



# The Planning Inspectorate

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OX1 1PT

Your Ref: 02/2261/FUL  
Our Ref: APP/G3110/A/03/1121247  
Date: 13 October 2003

Dear Sir

**TOWN & COUNTRY PLANNING ACT 1990  
APPEAL BY MR A FIORENTINO  
SITE AT 109 BANBURY ROAD, OXFORD, OXFORDSHIRE, OX2 6JX**

I enclose a copy of our Inspector's decision on the above appeal.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit  
The Planning Inspectorate  
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2 The Square, Temple Quay  
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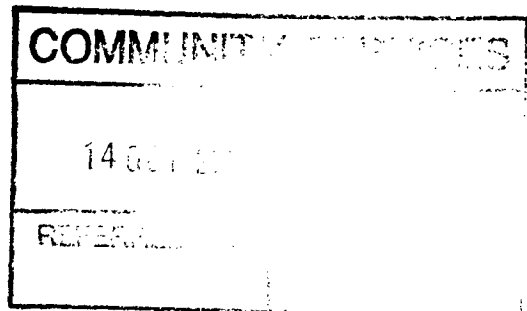
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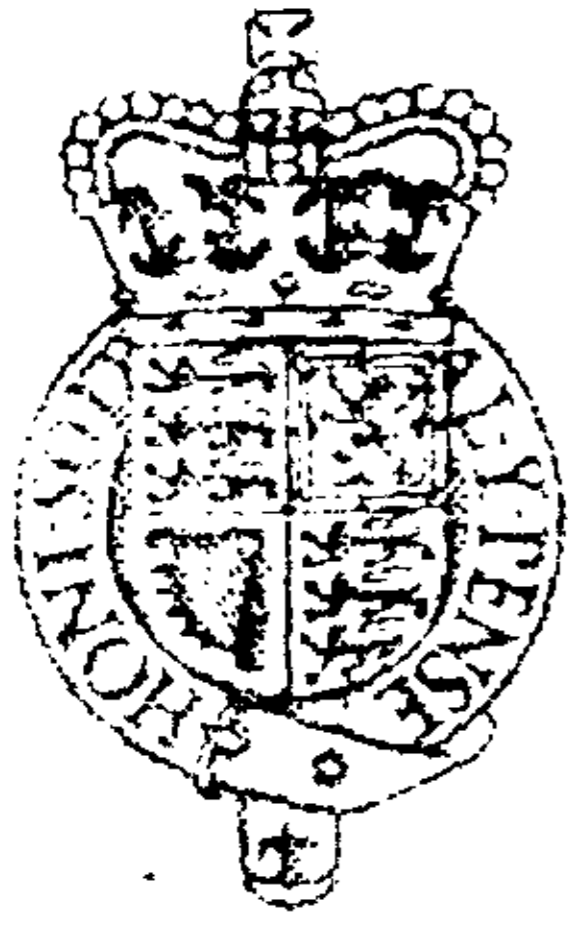
Yours faithfully

Mrs Ann Edmonds

COVERDLI

*A.P.*





# Appeal Decision

Site visit made on 22 September 2003

by **J B Pybus** DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date

**13 OCT 2003**

**Appeal Ref: APP/G3110/A/03/1121247**

**109 Banbury Road, Oxford, OX2 6JX**

- 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 A Fiorentino against the decision of Oxford City Council.
- The application ref: 02/02261/FUL, dated 27 November 2002, was refused by notice dated 24 January 2003.
- The development proposed is a new dwelling.

## **Summary of Decision: The appeal is dismissed**

### **Procedural Matters**

1. The appeal site is within the *North Oxford Victorian Suburb Conservation Area*. Section 72 (1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires that when considering proposals for development in a conservation area, special attention must be paid to the desirability of preserving the area's character or appearance.
2. The site is affected by the *North Oxford (No 1) Tree Preservation Order*. The first schedule records that at the time of making the Order in 1968, Group G.19 consisted of a horse chestnut, hornbeam, cherry plum, two lime and three yews, all within the curtilage of No 109 Banbury Road, in a roadside belt along the Banbury Road and Rawlinson Road frontages.

### **Main Issues**

3. I consider that the main issue in this appeal is the effect of the proposal on the character and appearance of the North Oxford Victorian Suburb Conservation Area.

### **Development Plan and other Planning Policies**

4. The development plan includes the *Oxford Local Plan 1991-2001*. Policy EN 27 states that the Council will use its powers to preserve and enhance the special and distinct character and appearance of each conservation area. Policy EN 31 requires that where development in a conservation area is involved, the scale of new buildings will be expected to be in keeping with its special character. Due regard should also be paid to the green spaces which exist between buildings, where they make a special contribution to the character of the area. Policy EN 33 states that in conservation areas, the Council will give careful consideration to, amongst other things, changes in boundary enclosures.
5. The Council has issued with the support of the Victorian Group of the Oxfordshire Architectural and Historical Society and the Garden History Society, a leaflet entitled *The Gardens of the North Oxford Victorian Suburb*. In the absence of advice to the

contrary, I assume that this guidance is not Supplementary Planning Guidance, which has been subject to public consultation and formal adoption by the Council, and to which considerable weight would be attached. However, the leaflet gives helpful advice on the importance of appropriate planting in the suburb, and the significance of boundary walls.

6. Government advice is expressed in Planning Policy Guidance Notes (PPGs). PPG3 *Housing* is concerned to maintain an adequate supply of housing, including making the most efficient use of urban land and utilising previously developed land, which includes the appeal site. PPG 15 *Planning and the Historic Environment* restates the statutory obligation under Section 72 relating to development in conservation areas. It also advises that it is the quality and interest of areas as a whole which is the prime consideration in identifying conservation areas, including vistas between buildings.

### Reasons

7. The appeal site is part of the rear garden of No 109 Banbury Road, a corner property which has a frontage also to Rawlinson Road. Rawlinson Road is part of the St John's College estate, built in the late 1980s as an example of the garden suburb, and typified by large Victorian villas. Following proposals for a redevelopment of No 18 Rawlinson Road in 1972, the Council designated the road and contiguous parts of Woodstock Road and Banbury Road as a conservation area in 1973. Subsequently, in 1976, the Council consolidated and extended the North Oxford and Rawlinson Road Conservation Areas to form the present designated area. Principles for conservation identified at that time included the preservation of trees, planting, spaces and boundary features. These principles were eventually incorporated in policies EN 31 and EN 33 of the Local Plan.
8. The site has a frontage width of about 18.2m to Rawlinson Road and a depth of about 28m. The proposal is to construct a three-storey dwelling incorporating six bedrooms, on a building line about 3m in front of No 2 Rawlinson Road, the adjacent property. Although the proposed dwelling would be of a style which would be complementary in form and detailing to both Nos 109 Banbury Road and 2 Rawlinson Road, both three-storey buildings, it would be somewhat smaller in scale, and lower in height. There have been third party representations to the effect that trees have been recently removed, and during my site visit I noted no substantial trees in the area covered by the Tree Preservation Order which is within the appeal site, other than small specimens and some shrub growth behind the brick wall along the frontage. The Council has not referred to the matter of recent tree loss in its written representations. There are also some shrubs and small trees, including a lime tree, along the boundary with No 2 Rawlinson Road.
9. Before and after the site visit, and during the accompanied inspection itself, I was able to visit all roads within this extensive Conservation Area. The area as a whole is typified by large Victorian buildings on substantial plots, with mature trees in front and rear gardens. Most buildings are detached, although there are some semi-detached buildings of the Victorian period, and in some parts there are later 20<sup>th</sup> century buildings, including modern blocks of flats. However, I agree with the view expressed by some interested persons that Rawlinson Road is one of the best preserved roads within the whole Conservation Area. Although the buildings within the Conservation Area are predominantly residential, a number are in educational and other uses. For

example, No 109 is divided into flats with an attached dwelling, the property to the north, No 111 Banbury Road is the Swan School of English. To the south, on the opposite side of the Banbury Road/Rawlinson Road junction is the North Oxford Overseas Centre (Students Housing Association). No 2 Rawlinson Road is a day nursery, with flats on the upper two floors.

