

**APPENDIX 7 South Oxfordshire District Council's performance 1 January 2021 to 30 June 2021 <sup>1</sup>quality of decisions – non-major appeals allowed (overturned)**

<b>Application Reference</b>	<b>Site Address</b>	<b>Description of Development</b>	<b>Decision Process</b>	<b>Appeal Process</b>	<b>Appeal Decision</b>	<b>Costs</b>
<a href="#">P19/S4457/FUL</a>	The Hollies, Goring Road, Woodcote	Demolition of existing dwelling and erection of 2 pairs of semi-detached dwellings	Committee overturn	Written representations	Appeal allowed 28 April 2021	N/A
SUMMARY: Contrary to the officer recommendation the Planning Committee refused the application on grounds of harm to the character and appearance of the area and the effects of the living conditions of the neighbours. The Inspector did not support the council's decision referring to examples of varied forms of development nearby and considering the relationship with adjacent dwellings.						
<a href="#">P20/S1588/FUL</a>	253 Greys Road, Henley-on-Thames	Demolition of existing dwelling and construction of 3 detached dwellings	Committee overturn	Written representations	Appeal allowed 6 May 2021	N/A
SUMMARY: The officer recommendation was to approve the proposed development, but the Planning Committee considered that due to the proximity and scale of Plot 1, it would result in an overbearing impact on the neighbouring property no. 251 Greys Road. In addition, the Committee considered the development was out of keeping with the						

<sup>1</sup> <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

character and appearance of the area due to the number of dwellings proposed. The Inspector took a contrary view and found the scheme acceptable on both issues.



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## Appeal Decision

Site Visit made on 20 April 2021

**by J Bowyer BSc(Hons) MSc MRTPI**

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

**Decision date: 6<sup>th</sup> May 2021**

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**Appeal Ref: APP/Q3115/W/20/3260308**

**253 Greys Road, Henley-on-Thames RG9 1QS**

- 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 Mr John Furneaux, Palatine Homes against the decision of South Oxfordshire District Council.
  - The application Ref P20/S1588/FUL, dated 6 May 2020, was refused by notice dated 28 August 2020.
  - The development proposed is demolition of existing dwelling and construction of 3 no. detached dwellings with associated vehicular accesses.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and construction of 3 no. detached dwellings with associated vehicular accesses at 253 Greys Road, Henley-on-Thames RG9 1QS in accordance with the terms of the application, Ref P20/S1588/FUL, dated 6 May 2020 subject to the conditions set out in the attached schedule.

### Procedural Matters

2. Since the Council determined the planning application and the appeal was submitted, the South Oxfordshire Local Plan 2011-2035 (LP) was adopted in December 2020 and superseded policies of the South Oxfordshire Local Plan 2011 and the South Oxfordshire Core Strategy 2012 that were referred to within the reasons for refusal. I have considered the appeal accordingly, and with regard to the evidence of the main parties on the updated development plan position as it relates to the proposal.
3. Amended plans which were not before the Council when it determined the application have been submitted as part of the appeal. I am mindful of advice that the appeal process should not be used to evolve a scheme<sup>1</sup>. However, external alterations would in this case be limited, involving a reduction in the first-floor level depth of the dwelling on Plot 1 and omission of a window to its side, and I do not consider that these minor changes would materially alter the proposal from that considered by the Council and interested parties.
4. In addition, the Council has been able to comment on the amendments as part of the appeal. The appellant also advises that those parties who were consulted on or who had commented on the planning application were informed of the submission of amended plans, and that a site notice to that effect was posted. Notwithstanding comments questioning the posting of a site notice, I further note that the closest adjoining neighbour to Plot 1 who would potentially be

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<sup>1</sup> Procedural Guide Planning appeals – England March 2021

most affected has made representations on the revised proposals, and is therefore aware of the amended plans.

5. With regard to these factors and the nature of the amendments and having applied the 'Wheatcroft' principles<sup>2</sup>, I conclude that the proposal would not be so changed by the amendments that to grant permission would deprive those who should have been consulted on the changed development of the opportunity of such consultation. Because I am therefore satisfied that it would not prejudice the interests of any parties, I have determined the appeal with regard to the amended plans submitted with the appeal.
6. On 4 May 2021, the Council advised that outline planning permission had been granted on the site for two detached dwellings<sup>3</sup>. I have nevertheless considered the appeal before me on its own merits.

### **Main Issues**

7. The main issues are (i) the effect of the proposal on the character and appearance of the area; and (ii) the effect of the proposal on the living conditions of the occupiers of 251 Greys Road with particular regard to whether or not it would be overbearing.

### **Reasons**

#### *Character and Appearance*

8. Closest to the appeal site, the majority of dwellings on Greys Road as it runs to the west from its roundabout junction with Wootton Road and King James Way comprise fairly large detached properties. The gaps between buildings vary in size, but typically afford views towards backdrops of long rear gardens which often include mature trees. In combination with the usual set back of dwellings within their plots, boundary hedgerows and established vegetation which are visible along the street, this contributes a generally spacious and verdant character to the area. Nevertheless, there is little consistency in the width of plots or the spacing between buildings resulting in an irregular urban grain, and dwellings are of varied form, architectural style and appearance. In addition, terraced dwellings as well as a small parade of shops with accommodation above are visible from the appeal site on Greys Road to the east of the roundabout, adding further diversity to the pattern of development and to the mixed character and appearance of the area.
9. The spacing between the 3 dwellings proposed on the site and to the adjacent properties at 251 Greys Road and 255a Greys Road would be relatively modest, and the plots would also be among some of the narrowest along the street. However, the area has no prevailing building form or pattern of plot widths or spacing between buildings. In this context, I do not consider that the width of the plots would be striking or incongruous, nor that their height, depth or appearance would be unsympathetic. The gaps between buildings would not be dissimilar to those that I observed between a number of others nearby, and despite their depth would still be sufficient to provide for appreciable separation between the dwellings and to afford views through to the rear part of the site from the street. The space to the sides of the buildings would also be supplemented by the deep frontages and rear gardens, and in my judgement

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

<sup>3</sup> Application ref P21/S1175/O

- the overall spacing around the development would provide a suitable setting for the dwellings and an appropriate sense of spaciousness.
10. The shared access to Plots 2 and 3 would be somewhat unusual, but not overly conspicuous in light of the mixed layout and character of the area, and though much of the site frontage would provide for parking and access, this would in part be screened by sections of hedging along the front boundary. Moreover, I noted other dwellings in the vicinity with frontages predominantly given over to hardstanding, and as a consequence this treatment would not be out of keeping or dominant within the street scene. I further find that the proposed planting including of trees at the front boundary would help to mitigate the visual impact resulting from removal of trees and part of the hedge from the site, and that leafy views along the street scene would not be compromised.
  11. Given these factors, I do not consider that the relationships between the dwellings and neighbouring buildings would be out of keeping or unduly cramped, or that the generally spacious and verdant character of the area would be harmfully diminished. While I accept that the proposal would result in a run of fairly close-set buildings, this would not undermine any distinctive layout pattern or characteristic and I see no reason that it would appear incompatible or discordant with its surroundings. Instead, I find that it would complement the existing visual interest and diversity of the street scene.
  12. For these reasons, I am satisfied that the proposal would make effective use of the site without resulting in overdevelopment and that the development would sit acceptably in its spatial and visual context. I therefore conclude on this main issue that the character and appearance of the area would not be unacceptably harmed, and I find no conflict with Policies DES1 or DES2 of the LP or Policies H4 or DSQ1 of the Joint Henley and Harpsden Neighbourhood Plan (JHHNP). Collectively, these policies seek amongst other things high quality development that respects local context and which complements and contributes positively to local character. Accordingly, I find no justification in this regard to depart from the general expectation outlined within Policy STRAT5 of the LP that development makes optimal use of sites.

### *Living Conditions*

13. The Council raises concern the dwelling on Plot 1 would be overbearing to the occupiers of the adjacent dwelling at No 251. This property has a ground-floor side projection with full-height rear glazing serving a habitable room set fairly close to the boundary with the appeal site.
14. The dwelling proposed on Plot 1 would project deeper than No 251 to the rear. However, the majority of the additional depth would be single storey with a flat roof, and much of its height would be screened by the existing boundary fencing. The two-storey part of the dwelling would extend only a modest distance beyond the rear of No 251, and would include a sloping rear roofslope that would reduce in height towards the deepest point. I accept that the separation of the dwelling from the boundary would not be large, but it would nevertheless provide for some set in, and these factors in conjunction would limit the visual impact of the development as seen from this neighbour.
15. Moreover, the garden to No 251 is of fairly generous width, and while it is not particularly long, the proportion of its depth that the development would run alongside would not be excessive. As a result, a significant sense of openness

- and unobstructed outlook would be retained avoiding an undue sense of enclosure. In views from the rear of the neighbouring garden, the flank of the dwelling on Plot 1 would be apparent but it would largely run alongside the dwelling and such a relationship would not be unusual. Given also its height and sloping roof form I do not find that the total depth or scale would be excessive or visually intrusive.
16. For these reasons, I am satisfied that the development would not be overbearing or dominant in views from No 251 or its garden, and that a suitable standard of outlook for occupiers would be maintained.
  17. I have also noted additional concerns raised by interested parties including comments that the development would intrude a 45 degree angle taken from the centre of the closest ground floor windows to the rear of No 251. However, this would be by single storey level development only. There is also additional rear glazing to this room which is set in further from the boundary and which would not experience any intrusion. Given these factors and the scale and relationship of the dwelling on Plot 1 with No 251, I do not consider that it would cause harmful overshadowing or loss of light. I am also satisfied with regard to the height, depth and position of the dwelling on Plot 3 relative to No 255a that while it would be visible, the development would not detract meaningfully from light levels or outlook experienced by these occupiers.
  18. The primary outlook from the windows to the rear of the dwellings would be along their respective rear gardens. Views towards adjacent gardens would be possible and I note glazing to the side of the single storey rear projection to No 255a facing the boundary. Even so, the relationship would not be unusual within a residential area such as this. Given also that views would be oblique and at a very tight angle closest to the rear of the neighbouring dwellings, I do not consider that it would cause a harmful loss of privacy or unacceptable overlooking of neighbouring dwellings or gardens.
  19. I therefore conclude on this main issue that there would not be unacceptable harm to the living conditions of neighbouring occupiers to the site. Accordingly, I find no conflict with Policy DES6 of the LP or Policy H4 of the JHHNP insofar as they require that development does not result in adverse affects on the amenity of neighbouring uses, including with regard to dominance or visual intrusion.

### **Other Matters**

20. The appellant disputes the account given by an interested party of communication that took place with members of the Council's planning committee and comments regarding a site visit, but this is not in any event a factor which alters my consideration of the planning merits of the proposal.
21. Representations by interested parties make reference to trees that have already been removed from the site, but the Council's report to committee advises that no consent was required for this. Besides, those works do not form part of the development that is before me to consider as part of this appeal. I also acknowledge concerns regarding a high hedge dispute and damage associated with existing boundary vegetation, but these are matters between the relevant parties and are separate from the appeal.

22. Parking on the site would meet required standards and there is no firm evidence that vehicle movements associated with the development would harm highway safety. In this regard, I note that the Highway Authority has not objected, and from the evidence before me, I see no reason to disagree.
23. While I have taken into account comments made by interested parties, I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and the representations do not alter my findings on the main issues.

