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## Appeal Decision

Site visit made on 18 October 2016

**by Emma Tinsley-Evans BSoc.Sc MA MRTPI**

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

**Decision date: 7 December 2016**

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**Appeal Ref: APP/D3125/W/16/3154490**

**23 Tristram Road, Ducklington, Witney OX29 7XJ**

- 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 Max Everett against the decision of West Oxfordshire District Council.
  - The application Ref 16/01561/FUL, dated 11 May 2016, was refused by notice dated 5 July 2016.
  - The development proposed is a single storey dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey dwelling at 23 Tristram Road, Ducklington, Witney OX29 7XJ in accordance with the terms of the application, Ref 16/01561/FUL, dated 11 May 2016, subject to the conditions set out in the schedule attached to this decision.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - The character and appearance of the area; and
  - The living conditions of the occupants of neighbouring properties with regard to outlook.

### Reasons

3. The proposed dwelling would be located in the large rear garden area of 23 Tristram Road, a 2 storey end-of-terrace property occupying a spacious corner plot at the head of a small residential cul-de-sac. The proposed dwelling would however have a frontage with, and be accessed off Sealham Road to the rear.
  4. Whilst the main part of Sealham Road is flanked along both sides by a mix of bungalows and 2 storey houses, access to the proposed dwelling would be taken from a small side road off the main road. This side road provides vehicular access to the rear of the properties on Tristram Road and also serves a separate garage block.
  5. There are currently no properties directly fronting this part of Sealham Road, although the side elevations of No 9 and No 7 are set close to the footway. Moreover, the side elevation of No 7 is not blank and includes windows and the 'front' door to the property where primary access from the street is taken.
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6. The site is bounded to the south-west side by an existing terrace of bungalows which follow a regular, linear pattern of development. They are of a similar type and design with a shallow pitched roof and front gable. The bungalows front the main part of the Sealham Road and have small gardens to the rear which back onto the rear gardens of properties along Tristram Road.
7. The proposed dwelling would be situated to the rear these bungalows, behind 9 Sealham Road, the end bungalow in the terrace which occupies a position at the junction of the main road and the side road. The new dwelling would be single storey and comparable in scale to the neighbouring bungalows. Its shallow pitched roof, front gable and use of similar materials would also reflect the character and style of the existing bungalows.
8. The dwelling would front the highway and whilst not being set back significantly, it would maintain the building line that is formed by the side elevation of No 9. As with No 7 opposite, primary access to the proposed dwelling would be gained from this part of Sealham Road at a point quite close to the pavement. Like its neighbours, a garden would be provided to the rear which would also back onto the properties along Tristram Road.
9. In this regard, I consider that the development would respond to local character and reflect the identity of local surroundings and materials in accordance with paragraph 58 of the National Planning Policy Framework. It would also respect the form, scale, massing and external materials of adjoining buildings as required by Policy BE2 of the West Oxfordshire Local Plan 2011.
10. Given the size of the overall plot at 23 Tristram Road, I do not consider that its subdivision to accommodate the proposed dwelling would be contrived. Indeed, at my site visit I saw that the area of land on which the proposed dwelling would be situated has been fenced off. The resultant plot size for No 23 does not appear significantly different to the neighbouring properties in Tristram Road many of which also have car parking spaces and garages in their rear gardens. There is a significant gap between the properties at 23 Tristram Road and 9 Sealham Road such that the proposed dwelling would not appear shoe-horned in or a cramped, overdevelopment of the site.
11. I acknowledge the difference in character between the frontage of the main part of Sealham Road and the side road. However, given its design, form, siting and layout, the dwelling would be seen in the context of the neighbouring bungalows. To my mind, the development would therefore appear as a continuation of built development from the main part of Sealham Road, turning the corner into the side road.
12. Moreover, this part of Ducklington is characterised by bungalows alongside 2 storey houses. The roofs of the existing houses can be seen above the bungalows and glimpses of the bungalows can be had between the houses in the immediate vicinity. The erection of a bungalow in this location would not therefore be out of keeping with the prevailing character of the area generally and would respect the existing pattern and character of the surroundings as required by Policy BE2 of the Local Plan. I do not consider that it would appear as an incongruous form of development within the street scene.
13. Whilst the Council considers that the proposed development would set an undesirable precedent to adjacent properties, I note from my site visit that the opportunity for similar developments in the immediate vicinity would be

limited. In any event, each application should be considered on its individual merits.

