
Appeal Decision

Site visit made on 26 July 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 9 August 2017

Appeal Ref: APP/V2825/W/17/3169221

58 and 62 Booth Rise, Northampton NN3 6HR

- 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 Oxygen Real Estate Group Ltd against the decision of Northampton Borough Council.
 - The application Ref N/2016/1073, dated 9 August 2016, was refused by notice dated 21 December 2016.
 - The development proposed is residential development of up to 30 residential dwellings with associated landscaping, open space, car parking and vehicular access from Booth Rise.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline form with only matters of access to be considered at this stage, and all other matters reserved for later consideration. I have determined the appeal on the same basis.
3. The original application form gave the address as just 58 Booth Rise. However No 62 was included in the address given on the appeal form and it is clear that the site includes land at both properties. I have therefore used this address in the banner above.
4. An amended plan was submitted with the appeal indicating the provision of a six foot high solid wooden gate across a newly created access to No 60. This alteration to the proposal would materially alter the effect of the development on that adjacent occupier. As this alteration has not been subject of formal consultation, I consider that were I to accept the plan, this would be prejudicial. I therefore have determined the appeal on the basis of the same plans considered by the Council in their determination of the application.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties with respect to noise and disturbance.

Reasons

6. The proposal would involve the demolition of the existing bungalow at No 58 to facilitate the provision of the access road to serve the dwellings.

7. The access would comprise a two-way road flanked by pavements on either side, to which the Highways Authority have not raised any objection. Nor do they dispute the appellant's Transport Assessment which estimates that 30 dwellings would generate 14 vehicle trips in both the morning and evening peak hours.
8. The Environmental Noise Report submitted with the appeal measured the existing average noise level at the site and calculated the predicted noise levels resulting from traffic on the proposed access road at peak times when experienced at ground floor level at the front and rear facades of Nos 56 and 60.
9. In respect of No 56, it states that in the evening and morning peak hours, predicted noise would be below the background levels and be within World Health Organisation (WHO) guidelines. This takes into account the mitigation provided by a proposed six foot high brick wall on the boundary with No 56. However it does not assess the impact at first floor level to reflect the rear dormer windows on this dwelling which would not benefit from the mitigation provided by the proposed wall. I accept that the noise environment at the rear of the houses is already partly influenced by traffic on Lumbertubs Way. Nonetheless the traffic from the development would be considerably closer than that.
10. With regard to No 60, the assessment again concludes that in the evening and morning peak hours, predicted noise at the rear and front façade of this bungalow, would be below background levels and the WHO guidelines. However the assessment fails to recognise the windows on the side elevation of this dwelling which would directly face the access road, albeit behind another proposed six foot high brick wall.
11. I note the L_{AMAX} value for predicted night time noise would exceed the WHO guidelines when experienced at the front of No 60. However as the likely incidences of vehicles passing at night time would be limited and as the existing L_{AMAX} figure near the front of the existing houses is already in excess of the predicted level, I do not consider night time noise from traffic would be disturbing to the occupiers of this property.
12. Also although the Report makes no assessment of the noise from HGVs using the access road, I consider the frequency of such vehicles would be relatively low and so would be unlikely to have a significant effect on the neighbouring occupiers.
13. I also consider that although the development would introduce noise from people close to the rear gardens of the adjacent properties, there is no reason to consider this would be necessarily more disturbing than the current use of the site as domestic gardens.
14. Nonetheless, due to the omissions in the Report, highlighted above, I am unable to conclude that the development would not have a significant adverse impact on the living conditions of the occupiers of Nos 56 and 60 as a result of the development. Therefore the proposal would fail to accord with Policy H1 of the West Northamptonshire Joint Core Strategy and the advice in the National Planning Policy Framework which requires development to have regard to the amenities of existing occupiers of neighbouring properties.

Other matters

15. The Highways Authority does not object to the proposal in terms of its impact on the efficient operation of the local highway network or the suitability of the access, and I have no substantive evidence before me to come to a different view. However their position is adopted on the basis that the existing access to No 60 would be closed off, which would be a matter between the appellant and the landowner. In light of my conclusion on the main issue above I need not give this matter further consideration.

Planning balance and Conclusion

16. I recognise that the Council do not have a five year supply of housing, and that this proposal would make a significant contribution to that shortfall. I also acknowledge that a Section 106 agreement has been provided which seeks to ensure that 35% of the houses would be affordable, as well as compensatory contributions to primary education and public open space. Although I note the plans in the agreement do not wholly correlate to the boundaries of the appeal site, there is nothing before me to suggest the obligations in the agreement could not be realised. Nonetheless, I consider the harm that could result from the proposal, as set out above, would significantly and demonstrably outweigh these benefits.
17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR