

Appeal Decision

Site visit made on 13 March 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 12 April 2017

Appeal Ref: APP/C3105/W/16/3165364

15-17 Milton Road, Bloxham, Banbury OX15 4HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Messrs J Barmby and M Howard against the decision of Cherwell District Council.
 - The application Ref 16/00892/OUT, dated 15 May 2016, was refused by notice dated 30 September 2016.
 - The development proposed is described as "Outline: 3 no. dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have treated the appeal in the same manner and have thus treated the submitted site plan as indicative only.
3. Since the time the application was determined and the appeal was submitted, the Bloxham Neighbourhood Plan (the NP) was made on 19 December 2016. This change in the development plan for the area is noted by the Council and Parish Council in their representations, and the appellant has had the opportunity to refer to this in their final comments.

Main Issues

4. The main issues in this case are as follows:
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the access to the proposed development upon the living conditions of the residents of Nos 15 and 17 Milton Road, with respect to noise and disturbance, and
 - The effect of the proposal on highway safety in Milton Road.

Reasons

Character and appearance

5. The appeal site lies off Milton Road. This road lies on the south east side of Bloxham and links the village to Milton and Adderbury. At its western end Milton Road is fronted with fairly large detached dwellings set in large plots
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arranged in a linear pattern. New development has taken place off Milton Road in recent times, including a new housing development to the north of the street to the east of the site, fairly large scale development to the rear of bungalows on the south side of the street, and more limited development to the west. To the immediate east of the site further new homes in the form of three houses have been fairly recently constructed, with one house in the former rear garden of No 19 Milton Road ('Woodside') and two on the other side of Exchange Lane, to the rear of a telephone exchange.

6. The effect of this recent development has partially altered the character of the area from primarily linear residential development to a more nucleated form where more development in the form of larger cul-de-sacs and estates is more prevalent. Nevertheless, in the direct vicinity of the appeal site and towards the west, the character remains of a linear form of development characterised by large houses in substantial plots.
7. The proposal seeks to construct 3 detached houses. The indicative plan shows that the access would be located between the two properties, with the central of the three homes located across the boundary of the two gardens, and one further house in each rear garden. At present the gardens are ornamental, largely laid to grass with various trees and shrubs. The building line for the dwellings is shown indicatively to line up roughly with Woodside located in the former rear garden of No 19. However, whilst the back gardens to Nos 15 and 17 are fairly deep, the proposal by placing 3 dwellings in the rear of the existing plots to 2 houses would inevitably increase the density of the area at odds with the prevailing character to the west of the site. Furthermore, whilst the layout of the proposal is shown indicatively, due to the size and layout of the plot, to fit 3 houses in, a dwelling would likely need to be set at the head of the access drive. Such a house would be clearly visible from the Milton Road.
8. Exchange Lane is a gravelled drive, along which a public footpath also runs. From views along the footpath whilst the proposed houses would fit into the building line established by Woodside, the quantum of development would appear out of place within the spacious environment which is still visible from views to the west from this footpath. Furthermore, Exchange Lane retains a view to the countryside to the north, whereas the new access road would likely end in a dwelling. In such a way the proposal would appear incongruous and would not relate to the pattern of local development, which although has altered in recent years, backland development in the form proposed remains rare.
9. The proposed access drive sited between two residential units would also be clear as 'backland' development in such a way that Exchange Lane, located between a house and a non-residential use (the telephone exchange) is not. I also note that the appellant considers that Woodside does not have a frontage relationship with Exchange Lane, instead having a front to back relationship with No 19. However, I do not entirely agree with this view; Woodside is a large 'L' shaped building which addresses Exchange Lane in its design, and the substantial garage building on the southern side of the plot blocks any front to back relationship with No 19
10. Paragraph 53 of the National Planning Policy Framework (the Framework) states that local planning authorities should consider setting out policies to resist inappropriate development of rear gardens, for example where

development would cause harm to the local area. The appellant notes that the Local Plan¹ does not contain such a policy; however, Policy BL12 of the recently made NP concerns the importance of space and key street-scenes and views, and aims to protect the rural character of the village, noting that the cumulative loss of open space in the village will not be supported, including proposed development of gardens; policy BL12(c) specifically states that development on residential gardens will not usually be permitted. The urbanising effect that the proposal would create, by virtue of the increase in density and overall loss of the formerly open gardens would harm the local area and be contrary to this policy.

11. I am referred to an appeal decision for a site on Banbury Road in the village which allowed for 'backland' development. However, I note the age of this decision (2008), pre-dating the Local Plan, the Framework and the NP. Moreover, the site is located in a different area of the village and each case must be considered on its own merits.
12. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the area. The proposal would be contrary to Policies Villages 1, ESD13 and ESD15 of the Local Plan, as well as policies C28 and C30 of the old Local Plan², which when taken together, state that development should be consistent with, and complement local character and context through sensitive siting, be compatible with the appearance and layout of existing dwellings in the vicinity and would constitute minor development in terms of the site context and effect on the character and form of the village. As well as Policy BL12, the proposal would also be contrary to Policy BL11 of the NP, which states that all development should respect and reflect the locally distinctive character of the locality.

Living conditions

13. Although in outline only, given the siting of Nos 15 and 17 in their plots the access for the proposed development would need to be sited between the two houses. This would involve the demolition of an existing single storey garage attached to No 17; the indicative plan shows a straight access virtually at right angles to the road running alongside the existing hedgeline between Nos 15 and 17 (on the side of No 17).
14. Concerns are raised over the effect of the use of this access by vehicular traffic accessing the proposed three dwellings. Three dwellings would not generate a significant amount of traffic; nevertheless noise and disturbance could occur to the residents of the adjacent properties.
15. The access would be shielded from No 15 by the hedgeline, which I consider would adequately mitigate any adverse effect of the proposal. The access would however be closer to No 17, although I consider that mitigation in the form of landscaping and possible acoustic fencing which could be dealt with under reserved matters would be sufficient to alleviate this issue. I also note in this respect that the area of No 17 that the drive would pass closest to is a single storey area housing a downstairs toilet and adjacent hallway; the access would remain a reasonable distance from the habitable rooms of the property.

¹ The Cherwell Local Plan 2011-2031, July 2015

² Cherwell Local Plan November 19936

16. I am referred to 2 appeal decisions where Inspectors have found harm to living conditions from backland developments of just 1 dwelling. However, I note that in the Yarnton case the length of the proposed driveway, which would circle around immediately adjacent to the rear gardens of 3 properties and the fact that the drive on the submitted plan would pass directly adjacent to a house (No 198 Woodstock Road), or in the alternative hypothesis described by the Inspector, directly adjacent to Nos 200 and 202 Woodstock Road. In the Kidlington example the access would also pass directly adjacent to Nos 14 and 16 Charlbury Close. This is not the case in this instance; moreover, each case must be considered on its own merits.
17. I therefore conclude that the access to the proposed development would not have a significant adverse upon the living conditions of the residents of Nos 15 and 17 Milton Road, with respect to noise and disturbance. The proposal in this respect would comply with policies ESD15 of the Local Plan, saved policies C30 and ENV1 of the old Local Plan and Policy BL9 of the NP, which together state that development shall ensure that the living conditions of neighbouring residents are considered and are not materially harmed, and that development should not cause materially detriment levels of noise and vibration. The proposal would also comply with the Framework, which states that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings.

Highway Safety

18. Both parties are in agreement that hedges at the front of Nos 15 and 17 would need to be altered or removed to allow the required access visibility splays of 43m by 2.4m to be provided. Evidence supplied by the appellant subsequent to the application decision demonstrates that the hedges could be replanted behind the required splays. The statement submitted by the Assistant Transport Planner (ATP) of the County Council confirms that this would be acceptable and assumes that as both hedges are within the plots of Nos 15 and 17 this would be achievable.
19. The ATP considers that as the design presented in the application was required to be amended then a safe and suitable access was not demonstrated. Whilst this may well be the case, subsequent correspondence between the parties and in the evidence provided has resolved this matter and confirmed that a safe access could be achieved on the site within the ownership of the two properties. Such provisions could be conditioned and considered in detail at Reserved Matters stage. A speed survey is referred to but this appears to have taken place some considerable time ago, prior to the developments to the east which would have affected speeds on the road. I do not see a need for a further speed survey to inform the proposal before me given its scale and the details of the case.
20. I therefore conclude that the proposal could be designed so as not to have an adverse effect on highway safety in Milton Road, and so as to comply with policies BLP9 of the NP and ESD15 of the Local Plan, which seek to ensure that the impact of any additional traffic likely to be generated by development will not adversely affect the highway network, and development be designed to deliver safe places to live in.

Other Matters

21. I note the appellant's dissatisfaction with the application process, including concerns that pre-application advice given was contrary to the decision taken. Whilst I have some sympathy with this view, pre-application advice is not binding and complaints of such nature should be addressed through the Council's own complaints procedure in the first instance.

Conclusion

22. Whilst I have found that the proposal, with suitable mitigation would not harm highway safety or the living conditions of existing occupants, the proposal would have an adverse effect on the character and appearance of the area and would be contrary to the development plan.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR