
Appeal Decision

Site visit made on 4 January 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/G3110/W/22/3304247

39 South Parade, Oxford, Oxfordshire OX2 7JL

- 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 Cantay Estates Ltd against the decision of Oxford City Council.
 - The application Ref 22/00393/FUL, dated 14 February 2022, was refused by notice dated 31 May 2022.
 - The development proposed is demolition of part of existing buildings. Erection of 3 storey building comprising 6 x 1 bedroom flats and re-arrangement of existing flats (Use Class C3) with rear area for amenity purposes. Bin and bicycle stores. Pedestrian accesses from Stratfield Road
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the appellant's concern regarding the Council's pre-application advice and the procedural handling of the application. Nonetheless, this is a matter for the parties and not for my consideration as part of this case.

Application for costs

3. An application for costs was made against Oxford City Council by the appellant. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect of the proposal on:
 - the living conditions of the occupiers of neighbouring dwellings 42, 43 and 44 South Parade and 60 Stratfield Road, with particular regard to privacy; and
 - the character and appearance of the surrounding area.

Reasons

Living conditions

5. The appeal property is an 'L' shaped site which comprises 39 South Parade, a 3-storey building which contains 4 self-contained flats. The site includes a parking area and the rear garden to 40-41 South Parade.
6. The site borders residential property 60 Stratfield Road, the rear garden to 42 South Parade and the rear elevation of 40-41 South Parade, which is in commercial use to the ground floor and residential use to the upper floor.

7. The appeal site looks onto the rear gardens of 42, 43 and 44 South Parade. 60 Stratfield Road contains windows in the side elevation which face the appeal site.
8. The proposed block of flats would replace an existing two storey extension and car park. The building would be 3 stories in height and would be set back from Stratfield Road, projecting further into the plot than the existing extension. Access to the first and second floor flats would be from an external rear staircase which would afford open views of the rear gardens of Nos 42,43 and 44 South Parade and 60 Stratfield Road. As such, the staircase would have regular use and likely daily use that would enable views onto these gardens where the occupiers might be relaxing or undertaking leisure pursuits. The appellant states that overlooking from this staircase could be addressed by condition requiring approval of measures to avoid potential overlooking and I note that the appellant agrees to the imposition of such a condition. However, Annex M of the Procedural Guide, Planning Appeals, England (2019) and the national Planning Practice Guidance (PPG) advise that the appeal process should not be used to evolve a scheme to overcome the Council's reasons for refusal, rather a fresh planning application should usually be made. Moreover, it is important that the evidence which is considered by the Inspector is essentially the same as that which has been considered by the Council, and on which interested parties' views were sought. Thus, it is not appropriate to deal with the approval of such measures by condition.
9. Therefore, whilst a degree of overlooking can be expected in urban areas, the views possible from the stairway on to the rear gardens of the neighbouring dwellings would go beyond existing and reasonable levels and would harm the living conditions of the occupiers of these properties through loss of privacy.
10. The appellant has brought to my attention that the overbearing effect of the proposal was not mentioned as a matter of concern in the committee resolution. However, the subsequent decision references the overbearing effect of the proposal on 60 Stratfield Road and other neighbouring properties. While the Council concluded this was unacceptable, I noted that the windows within the side elevation of 60 Stratfield Road are located towards the rear of the building and would overlook the proposed rear staircase, which would be stepped in from the site boundaries. Thus, whilst the proposed development would be visible from these openings, due to the level of separation between the built form and the openings it would not compromise the outlook or result in a sense of enclosure or overbearing.
11. Nonetheless, when considered as a whole, I conclude that the proposal would harm the living conditions of the occupiers of 42, 43 and 44 South Parade and 60 Stratfield Road.
12. Therefore, overall the proposal would be contrary to the aims of Policies H14, RE2 and RE7 of the Oxford Local Plan 2036 (2020) (LP) and Policy HOS4 of the Summertown and St Margaret's Neighbourhood Plan (2019) (NP). Collectively these policies seek, amongst other matters, to ensure that development proposals are carried out in a manner compatible with the surrounding area ensuring that the amenity of communities, occupiers and neighbours is protected, providing reasonable privacy for occupants of both existing and new homes.

Character and appearance

13. The appeal site occupies a prominent corner plot at the junction of South Parade and Stratfield Road. South Parade comprises predominantly 2 and 3 storey buildings of differing designs and the variety in building form, height and design contributes to the character and appearance of the area. Stratfield Road comprises a terrace of 2 storey yellow brick dwellings which are of a similar design, height and material palette.
14. The uniform nature of the dwellings and the limited alterations to properties contribute positively to the pleasant tight-knit residential character of Stratfield Road. The appeal site marks a transition between South Parade and Stratfield Road. The palette of materials and the features such as band detailing around the window and door openings contribute to the character of the area.
15. The proposed flat roof building would front Stratfield Road. The roof would be lower than that of the appeal property and taller than the dwellings in Stratfield Road, marking a transition between the ridge heights of the appeal property and the 2 storey dwellings in Stratfield Road. Thus, the proposal would not appear excessive in scale.
16. The proposed building would be set back in the plot in line with the front elevations of the dwellings on Stratfield Road and would be enclosed by a low stone wall. In addition, notwithstanding the modern design of the proposal, the development would accord with design components found in the surrounding area including the incorporation of protruding bay windows, enclosed front gardens, the vertical emphasis of window openings, banding detail to openings and the palette of materials. Consequently, the proposed building would be consistent with the established character of the surrounding area.
17. In light of the above I conclude that the proposed development would accord with the character and appearance of the area.
18. As such, the proposal accords with the design principles set out in LP Policies DH1 and RE2 and NP Policies HOS2 and HOS3 which collectively seek to encourage high quality design that creates or enhances local distinctiveness, is appropriate for the capacity of the site and respects the local heritage and prevailing character of the neighbourhood. For similar reasons the proposal accords with the guidance set down in paragraph 130 of the National Planning Policy Framework (the Framework), which, amongst other matters, seeks to ensure development is well designed and sympathetic to local character.

Other Matters

19. I acknowledge the social, environmental and economic benefits of the proposal which include the contribution towards the city's housing supply on a small brownfield site at low risk of flooding with good access to facilities and public transport. However, these benefits do not outweigh the harm I have identified in relation to the first main issue.
20. The proposal is likely to be able to meet with the relevant local and national policies in terms of landscaping, internal and external space provision, drainage, impact on trees, car parking, cycle and bin provision, and would exceed relevant local policy requirements in relation to sustainability of the proposal and biodiversity net gain. However, as these would be policy requirements in any event, I attribute these matters limited weight.

21. Additionally, the Council found that the proposal would not result in harm to the living conditions of the occupiers of neighbouring properties through loss of daylight and sunlight. This is noted but does not outweigh the harm I have found above.
22. The appellant has confirmed that since the determination of the planning application they have purchased 42 and 43 South Parade. Nonetheless, regardless of ownership, I have considered the proposal on its planning merits.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR