

Appeal Decision

Site visit made on 30 March 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 8 May 2017

Appeal Ref: APP/G3110/W/16/3160658

23 & 25 Spring Lane, Littlemore, Oxford, OX4 6LE

- 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 Mr Millen, Millen Homes Ltd against the decision of Oxford City Council.
 - The application Ref 16/01785/OUT, dated 5 July 2016, was refused by notice dated 4 October 2016.
 - The development proposed is the erection of 2 x 2-bed semi-detached bungalows (Use Class C3). Provision of new access, car parking and private amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the application form refers only to 23 Spring Lane as the site address it is clear from the evidence before me that the site comprises land within the curtilages of both 23 and 25 Spring Lane. I have therefore reflected this in the banner heading above.
3. The application was submitted in outline with only access to be determined at this stage. Plans have been submitted which indicate the layout, landscaping, appearance and scale of the development. However, I am considering these solely on the basis that they are for illustrative or indicative purposes even though they have not been explicitly labelled as such.

Main Issues

4. The main issues are:
 - The effect of the development on the living conditions of occupiers of 19 and 23 Spring Lane, having particular regard to noise;
 - The effect of the development on the character and appearance of the surrounding area;
 - Whether the proposal should make a contribution towards affordable housing, and;
 - The effect of the proposed access on highway safety.
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Reasons

Living conditions

5. The appeal site comprises garden land to the rear of 23 and 25 Spring Lane. The site has a planning history which includes an application for four semi-detached dwellings. This was dismissed at appeal for reasons relating to noise and disturbance from the new access to occupiers of neighbouring properties, and impact on the character and appearance of the locality (APP/G3110/W/16/3143302). The appeal before me now is for two detached dwellings.
6. As in the previous appeal the access road to the development would be between 19 and 23 Spring Lane. The detached garage that currently occupies this gap would be removed. Despite some minor widening of the grass verge and path either side, the access road would continue to occupy most of the space between these two houses bringing vehicles extremely close to both. Although I acknowledge that the level of traffic would be less than that associated with the previous appeal, noise from vehicles in such close proximity to the sides and rears of these neighbouring properties would still, in my opinion, have a harmful impact on the quiet surroundings currently enjoyed by their occupiers. Whilst I note the existing garage between Nos 19 and 23 might have some vehicular noise associated with it this is not as harmful as the proposed development.
7. Whilst acoustic fencing might reduce the noise to the gardens of Nos 19 and 23 it would not sufficiently overcome the harm to first floor rear windows at both properties, and side windows and a door at 23 Spring Lane which would directly face out onto this new access. For these reasons the proposal would conflict with Policies CP1 and CP10 of the Oxford Local Plan (LP) which seek to protect the amenities of adjoining land users.

Character and appearance

8. As previously noted by my colleague the surrounding area to the appeal site is mixed in character and comprises relatively dense development, both residential and commercial. Development along the east side of Spring Lane to which the appeal site belongs is, however, generally more spacious with properties here enjoying longer rear gardens. These rear gardens are therefore important and attractive recreational green spaces in an otherwise built up environment.
9. Although siting and appearance are matters reserved for later consideration I note the plans before me show single storey dwellings and a slightly more spacious development than that which was previously considered at appeal. Nevertheless, the scheme would still result in an intrusion of buildings and hard surfacing to an existing green space and the subdivision of plots in a manner out of keeping with that of immediate neighbouring properties, both of which would be to the detriment of the character and appearance of the area.
10. Whilst only fleeting glimpses of the development might be possible from Spring Lane it would be clearly visible from private views from neighbouring properties which would be adversely affected, particularly Nos 23 and 25. This is not something which, on the evidence before me, could be overcome at reserved matters stage.

11. For the above reasons the proposal would conflict with Policies CP8 of the LP, and HP9 and HP10 of the Sites and Housing Plan 2011-2026 (SHP). These policies, broadly speaking, seek to protect local character and Policy HP10 specifically requires views from the wider residential environment to be taken into account when developing on residential gardens.
12. In coming to the above conclusion on character and appearance I accept that there are examples of outbuildings to the rear of properties along Spring Lane as shown on the submitted Aerial Photographic Character Assessment but these are a materially different type of development to that which is before me. Furthermore, these are not of a comparable scale and do not require separate parking and access from the main house on site. This does not, therefore, alter my findings above.

Affordable housing

13. Policy HP4 of the SHP sets out that on sites with capacity for 4 to 9 dwellings a financial contribution or onsite provision of affordable housing is to be secured. Although the proposal before me is for only two dwellings the Council consider, given the planning history of the site, that it has capacity for four dwellings and as such a contribution is required.
14. The order of the Court of Appeal dated 13 May 2016 gave legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014 which introduced a threshold beneath which affordable housing contributions are not to be sought. New and updated paragraphs have also been added to the Planning Practice Guidance section on planning obligations to reflect this. These clearly state that contributions for affordable housing should not be sought for sites of 10-units or less.
15. I note the Council's comments that, in their opinion, the affordability of housing in Oxford is sufficiently acute that despite recent changes to national planning policy, Policy HP4 should still apply. There is, however, no substantive evidence before me to support the Council's position in this respect.
16. Appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. In the absence of any substantive evidence in respect of the local circumstances of the appeal site I consider that the WMS as a material consideration justifies a departure from policy HP4 of the SHP and as such a contribution towards affordable housing is not necessary.

Highway safety

17. I note the concern raised by the Council that the proposed access is too narrow to allow pedestrians and cars to pass along it simultaneously. However, given the limited number of houses proposed and the amount of pedestrian traffic likely to be generated, along with the fact that the access road would be straight and would have a path along approximately half of it, I do not consider that this would pose a significant hazard. I note that my colleague in the previous appeal came to a similar conclusion on this point. The Council also require the access to have a minimum width of 3.7m to allow adequate access to fire tenders. The plan before me shows a 3.7m wide access. I therefore find no reason to conclude the proposed access is not adequate. The proposal

therefore complies with Policies CP1 and CP10 of the LP which seek to ensure developments are provided with suitable access arrangements.

Conclusion

18. A contribution towards affordable housing is not necessary and I have found no harm to highway safety. However, the proposal would be harmful to the living conditions of occupiers of neighbouring properties due to the proximity of the access to these and the associated noise and disturbance from vehicles using it. It would also be harmful to the character and appearance of the surrounding area. For these reasons, and having had regard to all matters raised, the appeal is dismissed.

Hayley Butcher

INSPECTOR