



# Appeal Decision

Hearing held on 4 August 2004

by **Karen Baker DipTP MA DipMP MRTPI**

an Inspector appointed by the First Secretary of State

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Date

15 SEP 2004

**Appeal Ref: APP/G3110/A/03/1136465**

**Land at Roger Dudman Way, Oxford**

- 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 RA Property Developers against the decision of Oxford City Council.
- The application Ref. 03/01874/FUL, dated 11 September 2003, was refused by notice dated 19 November 2003.
- The development proposed is the erection of 14 No. 2 bedroom flats.

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

## Procedural Matters

1. The appellants submitted revised plans during the application process. For the avoidance of doubt, I have considered this appeal on the basis of the following plans: Site Location Plan (Drawing No. 03-256-100); Ground Floor and Site Plan (Drawing No. 03-256-101-A Rev. A); and Plans and Elevations (Drawing No. 03-256-102-A Rev. A).

## Main Issues

2. I consider that the main issues in this appeal are:
  - a) the effect of the proposed development on the character and appearance of the area; and,
  - b) whether affordable housing should be provided, having regard to prevailing policy.

## Planning Policy

### *Development Plan*

3. The development plan for the area is the Oxfordshire Structure Plan 2011, adopted in 1998, and the Oxford Local Plan 1991 – 2001, adopted in 1997. I have been referred to a number of policies within these documents. However, I consider that the following are most pertinent to my consideration of this appeal. In the Structure Plan, Policy H3 says that provision will be made for a variety of dwellings in terms of location, size and density according to the character of the site and of the locality, local housing requirements and the achievement of satisfactory living conditions, amongst other things. Policy H4 states that provision will be made for affordable housing where this will meet specific local needs. It goes on to say, amongst other things, that local surveys will identify the level of these needs and that the location of such provision, and the agency to provide such dwellings, are matters for local determination. Policy G2 says, amongst other things, that all development should be of a scale and type appropriate to the site and its surroundings; and, incorporate a high quality of layout, design and landscaping.

4. In the Local Plan, Policy EN 26 seeks to retain significant views out of the city and protect the green backcloth from any material alteration. Policy EN 45 says that in considering planning applications for residential development, the need to provide a good standard of environment within and outside the dwelling will be a primary aim. Policy EN 76 states that in all new developments the scale of new buildings and the materials used should respect the character of their surroundings, amongst other things. Policy HO 6 says that where proposals are made for housing development involving 20 or more dwellings on a site not identified in Policy HO 1 or involving any number of dwellings on a site outside the area defined in Policy HO 3 and the development is compatible with other Local Plan policies, consideration will be given to granting planning permission if proposals include a significant element of social housing and an agreement may be sought to secure this.
5. I have had regard to the Oxfordshire Structure Plan 2016, Deposit Draft, published in 2003. Draft Policy H4 of this document says that at least 50% of all new housing in Oxfordshire should be affordable, including housing for key workers. It goes on to say, amongst other things, that the amount and size of site where provision will be sought will be determined by local planning authorities based on assessments of local need. Given that this document is at an early stage in its preparation, I have given it limited weight, in accordance with paragraph 48 of Planning Policy Guidance (PPG) Note 1: General Policy and Principles.
6. I have also had regard to the Second Draft Oxford Local Plan 2001 – 2016, published in February 2003. I have been referred to a number of draft policies within this document. However, I consider that the following are most pertinent to my consideration of this appeal. Draft Policy CP.2 says that planning permission will only be granted for development which shows a high standard of design, including landscape treatment, that respects the character and appearance of the area, amongst other things. Draft Policy CP.8 states that planning permission will only be granted for developments that demonstrate good urban design and it must be shown that the proposal is appropriate for the site and the surrounding area. Draft Policy CP.9 says that all new buildings should relate to their setting to strengthen, enhance and protect local character and satisfy a number of criteria. These include that the new development is well connected to, and integrated with, the wider area; and the siting, massing and design of the proposed development creates an appropriate visual relationship with the form, grain, scale, materials and details of the surrounding area. Draft Policy CP.10 states that development proposals should be designed to create a successful living and working environment and achieve high quality public spaces. It goes on to say that planning permission will only be granted where a number of criteria are met. These include that existing site features of value, whether natural, functional, historic or local character, and existing routes or views into and out of the site are properly respected and incorporated into the development proposal.
7. Draft Policy HS.5 expects affordable housing from any development for at least 2 dwellings. Draft Policy HS.6 says that when Draft Policy HS.5 applies, the provision of generally a minimum of 50% of the proposed dwellings as affordable housing will be sought. Draft Policy HS.8 states that affordable housing should be provided on site, other than in exceptional circumstances when the developer will be expected to make a financial contribution to the Council, which will be spent on affordable housing. At the time of the hearing this plan was in the process of being considered at a public Inquiry. The Council confirmed that these draft policies have been subject to objection. In particular, I note the objections of the Government Office for the South East (GOSE) relating to the proposed thresholds included within the affordable housing draft policies. Given this, and the stage at