14. Consequently, I do not consider that the proposed development would have a harmful effect on the character and appearance of the area. I find no conflict with Policies BE2 or H2 of the West Oxfordshire Local Plan 2011 which amongst other things, require development to relate satisfactorily to the site and its surroundings, respect the character and appearance of the area and not set an undesirable precedent for other sites.

### *Living Conditions*

15. The proposed dwelling would be located behind 9 Sealham Road and I acknowledge that the rear garden of this and the neighbouring bungalows are fairly modest. However, whilst the proposed dwelling would extend for some length along the rear boundary with No 9, I note that there is already a large outbuilding in the rear garden of No 9 which runs along and projects above the boundary with the appeal site. The appeal site itself also currently accommodates a detached garage and a further outbuilding located in close proximity to this boundary.
16. Whilst the proposed dwelling would project further above the boundary, the existing buildings on the appeal site, together with the large outbuilding at No 9, already restrict the outlook from this property and provide a sense of enclosure. Moreover, I am mindful that the eaves of the proposed dwelling would be only around 0.25m higher than a wall or fence that could be erected under permitted development rights.
17. Although the roof of the dwelling would be higher, its shallow pitch would slope away from the boundary, thereby relieving any sense of additional enclosure. Given this, I do not consider that the proposed dwelling would be an overbearing form of development that would unduly harm the living conditions of the occupants of No 9. Moreover, the outlook from 11 Sealham Road is also already affected by the buildings currently on the appeal site and the occupants of this property would have only oblique views of the proposed dwelling.
18. Consequently, the proposed development would not have a harmful effect on the living conditions of the occupants of neighbouring properties with regard to outlook. The proposal would accord with Policies BE2 and H2 of the West Oxfordshire Local Plan 2011 which seeks to ensure that development does not create unacceptable living conditions for existing residents.

### **Other Matters**

19. Whilst not referenced in the reason for refusal, the Council's appeal statement raises the issue of noise and disturbance associated with vehicle movements. I note that a number of properties on Tristram Road, including the host dwelling have parking at the rear and this part of Sealham Road also provides access to a garage block. There is already a degree of activity associated with the movement of vehicles and I do not consider that a single dwelling would generate additional vehicle movements that would unacceptably impact on residential amenity due to noise and disturbance.
20. Similarly, whilst not given in the reason for refusal, the Council also considers that the proposed dwelling and garden would be overlooked from the first floor windows of 23 Tristram Road. However, the first floor window in the rear

elevation closest to the appeal site serves a bathroom and the other window, whilst serving a bedroom, would have very oblique views of the proposed dwelling. Similarly, views of the proposed dwelling from the windows in the side elevation of No 23 would also be very oblique, and views of the garden would be limited to the area furthest away from the dwelling. As such, I do not consider that there would be an unacceptable level of overlooking from 23 Tristram Road.

### **Conditions**

21. I have had regard to the conditions suggested by the Council. Having considered them against the tests in the Framework and advice in the National Planning Practice Guidance (NPPG), I have made amendments as necessary.
22. In addition to the standard time limit condition, a condition requiring development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
23. Conditions relating to the use of external materials and the submission of hard and soft landscaping details are also necessary to ensure the satisfactory appearance of the development.
24. To ensure the development can be adequately accessed from the highway and that appropriate provision for on-site parking is made, it is reasonable to require such details to be provided and agreed. A condition requiring the submission of a surface water drainage plan is also necessary to ensure the proper provision of surface water drainage.
25. It is also reasonable to impose a condition restricting extensions or alterations that may otherwise be permitted development, in order to safeguard neighbour amenity and the character and appearance of the area. However, having regard to the Framework and NPPG, I do not consider there is clear justification for removing all the permitted development rights suggested by the Council.
26. In order to ensure an overall satisfactory appearance of the development, it is reasonable to impose a condition requiring details of the floorslab levels of the new dwelling to be submitted, particularly given its proximity to other residential properties.

### **Conclusion**

27. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Emma Tinsley-Evans*

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: 403-AL01; 403-AL02.
- 3) No building work above slab level shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No building work above slab level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - i) means of enclosure and retaining structures;
  - ii) details of planting and boundary treatments;
  - iii) hard surfacing materials;

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons immediately following completion of the development or the occupation of the dwelling, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The landscaping works shall be carried out in accordance with the approved details and the hard landscape works shall be carried out before the dwelling is first occupied.

- 5) The dwelling hereby approved shall not be occupied until the means of access for vehicles between the land and the highway and parking areas has been constructed, laid out, surfaced and drained in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of the development, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby approved.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development as set out in Classes A, B, C and G of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

- 8) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.