### Conditions

24. I have considered suggested conditions having regard to the tests set out at paragraph 55 of the National Planning Policy Framework (the Framework), and amended some wording accordingly, or for the sake of clarity.
25. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. To avoid risk of flooding and to minimise carbon emissions in accordance with targets of the development plan, I have also attached conditions requiring provision for surface and foul water drainage and submission of an energy statement. These are pre-commencement conditions as details need to be agreed before any works take place to ensure that they are satisfactory, and the appellant has agreed to their wording. As these conditions will enable consideration of the management of surface water at the site, a separate suggested condition restricting discharge to the adjoining highway is unnecessary.
26. Details of external materials, provision for landscaping and implementation of tree protection measures are also required to ensure a satisfactory appearance. However, the Framework outlines that conditions required to be discharged before development commences should be avoided unless there is a clear justification. From the information before me I see no reason it would be necessary to require details of materials or landscaping prior to any works taking place, and I have amended the suggested conditions accordingly. I have also included an implementation clause on the materials condition.
27. To safeguard the living conditions of neighbouring and future occupiers, a condition to require the use of obscure glazing to windows to the sides of the dwellings is necessary. Conditions to require provision for parking and turning and the accesses to the site are necessary in the interests of highway safety. I have however combined conditions to avoid duplication, and have omitted reference to drainage of the parking area as this would be unnecessary given the surface water drainage condition. Reference to works in accordance with the highway authority specifications is also insufficiently precise and I have therefore required that details are agreed.
28. I am mindful that paragraph 53 of the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. However, given the relationship of the dwellings with their plots and surrounding development, I consider it would be necessary in this case to control the construction of extensions and outbuildings in the interests of the living conditions of neighbouring occupiers and the character and appearance of the area



**Conclusion**

29. I find that the proposal would accord with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. For the reasons given above, I therefore conclude that the appeal should be allowed.

*J Bowyer*

**INSPECTOR****Schedule of 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 following approved plans: P20/10/100, P20/10/S/101 B, P20/10/S/102 A, P20/10/S/110 A, P20/10/S/111 A, P20/10/S/120, P20/10/S/121, P20/10/S/130, P20/10/S/131, 7339 01, GR-01 A and Tree Protection Plan Rev D July 2020, except as controlled or modified by conditions of this permission
- 3) Prior to the commencement of the development hereby permitted, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.
- 4) Prior to the commencement of the development hereby permitted, a full foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.
- 5) Prior to the commencement of the development hereby approved, an Energy Statement demonstrating that the dwellings will achieve at least a 40% reduction in carbon emissions compared with a code 2013 Building Regulations compliant base case shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, with any agreed measures to be installed prior to the occupation of any dwelling and retained thereafter.
- 6) No development above proposed ground level shall take place until a photographic schedule of all materials to be used in the external construction and finishes of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 7) The tree protection details as shown on the approved Arboricultural and Planning Integration Report (Ref GHA/DS/128260:20 dated 29 April 2020) and shown on the Tree Protection Plan Rev D July 2020 shall be implemented prior to any on site works including demolition, and shall thereafter be retained in situ for the duration of development.



- 8) No development above proposed ground level shall take place until a scheme for the landscaping of the site, including the planting of live trees and shrubs, the treatment of the access road and hard standings, and the provision of boundary treatment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 9) Prior to first occupation of the development hereby permitted, the proposed means of vehicular accesses to the site from Greys Road shall be formed and laid out and constructed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
- 10) Prior to first occupation of the development hereby permitted, the parking and turning areas for vehicles as illustrated on drawing reference P20/10/S/101 B shall be laid out in accordance with the approved plans and those areas shall thereafter be retained unobstructed except for the parking of vehicles associated with the development in spaces for that purpose.
- 11) The following windows shall be fitted with obscure glazing with a minimum of level 3 obscurity and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the accommodation and shall be retained as such thereafter:
  - i. the first floor windows to the sides of the dwelling on Plot 1;
  - ii. The west facing second floor landing window to the side of the dwelling on Plot 2; and
  - iii. The east facing second floor landing window to the side of the dwelling on Plot 3.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement or other alteration of any dwellinghouse as set out within Schedule 2, Part 1, Class A of that Order and the provision of any building, enclosure or swimming pool as described in Schedule 2, Part 1, Class E of that Order shall not be undertaken without obtaining planning permission from the Local Planning Authority.

**End of Schedule**