

Appeal Decision

Site visit made on 15 May 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/D3125/W/17/3166493

14 Moorland Road, Witney, Oxfordshire OX28 6LF

- 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 Tony and Andrew Ferryman against the decision of West Oxfordshire District Council.
 - The application Ref 16/03099/FUL, dated 18 August 2016, was refused by notice dated 15 November 2016.
 - The development proposed is taken from the appeal form and is described as replacement of single dwelling house with four (4) new houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the development firstly, on the character and appearance of the area and secondly, on the living conditions of the occupiers of No. 16 Moorland Road in terms of light and outlook.

Reasons

Character and Appearance

3. The area's character and appearance is of a suburban neighbourhood of large bungalows set well back from the street behind generous front gardens and served by substantial long rear gardens. The quality of the area is enhanced by the large gardens, mature trees and other vegetation. The layout of development and gardens provides substantial separation between the rear elevations of the housing. There are a few plots that have been subdivided; however, this took place many years ago and does not undermine the open, verdant and spacious character of the immediate area.
 4. The existing bungalow of similar design to others along this part of the street is set back from the road consistent with the area's predominant streetscene. There is a uniformity of bulk, height and massing generally to these properties with some 11 true bungalows on the north side of Moorland Road representing the prevailing character. A driveway running along the side of the appeal property's eastern boundary serves No.10, which is set further back and adjoins the rear garden of the appeal property.
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5. The proposal would replace the bungalow with two semi-detached two storey houses incorporating an 'oversail' feature that would enable access to be taken to the rear of the plot at ground floor with bedrooms over. A further two dormer style semi-detached bungalows would be provided at a position that would project beyond the front building line of No.10. Forecourt parking would be provided in two groups to the front of the two pairs of properties.
6. The two semi-detached houses that would directly replace the bungalow to the front in particular, in terms of the form, character and rigidly symmetrical modern design would not be reflective of the low density single storey development that gives the area its attractive leafy character, appearance and distinctiveness. The height and massing together with the void at ground floor would be out of kilter with the prevailing character. The dropping of the eaves to each side elevations further exacerbates the incongruity of the proposed design and is not reflective of or responds well to the local character.
7. Turning to the proposed semi-detached bungalows to the rear, the Council raises a number of concerns in relation to the rigid symmetry of the front elevation, the lack of front doors and use of hipped roofs that are uncommon generally in this area. However, given the degree of set back from the main street and the presence of intervening buildings, these aspects of the proposal would not represent prominent features when viewed from public vantage points. Neither do I consider that these aspects would be so out of character as to be unacceptably harmful in any event. The form, scale and proportions are all within acceptable limits in my view.
8. However, the combination of factors appertaining to the front two properties as proposed leads me to conclude that the proposal in terms of these dwellings would cause substantial and unacceptable harm to the character and appearance of the streetscene and, in turn, the area. This would be contrary to Policies BE2 and H2 of the West Oxfordshire Local Plan (LP) 2006 and the Council's Design Guide 2016. These policies together seek to ensure that new developments respect and where possible, improve the character and quality of surroundings. These policies are consistent with paragraph 64 of the National Planning Policy Framework (the 'Framework') that clearly states that permission will be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Whilst the Council has cited Policies OS2 and OS4 of the emerging West Oxfordshire Local Plan (2031) (WOLP) in its refusal notice, I am unable to afford these policies full weight at this time given the present status of the Plan, which is to be the subject of further examination.

Living conditions

9. The proposed front pair of semi-detached houses would be built some 0.9m from the common side boundary of No.16 and project approximately 8.5m to the south of the neighbouring property's front elevation. The Council contends that the proposed Plot 1, in particular, would breach the 45 degree code, although its use appears to be an informal assessment tool rather than planning policy driven. However, many local planning authorities use this code to aid their assessment and I am satisfied that it is widely used as a starting point for assessing proposals of this nature. A breach of the 45 degree code would occur where a new building projects into the angle measured by taking a

line at 45 degrees from the mid-point of the nearest ground floor window to any adjacent property.

10. The window that would be affected the most by the proposed development would be the bay window nearest the side boundary, which the Council points out, is a habitable room window. The contravention of the 45 degree code would be significant in this case and despite the appellants' contention that the loss of light would only occur during the morning given the orientation of the properties, in my opinion, the loss of sunlight would cause an unacceptable level of overshadowing. Moreover, given the bulk of a two storey structure at this point, the occupiers of No.16 would be confronted by a mass of brickwork comprising the entire width of the gable to Plot 1, which would be overbearing and consequently, have a significantly harmful effect on the outlook from No.16.
11. The Council maintains that the positioning of Plot 3 would also have an unacceptable effect on the rear windows of No.16 as a result of the breach of the 45 degree code. However, given the recessed nature of the hipped roof projection to the front of Plots 3, I do not consider that this would be particularly harmful in the way suggested by the Council. This is despite the change in levels resulting in the proposed dormer bungalow being at a higher level than No.16.
12. I would conclude that the proposal in terms of Plot 1 would have a significantly harmful effect on the living conditions of the existing occupiers of No.16 through loss of light and overshadowing. It would also have a seriously harmful effect on living conditions of the occupiers of No.16 through loss of outlook. Accordingly I find that the proposed development in relation to the likely effects of Plot 1 (only) on the living conditions of No.16 would be contrary to LP Policies BE2 and H2, which together, seek to ensure that new developments do not create unacceptable living conditions for existing residents but rather retain satisfactory environments for people living in the area. These policies are consistent with paragraph 17 of the Framework.

Other matters

13. The Council refers to the potential of a small portion of the site to be subject to flood risk and point out that the appellants have failed to provide the necessary flood risk assessment that would demonstrate that development here would not pose problems for existing and future occupiers of land and buildings. However, the issue did not feature in the Council's substantive reasons for refusal. Notwithstanding, as I have found against the appeal proposal on the main issues, I need not dwell on this issue in the context of this appeal.

Conclusions

14. Having regard to the above reasons and taking all other matters into account, I conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR