



## Appeal Decision

Site Visit made on 20 April 2021

**by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 June 2021**

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### **Appeal Ref: APP/D3125/W/21/3266509**

### **Ash Close, Gloucester Place, WITNEY, OX28 6LB**

- 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 Mrs Sarah Beresford and Mr James Nellist against the decision of West Oxfordshire District Council.
  - The application Ref 20/00858/FUL, dated 18 March 2020, was refused by notice dated 15 September 2020.
  - The development proposed is the construction of a pair of semi-detached dwellings to the side of existing house.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of two semi-detached dwellings at Ash Close, Gloucester Place, WITNEY, OX28 6LB in accordance with the terms of the application, Ref 20/00858/FUL, dated 18 March 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans, including the following:
    - 20-ASH-P-020
    - 20-ASH-P-021
    - 20-ASH-P-022
    - 20-ASH-P-023
    - 20-ASH-P-090
    - 20-ASH-P-054
    - 20-ASH-P-070
  - 3) Prior to their use in the development hereby approved, details/samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples.
  - 4) No building hereby permitted shall be occupied until a sustainable drainage system for the site shall have been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
  - 5) No development, including any works of demolition, shall take place until a Construction Method Statement has been submitted to and approved in

writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:

- The parking of vehicles for site operatives and visitors
  - The loading and unloading of plant and materials
  - The storage of plant and materials used in constructing the development
  - The erection and maintenance of security hoarding including decorative displays
  - Wheel washing facilities
  - Measures to control the emission of dust and dirt during construction
  - A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 6) Demolition and construction works shall not take place outside 7.30am to 6.00pm Mondays to Fridays and 8.00am to 1.00pm on Saturdays and shall not take place at any time on Sundays and Bank Holidays.
- 7) The car parking areas (including where appropriate the marking out of parking spaces) shown on the approved plans shall be constructed before occupation of the development and thereafter retained and used for no other purpose.
- 8) The development shall be completed in accordance with the recommendations in Section 6 of the Preliminary Ecological Appraisal, dated June 2020 prepared by Windrush Ecology, as submitted with the planning application. All the recommendations shall be implemented in full according to the specified timescales that shall be agreed prior to above-ground works for the approved dwellings.
- 9) Before the erection of any external walls, details of the provision of bat roosting features (e.g. bat boxes/tubes/bricks on south or southeast-facing elevations) and nesting opportunities for birds (e.g. house sparrow terrace, starling box, swift brick or house martin nest cup on the north or east-facing elevations) both integrated within the walls of the new buildings and mounted onto suitable mature trees on site, as well as hedgehog holes/gaps through the fences, shall be submitted to the Local Planning Authority for approval. The details shall include a drawing/s showing the types of features, their locations within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before either dwelling hereby approved is first occupied and thereafter permanently retained.
- 10) Before the erection of any external walls, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall show how and where external lighting will be installed (including the type of lighting), so that it can be clearly demonstrated that light spillage into wildlife corridors will be minimised as much as possible. All external lighting shall be installed in accordance with the specifications and locations set out in the approved details, and the external lighting shall thereafter be only in accordance with the agreed

details. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

- 11) Before the occupation of the development hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include native tree and shrub planting as well as other biodiversity enhancements such as the creation of species-rich hedgerows along the boundaries, wildflower meadow areas/flowering lawn and/or a wildlife pond. The details should be submitted along with a 5-year maintenance plan. The scheme must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development. The entire landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

If within a period of five years from the date of planting of any tree/hedge/shrub that tree/hedge /shrub, or any replacement, is removed, uprooted or destroyed, or dies, or becomes seriously damaged or defective, another tree/hedge /shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season.

- 12) Prior to the occupation of the dwelling hereby approved, written and illustrative details of the number, type and location of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the Local Planning Authority before any of the development hereby approved is first brought into use. The EVCP shall be installed and brought into operation in accordance with the details agreed as above prior to occupation of the development. The EVCP shall be maintained and kept in good working order thereafter as specified by the manufacturer.

### **Main Issues**

2. The main issues are the effects of the development on (1) the character and appearance of the area and the significance of the Witney and Cogges Conservation Area (CA), and (2) the air quality of the vicinity.

### **Reasons**

#### *Conservation Area*

3. The site is within a CA, near the centre of Witney. This CA derives its significance from the historic layout and older well-preserved buildings of this area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions. The National Planning Policy Framework (the Framework) also advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

