



Appeal Decisions

Site visit made on 23 January 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 10 February 2017

Appeal A Ref: APP/G3110/W/16/3160284

2A Wingfield House, Gathorne Road, Oxford, Oxfordshire OX3 8NF

- 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 Mr Harold Grant against the decision of Oxford City Council.
 - The application Ref 16/00342/VAR, dated 30 April 2015, was refused by notice dated 5 April 2016.
 - The application sought planning permission for the erection of one and a half storey rear extension (with accommodation in roof space) to provide 1-bed maisonette without complying with a condition attached to planning permission Ref 11/00875/FUL, dated 27 May 2011.
 - The condition in dispute is No 6 which states (sic) that:
The development hereby permitted shall not be occupied until the Order governing parking at has been varied by the Oxfordshire County Council as highway authority to exclude the site, subject to this permission, from eligibility for resident's parking permits and resident's visitors' parking permits unless otherwise agreed in writing by the Local Planning Authority.
 - The reason 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 Oxford Local Plan 2001-2016.
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Appeal B Ref: APP/G3110/W/16/3160286

2A Wingfield House, Gathorne Road, Oxford, Oxfordshire OX3 8NF

- 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 Mr Harold Grant against the decision of Oxford City Council.
 - The application Ref 16/00354/VAR, dated 3 February 2016, was refused by notice dated 5 April 2016.
 - The application sought planning permission for the erection of two storey building to provide 5 flats (3x1 bed, 2x2 bed) including accommodation in roof space without complying with a condition attached to planning permission Ref 07/00399/FUL, dated 23 May 2007.
 - The condition in dispute is No 6 which states that:
The development hereby permitted shall not be occupied until the Order governing parking at land on the plot referred to in this permission as the rear of 139, 141 and 143 Windmill Road, adjoining 2 Gathorne Road has been varied b the Oxfordshire County Council as highway authority to exclude the site, subject to this permission, from eligibility for resident's parking permits and resident's visitors' parking permits.
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- The reason 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.
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Applications for costs

1. Applications for costs have been made by Mr Harold Grant against the decision of Oxford City Council. Both applications are the subject of a separate Decision.

Decisions

Appeal A

2. The appeal is allowed and planning permission is granted for the erection of one and a half storey rear extension (with accommodation in roof space) to provide 1-bed maisonette, at 2A Wingfield House, Gathorne Road, Oxford, Oxfordshire OX3 8NF, in accordance with the application Ref 16/00342/VAR, dated 30 April 2015, without compliance with condition No 6 previously imposed on planning permission Ref 11/00875/FUL, dated 27 May 2011, but subject to the attached schedule of conditions, Schedule A.

Appeal B

3. The appeal is allowed and planning permission is granted for the erection of two storey building to provide 5 flats (3x1 bed, 2x2 bed) including accommodation in roof space, at 2A Wingfield House, Gathorne Road, Oxford, Oxfordshire OX3 8NF, in accordance with the application Ref 16/00354/VAR dated 3 February 2016, without compliance with condition No 6 previously imposed on planning permission Ref 07/00399/FUL, dated 23 May 2007, but subject to the attached schedule of conditions, Schedule B.

Background and Procedural Matters

4. The two appeals seek to remove conditions relating to two separate planning permissions at the same site. Despite being subject to separate decisions, both conditions sought to prevent future occupants of No2A Wingfield House from obtaining parking permits for the same reason; to prevent harm to highway safety. These conditions are reported to have been complied with and currently occupiers of the appeal site are not eligible to apply for parking permits.
5. The concerns of the Highway Authority do not relate to parking availability and highway safety and relate to the conditions being necessary based on the good levels of access the site has to sustainable forms of transport. Reference is also made to Policy HP16 of the Sites and Housing Plan (SHP). This policy states that permission will be granted for car free housing in locations that have excellent access to public transport, that are within a controlled parking zone and within 800 metres of a local supermarket. My site visit confirmed such circumstances apply to the development.
6. However, SHP Policy HP16 was adopted after the approval of the original planning permissions and does not alter the original reasons used to justify the conditions. Therefore, I must focus my determination of the appeals on the reason both conditions were imposed at the time; to preserve highway safety.

7. For similar reasons, concerns regarding the effect of the development on living conditions with reference to noise, disturbance and pollution do not form part of my consideration of the appeal. Accordingly, the main issue is as below.

