



Appeal Decision

Site visit made on 7 August 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/Q3115/W/24/3342926

White Ash, London Road, Milton Common, Thame, Oxfordshire OX9 2NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Whiting Builders Limited against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S3459/FUL.
 - The development proposed is the erection of two semi-detached properties on land adjacent to White Ash
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupants with regard to noise and disturbance; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Noise and disturbance

3. The appeal site is located between London Road (A40) and the M40. As a result, there is a significant degree of traffic noise. Although the proposed development would introduce a pair of semi-detached dwellings in between a row of existing dwellings, some of which are relatively modern, it is unclear whether any noise assessments were undertaken in support of any previous planning applications.
4. In any event, this proposal will be determined on its individual merits and clearly, it is necessary to ensure that the proposed development would provide acceptable living conditions for future occupants. The fact that neighbouring residents may not enjoy acceptable living conditions because of traffic noise, does not justify harmful development at the appeal site.
5. The appellant has undertaken a noise impact assessment (NIA). This indicates that certain facades require higher specification glazing to control internal noise levels from road noise. Moreover, the NIA has assumed that a whole dwelling ventilation system as natural ventilation is not appropriate for these dwellings

- and overheating cannot be mitigated by way of partially open windows due to the ingress of noise.
6. An acoustic barrier of 2.6 metres height around the rear garden area would be necessary to protect the living conditions. This would result in the rear gardens achieving noise levels of 60dB or below.
 7. The World Health Organisation (WHO) Guidelines for Community Noise 1999, (WHO Guidelines) gives helpful guidance on suitable internal and external noise levels for steady sound in and around residential properties. This recommends 30dB_{LAeq} in bedrooms, with <45dB_{LAm_{ax}} over 8 hours at night, 35dB_{LAeq} in living rooms over 16 hours in the day and 50 to 55dB_{LAeq} in gardens and outdoor living areas over 16 hours in the day.
 8. BS 8233:2014 Guidance on sound insulation and noise reduction for buildings (BS Guidance), sets out the WHO figures in Table 4 but indicates that where development is considered necessary or desirable despite external noise levels above WHO guidelines, the internal target levels may be relaxed by up to 5dB and reasonable internal conditions still achieved. For external noise such as gardens and patios, the BS Guidance is again consistent with WHO Guidelines and highlights that it is desirable that the external noise level does not exceed 50dB_{LAeqT} with an upper guideline value of 55dB_{LAeqT} which would be acceptable in noisier environments. Again, it recognises that these guidelines are not achievable in all circumstances where development might be desirable and, in such situations, development should be designed to achieve the lowest practicable levels.
 9. On balance, I accept that with higher specification glazing and a whole dwelling ventilation system, the proposed internal spaces would be adequately protected from road noise, but that would result in future occupants not being able to open windows, including the proposed large windows in the rear elevation facing the garden without being subject to unacceptable noise disturbance. Moreover, noise within the garden area would exceed the WHO Guidelines and the upper guideline value set out in the BS Guidance.
 10. Given the size of the proposed houses and the size of the gardens it is reasonable to assume that they would be suitable as family homes where future occupants would ideally want to use the gardens and open windows. Given the noise levels the living conditions within the outside space would be significantly compromised. This combined with the inability to open windows would unacceptably harm the living conditions of future occupants.
 11. I accept that in certain situations the WHO Guidelines and the upper guidance value set out in the BS Guidance may not be achievable where development might be desirable and, in such situations, development should be designed to achieve the lowest practicable levels. Whether or not the proposed development would be sufficiently desirable is something I will return to later, but at this stage I find that the proposal would unacceptably harm the living conditions of future residents.
 12. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupants with regard to noise and disturbance. Consequently, the proposal would conflict with Policy ENV 12, of the South Oxfordshire Local Plan 2011- 2035 adopted December 2020 (SOLP) which seeks to ensure that development proposals are appropriate to their

location and future occupiers will not be subject to the adverse effects of noise pollution. The proposal would also be at odds with the National Planning Policy Framework (the Framework) and the Noise Policy Statement for England which seek to ensure that new development is appropriate for its location and avoids noise giving rise to significant adverse impacts on health and the quality of life.

Character and appearance

13. The Council acknowledge that the proposed design of the dwellings would reflect the existing dwellings nearby and would be in keeping with the established character of the area. I agree.
14. Moreover, to my mind, although the proposed noise attenuation barrier that would surround the gardens would be higher than a standard fence, it would not be harmfully so. I note that a high close boarded fence has been constructed at the end of the garden of the neighbouring property and the proposed boundary treatment at the appeal site would not appear at odds with this setting. It follows that the proposed boundary treatment would not harm the character and appearance of the area.
15. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the area. As a result, the proposal would accord with Policies DES1 and DES2 of the SOLP which among other things seeks to ensure that new development respects the local context and visually complements its surroundings.

Other Matters

16. The appellant highlights that in relation to the relatively recently completed development on an adjacent site, the Council has not mentioned the issue of noise. The Council accept that it has not been consistent in its consideration of applications for nearby new dwellings as it omitted to consider noise and its effect on the living conditions of future occupants. However, that is not a reason to permit new dwellings which would result in poor living conditions for future residents.
17. I turn now to consider housing supply. The Council have confirmed that it can demonstrate a 4.2-year supply of housing land against a current requirement to demonstrate a 4-year supply given that they have commenced a Regulation 18 consultation on its joint local plan in January 2024.
18. That said, the proposal would be valuable in boosting housing stock and would make efficient use of the appeal site. However, given that the proposal would only result in the addition of two dwellings that tempers its weight.
19. I accept that the proposal would have a cumulative effect in the supply of housing and would have limited economic, social, and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase, would broaden the availability of housing in the area and once occupied would support services and local facilities.
20. Overall, the totality of the weight I have afforded the benefits associated with the proposal is limited. In reaching that view I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. National policies relating to housing land supply are proposed to change as part of this consultation, but as these changes are at the

consultation stage they can only be given limited weight in the determination of the appeal.

21. Even if I were to take account of the proposed changes which if implemented would scrap the four-year housing supply target, that would not change the weight I would afford the benefits of the scheme. That is because I have already taken account of the fact that the proposal would contribute to the overall housing supply, but the weight is tempered by the small number of dwellings involved.
22. So even if Paragraph 11(d) of the Framework had been engaged, which I do not consider it has, the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Given that finding, I am not persuaded that development of the appeal site is sufficiently desirable and consequently relaxation of the noise guidelines as set out above is not justified in this case.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

S Rawle

INSPECTOR