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# Appeal Decision

Hearing opened on 7 March 2012 and resumed on 19 April 2012

Site visit made on 19 April 2012

**by Jane Miles BA (Hons) DipTP MRTPI**

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

**Decision date: 20 June 2012**

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**Appeal Ref: APP/G3110/A/11/2164089**

**Land to the rear of 17-41 Mill Street, Oxford OX2 0AJ**

- 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 W E Black Ltd against the decision of Oxford City Council.
  - The application ref: 11/00927/FUL, dated 28 March 2011, was refused by notice dated 3 August 2011.
  - The development proposed is erection of three storey building to accommodate 74 student rooms plus warden's accommodation and provision of cycle and bin storage facilities and landscaping.
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## Decision

1. The appeal is dismissed.

## Procedural Matters & Background

2. At the hearing opening on 7 March it became apparent that interested parties had not received notification of the hearing arrangements from the Council. The three local residents present had heard about the event, at short notice, from another source. Having taken account of the views of all present, and given the level of local interest in the proposal and the possibility that not all those who might wish to attend the hearing had been made aware of it, I adjourned until 19 April so that the requisite notifications could be made.
3. Before the adjournment, the appellant indicated that an application for costs was to be made. Written submissions by the appellant and then the Council were made before the hearing resumed, and further comments were made when it resumed. The costs application is the subject of a separate decision.
4. Following refusal of the appeal application, a second application was submitted for fifty-five student rooms in a two storey building with the same footprint but different materials and detailing. The permission subsequently granted by the Council for this amended scheme (the permitted scheme) on 15 February 2012 is a material consideration which I must take into account.
5. In relation to this appeal proposal the appellant has submitted a completed unilateral undertaking, providing for contributions towards public realm improvements, indoor sports facilities and local library infrastructure.

## Reasons

6. The **first main issue** is the effect of the proposal on the character and appearance of its surroundings. The appeal site is a long and narrow strip of land between the rear gardens of the Mill Street terrace and the railway line, at a higher level, just to the south of Oxford railway station. Access into the site is at the southern end, from Osney Lane, adjacent to the two small blocks of flats known as Abbey Walk and to a pedestrian bridge over the railway.
7. It is well established in national<sup>1</sup> and local policy<sup>2</sup> that new development should respect an area's character and appearance, and respond appropriately to it with high quality design, which does not necessarily mean replicating local characteristics. As the immediate area, or context, for this site consists of several components, primarily the residential area to the west, railway to the east and Osney cemetery (on the opposite side of Osney Lane) to the south, it does not have a single uniform character.
8. Most public views of the proposed building would be from the limited frontage onto Osney Lane, from the bridge over the railway and from passing trains, rather than from any residential street. In such views the new building would not appear inappropriate in its context, nor overbearing or over-dominant. Moreover, having regard to the nature, scale and design of other buildings along the railway corridor, I find that the appearance of the proposed building on the eastern side (to the railway) would be pleasing, adding variety and interest alongside one of the principal entry routes into Oxford.
9. However the site is also a significant part of the residential environment for occupiers of dwellings in Mill Street and Abbey Walk, and the use of the proposed building would also be residential. To that extent, it would become part of a residential locality characterised in large part by terraces punctuated to both front and rear by many windows, which break up the elongated built forms and bring life to their elevations. Whilst there are other buildings of different form and height on the residential side of the appeal site, none exhibit a combination of length, height, and form comparable with that of the appeal development.
10. The proposed design includes various features to articulate the building, most notably a succession of projecting, angled elements (containing south-west facing bedroom windows, so as to minimise any perception of overlooking at nearby properties), with those at third floor (roof) level being recessed. These would create a strong vertical emphasis, accentuating the building's height. Bearing in mind also that distance would blur the three-dimensional nature of the projecting elements, their tall blank north-west facing panels would create the impression of a more or less continuous wall in various views from the Mill Street properties. A dark zinc roof, a consistent ridgeline along its full length and the detailing of the two mid-way entrances would all add to this somewhat forbidding wall-like effect, which the curved alignment would not dispel.
11. In short, the building would appear in the residential context as a very long built form with limited fenestration, such that it would not readily read as residential in scale or character and so would not relate well to the prevailing

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<sup>1</sup> Now in the *National Planning Policy Framework* (the *Framework*) which replaced most planning national Planning Policy Statements (PPSs) in March 2012

<sup>2</sup> Saved Policies CP.1 and CP.8 of the Oxford Local Plan 2001-2016 (LP) and Policy CS18 of the Oxford Core Strategy 2026 (CS)

and locally distinctive pattern of residential terraces. I recognise that the design is a practical response to the site's constraints and also, as a design in isolation, it has considerable merit. Nonetheless, in the position proposed, I find that the particular combination of length, height and design (rather than height alone) would result in an unsympathetic addition to the locality, significantly detracting from its established character as a residential environment.

12. Whilst the permitted scheme retains several features of the appeal scheme, it differs significantly in that the absence of the roof level and a different detailing of the two mid-way entrances would more successfully reduce the building's scale and also help to break-up its continuous length. I am not persuaded that altering external materials in the appeal scheme, as suggested at the hearing, would achieve similar effects. I have borne in mind the proposed retention of some sizeable existing trees, and that the proposed layout includes scope for additional landscaping along existing rear and side residential boundaries. However, as new landscaping would take some years to mature and even then may not provide an effective year-round screen, this is not sufficient to address my concerns.
13. On this issue, therefore, and notwithstanding my findings in relation to the proposed eastern elevation, I conclude that the appeal scheme would cause significant harm to the character and appearance of the residential environment of which it would become part. It would conflict in this respect with LP Policies CP.1 and CP.8 and CS Policy CS18.
14. The **second main issue** concerns the effects the proposal would have on the amenities of nearby residential occupiers, primarily in terms of visual amenity, privacy at nos. 1 and 2 Abbey Walk, and the introduction of a large number of resident students into the locality.
15. Elements of the Council's first two refusal reasons suggest the proposal would be an overbearing and over-dominant feature and that it would be detrimental to the visual amenities of neighbouring residential properties. I have already addressed the building's visual impact, in general terms, in the preceding paragraphs and found it to be harmful. It follows therefore that it would also be detrimental to neighbouring occupiers' visual amenity in a general sense.
16. However, given the generous separation distances between the proposed building and the Mill Street properties, and the recessed third (roof) storey in the new building, the relationships created would not be so close as to cause a material loss of outlook or harmful sense of enclosure at any individual Mill Street property. Nor would there be unacceptable impacts in these respects at the Abbey Walk flats. The louvres introduced in the permitted scheme to address concerns about loss of privacy at the Abbey Walk flats could also be required, by condition, in this appeal scheme. Given the orientation of the various properties, in addition to separation distances, the proposal's impacts in terms of daylight and sunlight to neighbouring properties would not be significant.
17. With regard to concerns about introducing a large number of resident students into the locality, I heard anecdotal evidence in general terms from several local residents about problems that can and do arise from students in the appeal site vicinity, particularly since the opening of the nearby Bellerbys College (whose students are potential occupiers of the proposed accommodation). However

very little evidence of substance was produced, either to explain the nature of a balanced community, or to demonstrate objectively how or why the proposal would unbalance it.

18. Although CS Policy CS25 relates primarily to student accommodation for Oxford's two universities, in effect it promotes purpose-built accommodation as a way to reduce demands on the City's existing housing stock. The appeal scheme would not be inconsistent with this policy. The policy's supporting text notes that student accommodation should not impact on local residents' amenity: it does not elaborate further, but does go on to specify that management controls will be secured by planning conditions or obligations.
19. The Council's emerging Sites and Housing Development Plan Document (DPD) includes a draft policy to restrict new student accommodation to main routes, city or district centres or on-campus sites, and the appeal site is none of these. I understand part of the rationale for this policy to be the adverse impacts that large numbers of resident students can have within tight-knit housing areas such as that adjoining the appeal site (albeit I heard an alternative view that students in shared private houses are more likely to integrate into the local community). Even so, as the DPD is still at an early stage, and objections have been made to this particular draft policy, I can give it little weight.
20. In any event, the Council has found the scheme for fifty-five student rooms with a resident warden to be acceptable, and I have no reason to suppose that scheme could not go ahead. The difference between permitted and proposed schemes is only nineteen student rooms. Having regard also to the information provided about household numbers and types in the group of streets accessed from Botley Road via Mill Street, and to the scope to impose controls on the management of the proposed accommodation, I find no substantive grounds to conclude that the cumulative effect of an additional nineteen student rooms would either unbalance the existing community or cause unacceptable harm to existing residents' living conditions in terms of noise and disturbance.
21. In summary, neither the proposal's effect in terms of the balance of the community nor its effects on living conditions at neighbouring properties would be so significant, in themselves, as to justify rejecting it. However the proposal's adverse impact on the general level of visual amenity currently enjoyed by existing residents supports my conclusions on the first main issue.
22. **Other matters:** I note residents' concerns about the potential increase in vehicle traffic to and from the site, even though students would not be permitted to bring cars to Oxford. Concerns were also raised about the wisdom of allowing such a large number of relatively young students (in the event of occupation by Bellerbys College students) under the control of a single warden, and also about year-round use and management of the building. The former is primarily a matter for the College, and the Council has suggested conditions to address the latter point.
23. I note that the appellant undertook pre-application discussions and carried out a consultation exercise with local residents, and that both planning officers and the West Area Planning Committee were content with the submitted proposal (before refusal by the Planning Review Committee). However I have considered it afresh, on its merits, in the light of the development plan and other material considerations. I have taken into account the various benefits put forward in support of the scheme, most notably that it would make

effective and efficient use of a difficult site, improving land alongside the railway approach to Oxford; that it is a location readily accessible from the city centre by non-car modes of travel; that it would support a key sector of the city's economy, and also reduce demands on existing housing stock; and that the building would act as a noise barrier between the railway and existing residential properties. However it is significant that the permitted scheme would also achieve most of these benefits.

24. In addition I have borne in mind the *Framework's* presumption in favour of sustainable development. Nonetheless, having considered all relevant factors and balanced the proposal's benefits against the harm it would cause in terms of character and appearance, overall I conclude that the benefits are not sufficient to outweigh the significant harm that I have identified. I further conclude therefore that the appeal must fail. In these circumstances it is not necessary to consider in detail the planning obligations in the submitted unilateral undertaking.

*Jane Miles*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Nik Lyzba  
DipTP DipLP MRTPI

JPPC Chartered Town Planners

Adrian James  
MA RIBA

Adrian James Architects

### **FOR THE LOCAL PLANNING AUTHORITY:**

Cllr Tony Brett

Chair of Planning Review Committee  
Oxford City Council

Murray Hancock

Chief Principal Planner  
Oxford City Council

### **INTERESTED PERSONS:** (on 7/3/12)

Jindrich Nebrensky	Local resident
David Lambert	Local resident
Brendan Carter	Local resident
Susanna Pressel	Ward councillor

### **INTERESTED PERSONS:** (on 19/4/12)

Jindrich Nebrensky	Local resident
Brendan Carter	Local resident
Susanna Pressel	Ward councillor
Rosemary Preston	Local resident
Mike Magee	Local resident
Elizabeth Gordon-Walker	Local resident
John Rolfe	Local resident
Marshall Walker	Local resident
Felicity Wenden	Local resident
Gervaise Wood	Local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 (on 7 March) Council's initial appeal notification letter and list of persons notified
- 2 (on 7 March) Copy of planning permission and set of plans for permitted scheme, approved by the Council on 15 February 2012
- 3 (on 19 April) Copy of drawing no. 227/P/13, clarifying dimensions, levels and separation distances
- 4 (on 19 April) Copy of drawing no. 227/P/16/A, showing approximate equinox sunpath