Main Issue

8. The main issue is the whether the conditions are reasonable and necessary in the interests of highway safety.

Reasons

9. The appeal site is a two storey building comprising four flats each with one bedroom and two flats each with two bedrooms. The surrounding area is predominantly residential in use with Nuffield Orthopaedic Hospital to the south west and Windmill School to the north of the site. Roughly half of properties at Gathorne Road benefit from off street parking. Apart from properties along Windmill Road, the majority of properties in the surrounding area benefit from off street parking. The site is located within a Controlled Parking Zone.
10. During my late morning site visit, albeit representing only a short period of time, I saw a number of vacant on street parking spaces at Gathorne Road and St. Anne's Road. In addition, whilst Windmill Road received a constant flow of traffic at a moderate speed, Gathorne Road was not particularly busy. I also saw that Gathorne Road is straight with a 20mph speed limit, double yellow lines at its junctions and thus offers highway users good levels of visibility. However, I appreciate that later in the day the availability of parking spaces in the immediate area is likely to reduce and that levels of traffic and pedestrian activity are likely to increase.
11. The appellant has undertaken a number of Parking Stress Surveys across a range of dates and times within 150 and 200 metres of the appeal site in accordance with the 'Lambeth' methodology. Concerns are raised regarding the accuracy, timings and methodology of the appellant's parking surveys. However, I understand that the dates and times were agreed with the Highway Authority. I consider that the range of dates, times and the survey area chosen are reasonable and up to date, with the latest survey undertaken in February 2016. However, as the appellant's Google Map based surveys do not include precise times, they are afforded limited weight.
12. Owing to the number of bedrooms per flat at No 2A, and taking into account potential visitors, the likely demand for parking spaces arising from the proposed change in the conditions would be modest. In this context, I consider that the appellant's surveys indicate that on street parking capacity exists in the surrounding area to accommodate the development.
13. To inform the 'Access to Headington' (ATH) initiative, Oxford County Council's undertook a parking assessment, which concluded that Windmill Road has a consistent underutilisation of on street parking. The assessment also involved side roads along Windmill Road including Gathorne Road. Part of the ATH initiative involves the removal of all 38 on street parking spaces along Windmill Road and the creation of 35 additional new spaces at adjoining side roads.
14. However, taking into account the length of Windmill Road and the number of adjoining side streets, the ATH's modest net loss of 3 on street parking spaces and the redirected parking demand would be met over an area larger than Gathorne Road. Moreover, the County Council's parking assessment concludes

that at least 40 parking spaces would remain vacant in the area after accounting for spaces removed at Windmill Road.

15. Whilst concern is raised regarding the ATH initiative and associated parking stress surveys, no substantive reasons are before me to discount its findings. The parking surveys undertaken by residents indicate a lower number of on street parking spaces than the appellant's surveys. However, as the higher figures in the appellant's and Council's respective surveys corroborate one another, I find them a more credible form of evidence for establishing parking availability in the area. Consequently, even taking into account the ATH initiative, the surrounding area would be able to meet the modest parking needs of the appeal site.
16. A number of appeal decisions have been brought to my attention including a decision¹ at Gathorne Road. The appellant and residents refer to the decision in support of their respective cases. Whilst I have not been provided with the full details of this case, I note that the decision was made over 5 years ago. Consequently the decision and underpinning evidence are unlikely to provide an up to date account of local parking capacity. Nor do I have full details of development proposals referred to in the surrounding area, such as the expansion of Windmill School. Moreover, I must determine the appeal based on the evidence before me.
17. In reaching my decision I have carefully considered objections from residents and Ward Councillors, which include concerns regarding precedent. However, this decision would not prevent the Council from resisting development in locations where additional on street parking would lead to an adverse effect on highway safety.
18. In summary, in this case, sufficient on street parking capacity exists to meet the needs of occupants at No 2A. Moreover, the evidence before me does not indicate that as a result of removal of the conditions, on street parking would occur to an extent that would harm highway safety.
19. Therefore, I conclude that the conditions are not reasonable or necessary in the interests of highway safety. Consequently, the proposed change to conditions would meet the requirements of Core Strategy Policies CP1, CP6, and CP10 which are of most relevance to this matter. Combined, insofar as they relate to this matter, these policies require parking levels to be appropriate for the use proposed and development to be acceptable in respect of highway safety.

Conclusion

20. The Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permissions, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
21. For the reasons given above I conclude that the appeals should succeed. As a result I will vary the respective planning permissions by deleting the disputed conditions.

¹ APP/G3110/A/11/2143838

B Bowker

INSPECTOR

Attached – schedule of conditions.

Appeal A

Schedule A: Conditions

- 1) The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans: P2.15A proposed, P2.14A proposed, P2.13A plans - proposed, P2.12A plans - proposed.
- 2) The materials used in the external elevations of the new development shall match those of the existing building.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) no additional windows shall be placed in the side and rear elevations without the prior written consent of the Local Planning Authority.

Appeal B

Schedule B: Conditions

- 1) Samples of the exterior materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority before the start of work on the site and only the approved materials shall be used.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) the window(s) marked in green on the approved plan shall be glazed in obscure glass and thereafter retained.
- 3) That notwithstanding the details of the approved plans, the overall ridge height of the approved building shall not be any higher than 0.8 metres higher than the ridge height of number 2 Gathorne Road.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) the window(s) marked green on the plan shall have a cill height not less than 1.6 metres above floor level.
- 5) Notwithstanding the provisions of Class A of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) details of the means of enclosure along the highway frontage shall be submitted to and approved in writing by the LPA prior to the commencement of development and no residential unit shall be occupied until the approved means of enclosure have been fully implemented. No alterations shall be made to this means of enclosure unless otherwise agreed in writing by the LPA.