which the emerging plan is at, I have given it limited weight, in accordance with paragraph 48 of PPG 1.

8. I have had regard to the Council's Supplementary Planning Guidance (SPG): Social Housing, adopted in 2001. This document seeks generally 30% of a proposed development to be provided as social housing on all suitable sites. This document was the subject of a public consultation exercise, prior to its formal adoption by the Council.

#### *National Planning Guidance*

9. I have had regard to the provisions of Circular 06/98: Planning and Affordable Housing. Paragraph 10 of the Circular states that in preparing plan policies for affordable housing, and in assessing the suitability of sites to be identified in the plan and any sites that may come forward not allocated in the plan, a number of criteria should be taken into account. Criterion i), which relates to site size, suitability and the economics of provision, says that it will be inappropriate to seek any affordable housing on some sites. It goes on to say that in practice, the policy should only be applied to suitable sites, including: a) housing developments of 25 or more dwellings or residential sites of 1ha or more, irrespective of the number of dwellings; and, b) in Inner London, housing developments of 15 or more dwellings, or residential sites of 0.5ha or more, irrespective of the number of dwellings. The Secretary of State considers that it may be appropriate for local planning authorities in those areas where the higher threshold would apply, and who are able to demonstrate exceptional local constraints, to seek to adopt a lower threshold, between the levels at a) and b). The Circular says, however, that such constraints must be demonstrated, and proposals to adopt a lower threshold must be justified through the local plan process. However, with the exception of settlements in rural areas with populations of 3,000 or fewer, the Secretary of State does not consider that it would be appropriate for local planning authorities to seek to adopt thresholds below the lower level of 15 dwellings or 0.5ha.

#### **Reasons**

##### *Character and Appearance*

10. The appeal site is located to the west of the railway line and to the east of the main channel of the River Thames. Oxford Railway Station is located to the south east. To the north of the appeal site is a large 3 and 4 storey residential development known as Venneit Close, beyond which is a development of graduate student accommodation, which is currently under construction. To the south, beyond a small wetland area is a children's nursery. The proposed development would provide 14 No. 2 bedroom flats in a 4 storey building.
11. I note the concerns of the Council relating to the impact of the proposed building when viewed from the River Thames and the towpath, and from open land within the Green Belt and Areas of High Landscape Value/Landscape of Key Significance beyond. In my opinion, given the siting, scale and mass of the proposed building, along with the existing and proposed landscaping along this frontage, it would not appear visually intrusive or prominent when viewed from the west. Indeed, I consider that only glimpsed views of the proposed building would be likely through the existing and proposed landscaping, given its set back nature and scale. In my opinion, these views would not be dissimilar to those already gained of the Venneit Close development. As such, I consider that the proposal would not be detrimental to, or out of keeping with, the character and appearance of the area, and would retain the green backcloth to the River Thames.