10. It is clear to me that the character of the Conservation Area as a whole is derived not only from the impressive scale and appearance of the Victorian buildings, but from the spacing between them, and the mature trees and other vegetation which generally dominate the gaps between buildings. More especially, at the junctions of roads within the Conservation Area, there are generally, although not in every instance, appreciable gaps between the end walls of buildings and the side walls of the nearest buildings in the adjoining road. Where spaces exist between buildings on these corner plots, the visual relief which they afford and the attractive views through to garden areas beyond are in my view important elements of the overall character of the Conservation Area. Within the street scene, visual continuity at these corner properties is generally provided by walls of varying heights, some capped with railings, or by hedges.
11. The appeal proposal would result in the total gap at first floor level between Nos 109 Banbury Road and No 2 Rawlinson Road being reduced from the present 31m to about 15m. Whilst this remaining gap would be wider than is the case with some other corner buildings within the Conservation Area, I consider that this reduction would significantly diminish the quality of the existing space, and would leave No 109 with a rear garden much less in depth than those of the majority of other large nearby properties in Banbury Road. Whilst I see no objection to the style and general detailing of the proposed dwelling, which has clearly been designed to be in sympathy with adjacent buildings, it would be of significantly lower height and of smaller scale than its neighbours.
12. In my opinion, the proposal would not only intrude unacceptably into the important space between No 109 Banbury Road and No 2 Rawlinson Road, but would appear quite out of place with the imposing scale of those buildings to which it would relate visually. It would also result in an unfortunate break in the important wall which extends along the Rawlinson Road frontage. Furthermore, although the space in question is not as verdant in character as it may once have been, this does not in my view significantly diminish its importance in the context of this part of the Conservation Area.
13. As indicated, I acknowledge that with a number of other corner plots in the Conservation Area, significant gaps do not exist on the return frontages. This is either because the properties were built this way originally, or because more recent planning permissions have been granted. A number of such cases have been referred to in representations, notably on the opposite (south) side of Rawlinson Road, where significant additions, including a separate dwelling unit, have been added to the rear of the North Oxford Overseas Centre at No 107 Banbury Road. However, I have no information as to when this development was permitted relative to the adoption of the relevant Local Plan policies. I am also referred to a dwelling at No 9 Norham Gardens, towards the southern extremity of the Conservation Area, which I visited with the parties at the end of the site visit. This dwelling, however, although of recent date, is essentially an infill dwelling, filling the end section of the former wide plot of the

adjacent property in an otherwise continuous row of frontage development, and is not therefore analogous with the appeal proposal.

14. Given my general assessment of the important contribution which spaces on corner plots make to the character of the Conservation Area, I do not consider that the existence of other developments which fill the major part of such gaps is a reason for allowing this appeal. Only by protecting these remaining spaces can this important quality of the Conservation Area be retained.
15. I conclude on the main issue that for the reasons given, the proposal would result in material harm to the character and appearance of the North Oxford Victorian Suburb Conservation Area. It would therefore conflict with policies EN 27, EN 31 and EN 33 of the Local Plan.

#### **Other Matters**

16. Concerns have been expressed that the proposal would result in overlooking and a loss of privacy. With regard to No 2 Rawlinson Road, there are main windows on its east facing elevation, but the proposed dwelling would have only bathroom and secondary bedroom windows on its west elevation. The former window would be obscure glass and the latter would be positioned so far in front of the side windows of No 2 that I consider that no material loss of privacy would result. The velux light in the roof on the west elevation would result in no material overlooking. With regard to the rear of the proposed dwelling, there would be some 9m to the rear boundary, and given that No 111 Banbury Road is not in residential use, I do not consider that overlooking of the rear garden area of that property is an issue. I conclude, therefore, that the proposal would result in no material loss of privacy to adjoining properties.

#### **Conclusion**

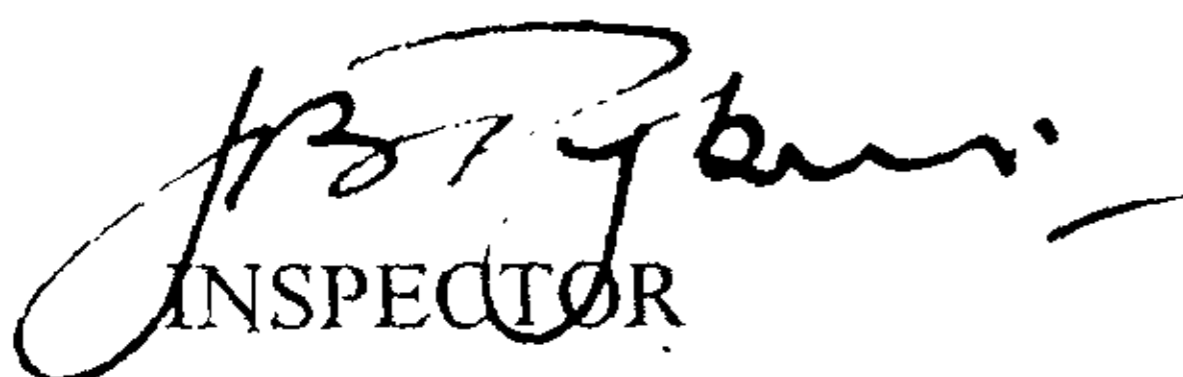
17. I appreciate that in the context of PPG3 guidance with regard to maintaining an adequate supply of housing, individual sites such as the appeal site can make small but useful contributions to this overall supply in particular areas. However, I find that in this case the damage to the character and appearance of the Conservation Area outweighs any modest gain in the supply of housing. I have taken into account all other matters raised in written representations, but none of these is of such significance as to outweigh the considerations which have led to my conclusions on the main issue.
18. For the reasons given above, I consider that the appeal should not succeed.

#### **Formal Decision**

19. In exercise of the powers transferred to me, I dismiss the appeal.

#### **Information**

20. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

  
INSPECTOR