4. From the evidence provided I am aware of the planning permission for the single detached house on the site. This is a valid fallback position for the appellant which I have taken into consideration. The main difference with this latest scheme is that this is now a proposal for a pair of semi-detached dwellings. This would result in more plot severance to create Plots A and B, however, these dwellings would still be served by generous garden areas and sufficient parking provision. The dwellings would not appear cramped within this setting, especially considering its town centre location where there is generally a higher density of built development. Furthermore, the proposed dwellings would be clearly seen as a semi-detached pair rather than two detached houses in close proximity.
5. In terms of the visual impact, the semi-detached pair would be like the larger single detached dwelling already approved at the site, as they would have a similar height and footprint. The semi-detached pair would be visible down the access lane, but they would be well set back from the highway and would not be prominent within the street scene.
6. I understand that historically this area may have been more open land, but the character has clearly changed significantly from this. The site is a large garden area surrounded by built development, including the particularly large cinema complex. As such, I do not consider this development to impinge on the interpretation or representation of the past which the site may convey within this CA. There would be some loss of openness, but this would also be the case with the approved single dwelling. I do not regard the provision of the semi-detached pair of housing as having significantly more of an impact to the openness or views through the site than the single approved dwelling.
7. There is a variety of house designs and styles within this area, with no clear uniform approach to follow. The dwellings as proposed would be both contemporary and sympathetic in their design and choice of materials. I do not regard the vertical emphasis as being incongruous within this vicinity, with other examples similar in the surrounding area. Furthermore, the flat roof area between the ridges would not be readily apparent. There is a lack of detail to the side elevations, but with suitable materials this would not detract from the quality of the area, especially as these elevations would not be prominent from public vantage points.
8. Overall, the proposed dwellings would not harm the character and appearance of the area and would also conserve the significance of the CA. The proposal would therefore be in accordance with policies OS2 and OS4 of the adopted West Oxfordshire Local Plan. These policies relate to locating development in the right places, conserve the historic built environments, and be of a high quality design, amongst other things.
9. The proposal also is in accordance with the Framework on issues of heritage and design.

#### *Air Quality*

10. The site is adjacent to the Witney Air Quality Management Area (AQMA). The development would result in traffic generation which would likely increase traffic within the AQMA. In response to this the appellant has proposed electric car charging points that can be required by condition. There is also space

within the plots for cycle storage, although being within a central location within Witney most shops and services are within walking distance.

11. Concern has been raised by the Council with regards the Traffic Regulation Order (TRO) for a 20mph speed limit on Gloucester Place and other adjoining streets that the appellant is willing to fund through a legal agreement. This is in response to County Council Highway comments regarding the intensification of the access use.
12. The appellant has provided evidence which suggests that a 20mph speed limit would not result in issues relating to increased emissions that may reduce air quality. However, there is a lack of substantive evidence to demonstrate that without the 20mph TRO the access would result in a highway hazard. I acknowledge that there are some limitations of visibility at the access, but this is an established access which already serves one dwelling with another dwelling having extant approval. There is no evidence of accidents relating to its use (there is evidence of one accident on Gloucester Place, but not necessarily relating to this access). The road is narrow and from my observations traffic is generally traveling slowly, maybe at less than 20mph in many cases anyway. Whilst a 20mph speed limit would have some benefits, it is not needed in relation to providing a safe access to the proposed development, even with the intensification of use.
13. As such, with regards to the Community Infrastructure Levy Regulations, I do not consider that the legal agreement to fund this TRO is necessary. This decision is not subject to the obligations of the submitted legal agreement to fund the TRO for the speed limit as I do not find that it is necessary to make the development acceptable in planning terms. The obligation therefore does not comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. Therefore, there is no need for the appellant to provide evidence to show the implications of such a TRO on air quality.
14. With a condition for electric vehicle charging points for the proposed dwellings in this accessible location I would regard the proposed development to not have any significant or discernible impacts to public health as a result of air quality. The proposal is therefore in accordance with policy EH8 of the adopted West Oxfordshire Local Plan which relates to managing and improving air quality, for example. The proposal also is in accordance with the Framework on issues of environmental impacts.

### **Other Matters**

15. The site is adjacent to Gloucester Court Mews. However, the proposed dwellings would be accessed off Gloucester Place with no need to travel or park in the Mews area. As such, the development would not result in parking or traffic issues within Gloucester Court Mews.
16. The proposed car port is adjacent to some mature trees. However, the appellant points out that the carport drawing states that it would be subject to 'no dig construction'. On this basis, there should be no damage to tree roots of mature trees.

### **Conditions**

17. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The

conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.

18. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.
19. As the site is in a confined area adjacent to existing dwellings a Construction Method Statement is necessary and required by condition. Furthermore, for these reasons there should be a restriction on construction times.
20. To ensure suitable levels of parking provision a condition requiring that car parking areas are in place prior to occupation of the houses.
21. To ensure a suitable drainage scheme, details are required to be submitted to and agreed by the Local Planning Authority.
22. In the interests of ecology and biodiversity, the development should be in accordance with Section 6 of the Preliminary Ecological Appraisal. Furthermore, details of bat roosting features and bird nesting opportunities are required, together with lighting details.
23. In the interests of visual amenity and to enhance the CA a landscaping condition is required for the land around the proposed development.
24. A condition requiring electric vehicle charging points is required, in the interests of sustainable transport and air quality.
25. Whilst I note that the site is within a CA, there is no substantive evidence of an exceptional need for a condition to restrict permitted development rights for the two proposed houses. As such this recommended condition has not been imposed.

### **Conclusion**

26. For the reasons given I conclude that the appeal should succeed.

*Mr S Rennie*

INSPECTOR