



Appeal Decision

Site visit made on 30 January 2018

by Mrs J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 13th April 2018

Appeal Ref: APP/G3110/W/17/3188901 34A Davenant Road, Oxford OX2 8BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Gomm Developments (Oxford) Ltd against the decision of Oxford City Council.
 - The application Ref 17/02342/VAR, dated 5 September 2017, was refused by notice dated 30 October 2017.
 - The application sought planning permission for demolition of existing dwelling house and garage. Erection of 1 x 5-bed dwelling house (Use Class C3) and 2 x 4-bed semi-detached dwellinghouses (Use Class C3) provision of car parking and alterations to access and landscaping without complying with a condition attached to planning permission Ref 17/01202/FUL, dated 13 July 2017.
 - The condition in dispute is No 13 which states that: The development hereby permitted shall not be occupied until the Order governing parking at Davenant Road has been varied by the Oxfordshire County Council as highway authority to exclude the site, subject to this permission, from eligibility for residents' parking permits and residents' visitors' parking permits unless otherwise agreed in writing by the Local Planning Authority.
 - The reasons given for the condition is: To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause parking stress in the immediate locality, in accordance with Policies CP1, CP6, CP10 and TR13 of the Adopted Oxford Local Plan 2001-2016.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Gomm Developments (Oxford) Ltd against Oxford City Council. This application is the subject of a separate decision.

Main Issues

3. The main issue is whether the disputed condition is reasonable and necessary in the interests of highway safety or to prevent parking stress in the locality in the context of the development plan policy.

Reasons

4. The area around the site is predominantly residential with the majority of properties benefiting from off street parking. A large amount of the road frontage is given over to individual accesses to dwellings and the remainder is subject to restricted parking for short periods or for permit holders, and in some parts purely for permit holders during daytime hours. The restrictions are part of a Controlled Parking Zone (CPZ).
5. During my afternoon site visit, albeit representing a relatively short period of time, there were a number of vacant on street parking spaces. Traffic flows were steady, though not continuous and speeds were moderate. I am aware that later in the day the availability of parking spaces in the immediate area would be lower as residents return home and that traffic and pedestrian activity would be likely to increase. Even so, during the day the road had the characteristics of a busy thoroughfare.
6. Parking Surveys undertaken prior to the application suggest that of the 90 parking bays available no more than 30% were regularly occupied though local residents are critical of the timing of the surveys undertaken during a holiday period. Further photographs submitted with the appeal and taken later in the year indicate parking capacity in the early morning, late afternoon and early evening. A freedom of information request by the appellant revealed that of 88 eligible households 29 parking permits have been issued with a further 40 residents taking an allocation of 25 visitor permits per year. The appellant argues that this demonstrates a lack of interest in permits for local residents; that the area is not under parking stress and indicates if permits were to be available for occupants of the appeal site this would not exceed the available capacity.
7. The development would provide half the required parking spaces when measured against the Councils standard (3 compared to the 6 required). Moreover, on street parking spaces would be lost to create the additional accesses thereby reducing on street provision. This would inevitably lead to some additional pressure for spaces. Policies in the Development Plan seek to ensure that new development accommodates its parking requirements and through this the Council actively manages patterns of growth. Reduced provision can be considered where it can be demonstrated that sites are in accessible locations. However, where this occurs the plan states that "*A planning condition may be applied that prevents development from taking place unless the scheme is excluded from relevant controlled parking zones, so that future occupants are not entitled to on-street car parking permits*"¹. This ensures that, where parking standards are not met, it does not result in an adverse effect on the availability of on-street parking.
8. The appellant argues that the condition would not meet the relevant tests in that it seeks to correct an existing problem. This argument is flawed on the basis that the development would increase the parking requirement on site from that which currently exists as it would represent a net gain of two units. I note that there is an extant consent for two dwellings however that proposal met the requirements for car parking within the site and did not therefore warrant the imposition of the same condition disputed here. The appellant

¹ Paragraph A3.43, which forms part of the supporting text to Policy HP 16 of the Sites and Housing Plan

refers to an appeal decision² relating to the tests for conditions however the circumstances were different to those which apply here. Consequently I afford it little weight.

9. Drawing all of the above together, I acknowledge that there are times of the day when there is only limited demand for on-street parking in Davenant Road. Nevertheless, I accept the evidence of local residents that there is pressure on parking spaces at other times. Moreover, the CPZ was instituted to manage the problem of parking being displaced into this residential area from other parts of the City. On-street parking is a limited resource, a resource that would be depleted by the appeal scheme. The CPZ, together with the policies of the development plan, seeks to manage the impact of new development on that limited resource. Although the impact of the appeal scheme alone would be small, it seems to me that the purpose of the policy is to manage the cumulative impact of multiple small changes. If I were to allow the appeal that would have the effect of undermining the policy approach.
10. A further consideration in this case is the particular nature of Davenant Road. This is a residential road with many individual accesses to dwellings. It carries a significant volume of through traffic which cuts through the area to avoid congestion elsewhere. In these circumstances I consider that unmanaged demand for on-street parking could be harmful to highway safety.
11. I conclude that the disputed condition is both reasonable and necessary. The removal of the condition would conflict with saved Policies CP1 and CP10 of the Oxford Local Plan, Policy CS13 of the Oxford Core Strategy and Policy HP16 of the Sites and Housing Plan. Together these policies seek to ensure that appropriate provision is made for parking.
12. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, proposals which conflict with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate this.

Other Matters

13. Reference has been made to cases in the same CPZ³ where the Council imposed and then removed similar conditions. Those schemes met the required parking standard and the circumstances are not therefore comparable.
14. The appellant suggested that as consent already exists for 2 dwellings without any restrictions regarding permits any further restrictions should only apply to one of the three properties. However, as noted above, that scheme provided sufficient parking on site. It could be implemented as an alternative to the appeal scheme but does not alter my conclusion on the merits of this appeal.

Conclusion

15. For the reasons given above and having regard to all other matters raised the appeal is dismissed.

Janet Wilson INSPECTOR

² APP/T3725/W/15/3136110

³ 2 Blandford Avenue and 18 Apsley Road