12. I acknowledge the Council's concerns relating to the impact of the proposed building when viewed from Roger Dudman Way, given that it would be sited close to the highway. Although the highway is narrow, given the open aspect across the railway line to the east, along with the design of the elevation facing the highway, which would include protruding and set back elements, I do not consider that it would appear overbearing or dominant when viewed along Roger Dudman Way. Indeed, in my opinion, the proposed building, which would be a good, contemporary design, would provide an interesting feature that would enhance an otherwise bland and industrial streetscene at this point, which includes a rather unattractive telecommunications exchange building and railway sidings.
13. I do, however, concur with the Council's view that the proposed siting of the bin and cycle storage along the Roger Dudman Way frontage would detract from the attractiveness of the building. This matter could be controlled by a planning condition. Indeed, at the hearing the appellants stated that they would be content with a condition which requires the submission and approval of the details of these elements of the scheme.
14. I am satisfied that the design, scale, mass and siting of the proposed building would provide an acceptable form of development, which would not appear cramped or represent an overdevelopment of a difficult and constrained site. As such, I consider that the proposal would not be detrimental to the character or appearance of the area.
15. I conclude, therefore, that the proposed development would not harm the character and appearance of the area. As such, it would not be contrary to Structure Plan Policies H3 and G2 or Local Plan Policies EN 26, EN 45 and EN 76.

### *Affordable Housing*

16. The appeal site does not fall within an established residential area identified on the Proposals Map of the Local Plan, being allocated for student accommodation and a youth hostel, in Policies HO 27 and TO 10 respectively. I acknowledge the concerns of the Council relating to the lack of affordable housing within the proposed development, and the submitted figures, which, it says, show a significant shortfall of social housing provision in Oxford. Although the adopted Local Plan Policy HO 6 seeks to address this situation by considering granting planning permission for development involving any number of dwellings on a site outside the established residential area, if proposals include a significant element of social housing, this plan was prepared prior to the publication of Circular 06/98 and PPG 3: Housing, which reiterates that the Circular remains the source of detailed national guidance on affordable housing. I note the Council's reference to other appeal decisions and to the Consultation Paper on a Proposed Change to PPG 3: Housing, published in July 2003, and in particular to Option 2, which would update PPG 3 and cancel Circular 06/98. As yet, however, no changes have been made to PPG 3 and the Circular remains extant. The Council seeks 5 affordable units in this case.
17. I acknowledge the provision of affordable housing within the Venneit Close development. However, this scheme is considerably larger than that proposed at the appeal site. Indeed, the appeal site is around 0.15ha and the proposal would create 14 dwellings, which would be lower than even the Inner London thresholds included in Circular 06/98. I note the Council's SPG which seeks generally 30% of a proposed development to be provided as social housing on all suitable sites. However, national guidance is clear that justification has to be demonstrated through the Local Plan process. This has not yet occurred as, although the Council is currently reviewing its Local Plan, it has not been adopted and is at

a relatively early stage in its preparation, given that representations to the housing and other policies are in the process of being considered at a public Inquiry. Accordingly, I have given more weight to current national guidance on the provision of affordable housing than to Policy HO 6, the SPG or to the provisions of the emerging Local Plan. As such, I do not consider that the provision of 5 affordable housing units would be justified in this case, having regard to the prevailing policy in Circular 06/98.

18. Although the likely price of the proposed flats would probably be beyond those in housing need, I am satisfied that the proposed 2 bedroom flats would make a useful contribution to the range of accommodation available in Oxford.
19. I conclude, therefore, that there is no justification to require that any of the flats be provided as affordable housing, having regard to prevailing policy.

#### ***Other Matters***

20. I note the concerns of nearby residents and landowners relating to the lack of car parking spaces for the future occupiers of the proposed development and highway safety along Roger Dudman Way. I am satisfied that, given the sustainable location of the appeal site and its design as a low car parking provision development, future occupiers of the proposed flats would be unlikely to own a car. As such, I consider that the proposal would be unlikely to lead to demand for on street car parking spaces or be detrimental to highway safety.

#### **Conditions**

21. In addition to the standard time limit condition the Council has suggested 17 conditions. I shall consider these in the context of Circular 11/95. In my opinion, a condition requiring the submission and approval of samples of the materials to be used in the construction of the external surfaces of the development would be reasonable to safeguard the character and appearance of the area. I consider that a condition requiring the submission and approval of details of the means of enclosure and boundary treatment would be necessary to safeguard the character and appearance of the area. In my opinion, a condition requiring the submission and approval of details of a privacy screen to be erected between the roof balcony areas serving flats 13 and 14 would be reasonable to safeguard the living conditions of the occupiers of these flats. I consider that a condition requiring the provision of the car parking and service area prior to the first occupation of the dwellings would be reasonable to ensure highway safety. I note the concerns of the Council's Environmental Health Officer with regards to noise from the nearby railway line. I am satisfied that a condition which seeks to safeguard the future occupiers of the development from noise would be reasonable. However, I have no evidence before me that supports the imposition of the levels suggested. As such, I consider that a condition requiring the submission and approval of a scheme for protecting the proposed flats from noise from the railway line would be more appropriate.
22. In my opinion, a condition which seeks to protect the retained trees on the site during the construction process would be reasonable to safeguard the character and appearance of the area. I am satisfied that a condition requiring the submission and approval of details of the hard and soft landscape works would be reasonable to safeguard the character and appearance of the area. I note the Council's concerns relating to the possible contamination of this site. Although no evidence has been presented to me with regard to contamination,

given the site's previous use as railway sidings and railway operational land, I consider that a condition requiring further investigation would be reasonable. In my opinion a condition requiring the provision of wheel washing facilities would be reasonable to ensure highway safety. Finally, I consider that a condition requiring the carrying out of an archaeological impact assessment would be reasonable, given the site's location.

23. I do not consider that a condition listing the drawings to which the permission relates would be necessary, given that these are clearly set out at the start of this decision. In my opinion, conditions stating that there shall be no raising of ground levels on the site or that no spoil or materials shall be deposited or stored on the site would not be necessary to prevent an increased risk of flooding. In any case the first matter is included within the landscaping condition. I do not consider that a condition requiring details of on site drainage works would be necessary as this matter is covered by other legislation. In my opinion, a condition requiring the use of uncontaminated materials as infill materials would not be necessary to safeguard the surrounding area from pollution.
24. In my opinion, the inclusion of an informative note relating to the nature of the development as a low car parking provision scheme would be reasonable to ensure highway safety.

#### **Conclusions**

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

#### **Formal Decision**

26. I allow the appeal, and grant planning permission for the erection of 14 No. 2 bedroom flats on land at Roger Dudman Way, Oxford in accordance with the terms of the application, Ref. 03/01874/FUL, dated 11 September 2003, and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall begin 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 development 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.
  - 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the development is first occupied. Development shall be carried out in accordance with the approved details and retained thereafter.
  - 4) No development shall take place until details of a privacy screen to be erected between the roof balcony areas serving flats 13 and 14 has been submitted to and approved in writing by the local planning authority. The approved screen shall be erected prior to the first occupation of flats 13 and 14 and retained thereafter.
  - 5) Notwithstanding the submitted plans, prior to the commencement of the development details of the parking of bicycles and the storage of bins shall be submitted to and

approved in writing by the local planning authority. The bicycle parking and bin storage as approved shall be erected on the site prior to the first occupation of the development and retained thereafter.

- 6) No development shall take place until a scheme for protecting the proposed flats from noise from the railway line has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the development is first occupied.
- 7) Prior to the commencement of development the trees on the site which are to be retained shall be protected in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
- 8) 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 proposed finished levels; hard surfacing materials; lighting and garden furniture. The soft landscaping works shall include schedules of plants, species types, plant sizes and proposed number/densities where appropriate.
- 9) Development shall not begin until an investigation and assessment of the nature and extent of any contamination of the site has been submitted to and approved in writing by the local planning authority. The assessment shall identify any remedial measures required to deal with any hazards identified and such measures shall be implemented before the occupation of any of the flats hereby permitted.
- 10) No development shall take place until details of the facilities to be installed for the washing of the wheels and wheel arches of contractors' vehicles shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be installed prior to the commencement of work on site, maintained throughout the construction period and all vehicles leaving the site shall be washed accordingly.
- 11) No development shall take place until an archaeological impact assessment has been submitted to and approved in writing by the local planning authority. The assessment shall include a desk based evaluation, an assessment of the archaeological impact of any ground works required, and proposals for the mitigation of such impact. Mitigation shall be carried out in accordance with the approved measures.
- 12) The flats shall not be occupied until the car parking and servicing area shown on Drawing No. 03-256-101-A Rev. A has been laid out, marked out and made available for use. The car parking and servicing area shall not thereafter be used for any purpose other than to accommodate the vehicles of disabled persons, visitors to the development or for servicing requirements.

*Informative Note:*

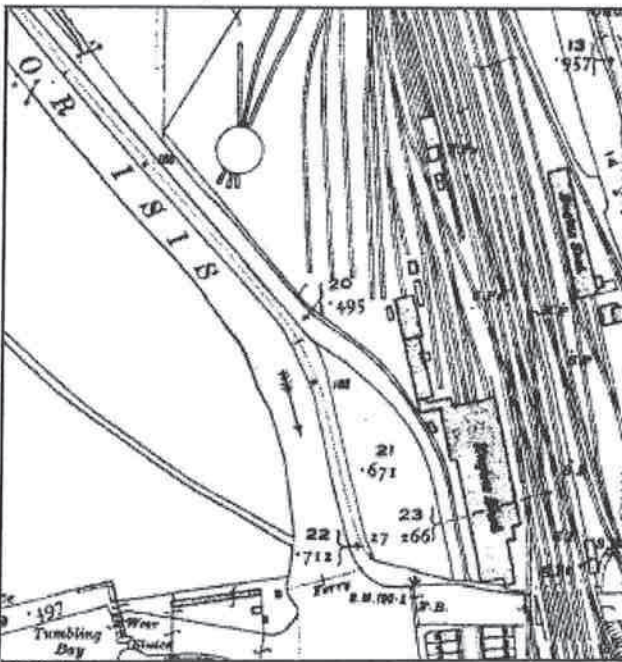
This permission is specifically granted as a low car parking provision development. The site does not fall within a Residents' Parking Zone and occupiers of the development will not be eligible for residents' parking permits in any nearby Residents' Parking Zones.



INSPECTOR

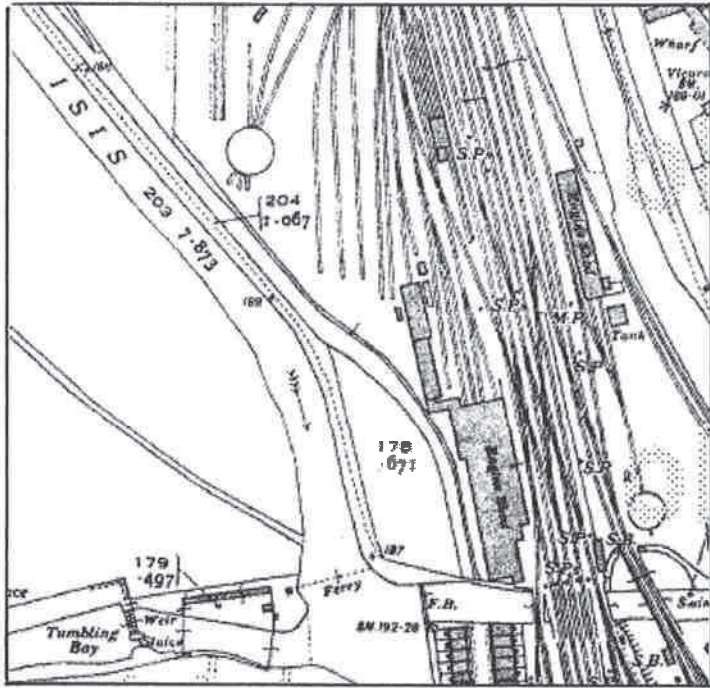


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