LP is currently being revised. The emerging LP, the Second Draft Oxford Local Plan, has been subject to public inquiry. The Inspector's report has been received and published and accordingly I can afford the emerging plan significant weight.
5. My attention has been drawn to a number of policies, however, I consider the following to be most pertinent to my consideration of this appeal: LP Policies EN27, EN31, EN45, EN50 and EN52 as well as emerging LP Policies CP2, CP7A, CP9 and HE10.
6. Adopted LP Policies EN27 and EN31 as well as emerging LP Policy HE10 reflect national policy guidance relevant to the appeal in PPG15. LP Policy EN45 has the primary aim of providing a good standard of environment within and outside the dwelling. LP Policy EN50 addresses the design of new housing in existing residential areas where it should be in sympathy with the essential character of the area and on new sites, especially those which are larger; designs should attempt to create a distinctive character with clear points of interest. LP Policy EN52 advises that planning permission will normally be refused for proposals which lead to an overdevelopment of potential housing sites.
7. Emerging LP Policies CP2, CP7A, CP9 and HE10 carry forward broadly similar objectives to adopted LP Policies EN27, EN31, EN45, EN50 and EN52.
8. Planning Policy Guidance 15 (PPG15) *Planning and the Historic Environment* refers to duties under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
9. In addition to PPG15 I have also had regard to the guidance in PPS1 *Delivering Sustainable Development* and PPG3 *Housing* as material considerations.

Reasons

10. The appeal site is accessed from Standford Road via David Nicholls Close, a development of some 12 detached houses constructed in the last 20 years. Lawn Upton House, built in the Gothic style, dates circa 1846, is listed grade II, has planning permission for conversion to five residential units and, along with other buildings, sits in a mature parkland setting. A number of trees within the appeal site are the subject of a Tree Preservation Order; others are protected by virtue of the site's location within the conservation area.
11. The site is surrounded in the most part by residential development but also by a graveyard, Council Depot and the John Newman C of E Primary School. I noted that there is currently pedestrian access to the primary school across the site.
12. It is proposed to demolish a substantial two, but in part single, storey brick and timber clad building in the eastern corner of the site along with a covered link to Lawn Upton House. Three individual blocks comprising 18 flats are proposed. Vehicular access would be from a new road from David Nicholls Close. Car parking would be located adjacent to the block of flats.
13. The eastern block, containing ten flats, would be located generally on the site of the building to be demolished. The south block, of six flats, would be sited in the southern corner of the site while the west block, of two flats, would be in the western corner adjacent to 7 David Nicholls

Close. The southern and western blocks would be two storeys while the eastern block would be three storeys. In terms of their overall height they would not be significantly higher than the existing building to be demolished and similar in height to Lawn Upton House to the north west.

14. From my observations on site and consideration of the design proposals I believe that, due to the proposed siting of the buildings within the existing landscaping, the development could be undertaken without the loss of any significant trees. Indeed some additional strategic tree planting is proposed. However, if I were minded to allow this appeal appropriately worded conditions would be required to ensure that the existing landscape was protected, enhanced and maintained. In my view therefore the proposed development would not, in landscape terms, affect the setting of the listed building, the character and appearance of the conservation area in which it stands, or the visual, historical or horticultural character of the park.
15. Although the existing teaching block would be replaced by a three storey building and two additional two storey blocks I consider that, due to the mature nature of the landscape, and the carefully articulated and modelled three dimensional form of the buildings, that the openness of the park would not be significantly diminished.
16. While a vernacular form is proposed for the new buildings the feel would nevertheless, due to the detailed design and materials proposed, be of a contemporary nature. I believe therefore that the new buildings would in this way both respect and reinforce the individual historic and design integrity of Lawn Upton House.
17. As the east block would not be located significantly closer to Lawn Upton House than the building to be removed and, further, the existing linking structure would be demolished, I do not believe that this building would be detrimental to the setting of the listed building as suggested by the Council. Indeed, I consider that the appearance would be more open due to the removal of the link, thereby enhancing the building's setting.
18. I acknowledge that the proposed road, areas of hardstanding and provision of bin storage buildings and the like could, in themselves, intrude upon the present sense of openness. However, if carefully landscaped and detailed, matters that could be addressed by suitably worded conditions, I do not think that these elements or the additional activity that would be a consequence of the development would diminish the openness of the setting of the listed building or have the feeling of an intensive overdevelopment of the site.
19. The proposed development would have a density just below 30 dwellings per hectare. This would not accord with the advice contained in PPG3. Nevertheless, I consider it to be appropriate in this open parkland setting. Although the density of this proposal might be higher than that found in David Nicholls Close, or indeed existing residential development in the Littlemore Conservation Area, I consider that, because of the imaginative design of the buildings and their spacing within the existing mature parkland, the proposal would not appear as a high density form of development, it would be neither visually dominant nor overlarge within the setting of the listed building as implied by the Council. Further, I do not believe that the development of this site, which is not located on a road frontage, would adversely affect the village atmosphere, or traditional buildings, original street and plot patterns which are contribute to be the special character of Littlemore.
20. I consider that the proposed buildings have been designed to a high standard having due regard to the site constraints. Accordingly I consider that they would be suitable replacement buildings and would enhance both the character and appearance of the conservation area. Further, for the

reasons that I have given, the proposed development would in my view preserve the setting of Lawn Upton House, a building of special architectural or historic interest.

21. For the reasons given above I conclude, in respect of the main issue, that the proposed development would preserve the setting of the listed building and the character and appearance of the conservation area in which it stands. The proposal is therefore in accord with both the development plan policies to which I have referred, as well as with central Government advice contained in PPS1, PPG3 and PPG15.

Other Considerations

22. The Highways Authority raises no objections in terms of highway safety due to an increase in traffic movements along David Nicholls Close and at the junction with Standford Road, as a result of the proposed development. However, there are concerns in respect of the potential for parking within the site lines at the junction which could, I agree, be overcome by the provision of bollards and waiting restrictions, as proposed.
23. It is proposed that 45% social housing be provided on the site. The south block would provide six 2 bedroom flats for rent, in association with a Registered Social Landlord (RSL), and the west block would provide housing for sale in joint equity with the RSL. A minimum of 5 flats (10%) being provided for key worker housing.
24. A unilateral undertaking has been prepared which seeks to secure the payment of a financial contribution towards the promotion and implementation of road markings and bollards at the junction of David Nicholls Close and Standford Road, as well as the provision of the element of affordable and key worker housing proposed. I am aware that the Council do not consider that the undertaking would meet the terms and requirements of the obligations. If I were minded to allow this appeal, I see no reason why these matters could not be addressed by way of suitably worded conditions.
25. I can understand why some neighbours have concerns about the possible impact of the proposal on their living conditions in terms of the potential for loss of light and privacy by overlooking. However, taking account of the detailed design of the proposed buildings, the relationship of windows relative to adjoining properties and site boundaries, and the existing mature planting, I am satisfied that there would be no undue loss of light, overlooking or loss of privacy.
26. Local residents have expressed concern about the provision of on site parking and about highway safety due to the limited width of David Nicholls Close. The Highways Authority has raised no objections in relation to these matters. However, provided measures are taken to control parking within the sight lines at the main road junction, I would be satisfied that there is no justification to support the contention that the proposed development would provide either inadequate parking or be detrimental to highway safety.
27. I am aware of concerns that this proposal might have an impact on existing services in the area. There is however appropriate legislation to protect any acknowledged interests in this respect. Accordingly this matter falls outside the scope of this appeal.

Conditions

28. The conditions set out in my formal decision below arise from those suggested by the Council. I have amended the wording of the conditions to accord with the advice contained in Circular 11/95.

29. I agree that samples of external materials should be subject to approval in the interests of the appearance of the buildings. A landscaping scheme, as well as a proposal for the treatment of boundaries is necessary, the landscaping scheme to include amongst other things details of trees to be retained, proposals for their protection during the works together with additional planting. In this regard detailed consideration would need to be given to both the removal of existing trees and the provision of new ones to mitigate the possibility of visual impact arising for the occupiers of David Nicholls Close as a result of the building of the west block.
30. The Council have proposed a condition in respect of surface water drainage works. I am not aware of any special considerations in this respect and, therefore, as such works would ordinarily be dealt with under the Building Regulations, I do not feel it appropriate to condition this element of the works. As site access would be direct to David Nicholls Close it is important that adequate provision for vehicle and cycle parking is provided and retained for this purpose. For similar reasons I consider that it would not be appropriate for the apartments to be occupied before on site parking has been provided.
31. As I have already indicated, from my observations on site and inspection of the plans I do not consider that the proposed development might give rise to any significant opportunities for overlooking that would adversely affect the privacy of the occupiers of adjoining residential properties. However, in line with the local planning authority's suggestion I shall require all windows shown on the drawings as obscure glazed to be so glazed and thereafter retained to safeguard the amenity of adjoining occupiers.
32. I am advised that parts of the site may contain evidence of Roman activity (the existing mound adjacent to the west block and in the area of the proposed south block). I therefore agree with the Council that it would be reasonable seek to minimise, by way of a condition, the impact of any engineering works upon the archaeology of the site. Further, I agree with the local planning authority that a record should be made of the existing buildings on the site prior to their demolition.
33. The parties agree that the development should include an element of affordable and key worker housing. As the unilateral undertaking provided would not appear to meet the objectives of the obligation I shall include a condition requiring a scheme to be submitted to, and approved by, the Council to secure this provision.
34. I consider that improvements are required at the junction of David Nicholls Close and Stanford Road. Accordingly a Grampian style condition would be appropriate to secure the works required.

Conclusions

35. Appeal A: For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.
36. Appeal B: For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Formal Decision

Appeal A

37. I allow the appeal and grant planning permission for the construction of 18 flats and access, demolition of existing sheds and associated landscaping at Lawn Upton House (Grounds), David Nicholls Close, Littlemore, Oxford, OX4 4QX in accordance with the terms of the

application (Ref.04/02293/FUL), dated 20 November 2004 and the plans submitted subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) Details of all external and internal boundary treatments shall be submitted to, and approved by, the local planning authority prior to commencement of development. The development shall be carried out in accordance with the approved details.
- 4) The occupation of the buildings shall not commence until the vehicle and pedestrian access has been constructed in accordance with the details submitted to, and approved by, the local planning authority prior to commencement of development.
- 5) The occupation of the buildings shall not commence until vehicle and cycle parking space has been constructed, drained, surfaced and marked out in accordance with details submitted to and approved by the local planning authority and those areas shall not thereafter be used for any purpose other than parking, loading and unloading of vehicles exclusively for the occupants of the flats without the prior written consent of the local planning authority.
- 6) No development shall take place, nor shall any equipment, machinery or materials be brought on to the site for the purpose of development until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

These details shall include an indication of all existing trees and hedgerows on the land, details of any to be retained, together with measures for their protection in the course of development, proposed finished levels and/or contours, means of enclosure of un-built open areas, car parking, cycle parking, other vehicle and pedestrian access and circulation areas, hard surfacing materials, street lighting and artefacts and structures (including but not exhaustively bin and cycle storage units, external services, soakaways and manholes), planting plans, specifications (including cultivation and other operations associated with plan establishment), schedules of plants, noting species, plant sizes and proposed densities where appropriate, and a timetable for planting and laying of hard surfaces. The landscaping works shall be carried out in accordance with the approved details prior to first occupation of the flats.

- 7) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority.
- 8) If any retained tree or hedgerow is removed, uprooted, destroyed or dies, another tree or hedge shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such times as may be specified in writing by the local planning authority.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the flats. Any trees or plants which within a period of 5 years from completion of the development

die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written consent to any variation.

- 10) A management plan, including long term design objectives, management responsibilities and a schedule of maintenance for landscape areas shall be submitted to and approved in writing by the local planning authority before development commences and shall be accompanied by a written undertaking including arrangements for its implementation.
- 11) No development shall take place (including site clearance), until a detailed design and method statement for the implementation of the following works have been submitted to, and approved by, the local planning authority in areas of archaeological potential. The works shall include: excavation for and construction of foundations; other ground works; and, physically intrusive landscaping. The work shall, unless the local planning authority gives prior written consent, then be carried out in accordance with the approved details.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the windows marked on the approved plans as obscure glazed shall be glazed with obscure glass and thereafter retained.
- 13) No part of the proposed development shall be first occupied until highway improvement works have been completed to restrict parking within the site lines at the junction of David Nicholls Close with Standford Road in accordance with a scheme, submitted to and approved in writing by the local planning authority.
- 14) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
 - i) the numbers, type, and location on the site of the affordable housing provision to be made;
 - ii) the timing of the construction of the affordable housing;
 - iii) the arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
 - iv) the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

Appeal B

38. I allow the appeal and grant conservation area consent to demolish prefabricated teachers' building, timber sheds and brick outbuildings at Lawn Upton House (Grounds), David Nicholls Close, Littlemore, Oxford, OX4 4QX. in accordance with the terms of the application (Ref.04/02294/CAC), dated 20 November 2004 and the plans submitted subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.

- 2) This consent shall specifically grant Conservation Area consent under section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, to remove those buildings/structures indicated on the application drawings.
- 3) The demolition of the buildings shall not take place until the applicant has undertaken a measured survey and a photographic record of the buildings to be demolished. The photographs shall be black and white, printed to archive standard, to a measurement of 254mm x 203mm (10 x 8 inches). 2 copies of each of the photographs (which shall be both internal and external views) together with plans, marked and cross referenced with each other to show the areas photographed and the direction from which the photographs were taken shall, together with the measured survey drawings, be submitted to the local planning authority for the Council's archive and onward deposit to the Centre for Oxfordshire Studies, or its equivalent.



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