

Appeal Decision

Hearing held on 19 April 2017

Site visit made on 19 April 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 23 May 2017

Appeal Ref: APP/T0355/W/16/3160259

9 Park Corner, Windsor SL4 4DR

- 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 Burwood Rumsby Ltd. against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/01632, dated 23 May 2016, was refused by notice dated 31 August 2016.
 - The development proposed is 4 No. 1 bedroom and 5 No. 2 bedroom flats, parking and cycle facilities and new access following demolition of existing dwelling and outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for 4 No. 1 bedroom and 5 No. 2 bedroom flats, parking and cycle facilities and new access following demolition of existing dwelling and outbuildings at 9 Park Corner, Windsor SL4 4DR in accordance with the terms of the application, Ref 16/01632, dated 23 May 2016, subject to the schedule of conditions attached to the end of this decision.

Procedural Matters

2. The application was originally submitted with a different description, but the plans were amended during the application process to reduce the size of development and the total number of flats from 10 to 9. This necessitated a change to the description of development and additional public consultation. Thus, the above description is taken from the decision notice and appeal form, rather than the original application form.
3. The plan showing the proposed elevations (15-P1200-103 Rev C) incorrectly identifies the rear elevation of the building as "North West", when it is in fact the north-east elevation. For the avoidance of doubt, I have regarded the rear elevation on drawing 15-P1200-103 Rev C as the north-east elevation.

Main Issues

4. The main issues are:
 - (a) the effect of development on the character and appearance of the area;
 - (b) the effect of development on the living conditions of occupiers of 11 Lodge Way and 3 Park Corner in terms of noise and disturbance; and
 - (c) whether future occupiers of the development would have satisfactory living conditions in terms of external space provision.
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Reasons

Character and appearance

5. The area surrounding the appeal site contains buildings that are typically two storeys with considerable variety in scale in terms of height, footprint and mass. Plot sizes differ considerably, while there are examples of blocks or clusters of buildings such as those immediately to the north-east of the appeal site. Large areas of hardstanding exist in the vicinity for residential parking, and there are also significant areas of greenery including public open space nearby. Thus, the overall character and appearance of the area is mixed.
6. The proposed development would be larger in scale than individual adjoining properties on Park Corner and Lodge Way in terms of its height, footprint and mass. It would incorporate three floors of accommodation with a larger and more complex roof form than existing properties. However, the difference in height between the part of the development nearest to 3 Park Corner would be limited to around a metre with a hipped roof design that would mitigate the effect of following the existing building line along Park Corner. There would also be a considerable gap between the development and existing properties at 1 and 11 Lodge Way which would compensate for a protruding building line along Lodge Way. Moreover, the footprint, plot coverage and mass of the building would be comparable to existing blocks of buildings, and would be broken up by different sections and materials. These elements of the design would help to offset the overall scale of the development and minimise any dominating effects.
7. The rear dormer window would be a somewhat incongruous feature due to its size and shape and would sit awkwardly with the overall design of the building. However, it would still be a subservient part of the building which would lessen its overall effect, and would have limited visibility in the street scene.
8. The proposed area of hardstanding would be large, but not excessive for the size and type of development and similar to residential parking areas nearby. It would be softened by landscaping areas within the site and along the boundaries, and its effect on the street scene would be limited in terms of visibility. Taken as a whole, the development would sit comfortably both within its plot and amongst the mix of existing buildings, and would not appear cramped or overdeveloped.
9. Concluding on this main issue, the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, it would accord with Policies DG1, H10 and H11 of the adopted Local Plan¹. Amongst other things, these policies seek high standards of design that are compatible with the established location having regard to matters such as scale, height, building lines and materials. The development would also reflect the aims of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) which seek good design that responds to local character.

Living conditions for neighbouring occupiers

10. Park Corner and Lodge Way are residential side roads within the built-up area of Windsor where properties and car parking spaces are in close proximity to

¹ Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003).

each other. At the point of my site visit, the two roads were quiet in terms of traffic movements with intermittent traffic movement along Clewer Hill Road to the north. Traffic movements will vary throughout the day and week, and it would not be unreasonable to expect an existing level of noise and disturbance arising from such movements and parking.

11. The appeal site contains a number of vehicles, although the exact purpose and planning status is not clear. Nevertheless, there is little evidence to suggest that the site generates frequent or excessive levels of noise, but instead forms part of the overall residential environment.
12. The proposed development would result in noise and disturbance for the occupiers of 3 Park Corner and 11 Lodge Way as a consequence of vehicles entering and leaving parking spaces within the site. This would be particularly noticeable from the rear gardens of both properties, but also from within the buildings, noting the bedroom window on the flank elevation of 11 Lodge Way. It would include vibration from vehicle movements as well as noise.
13. The main parties do not dispute the likely number of vehicle movements per day at around 36 trips, or the likely timing of such movements between 7am and 10pm common to most people's lifestyles. Individual noise events, including the closing of car doors, would be obvious to occupiers of the adjoining properties and there would be some amplification caused by the archway opening off Park Corner. However, such events would be infrequent and occur at lower traffic speeds, and would largely avoid the more sensitive night-time hours. As such, it would not prevent the ability to use the rear gardens of either property or internal spaces such as bedrooms.
14. Taking into account the table relating to noise in the PPG², the noise would be noticeable and intrusive resulting in an observed adverse effect, but would not be so great as to be considered disruptive or significant. The PPG advises that such effects should be mitigated and reduced to a minimum. The appellant has suggested acoustic fencing and a roof over the timber pergolas along the parking spaces adjacent to 11 Lodge Way. I consider this would provide a degree of mitigation for the noise effects and could be secured by condition. There is also scope to retain the tall boundary wall in front of 11 Lodge Way which would help to contain noise.
15. I am aware that an appeal decision³ involving a house to the rear of an existing dwelling in Datchet found unacceptable harm to living conditions in terms of noise and disturbance arising from vehicle movements. However, I have had regard to the appellant's noise assessment for this proposal and am satisfied that the effects would be acceptable in this instance. For the avoidance of doubt, I have determined this case on its own merits based on the evidence before me.
16. Concluding on this main issue, the proposed development would have an acceptable effect on the living conditions of occupiers of 11 Lodge Way and 3 Park Corner in terms of noise and disturbance. The second reason for refusal in the decision notice does not include any development plan policies, but I note that the ninth point of Policy DG1 of the adopted Local Plan requires the traffic generated by proposed development to not have an unacceptable effect

² Reference ID: 30-005-20140306

³ APP/T0355/A/13/2195784

on the environment of the locality. In this regard, the development would accord with Policy DG1. It would also meet the aims of paragraph 17 of the NPPF which seeks a good standard of amenity for existing occupants of land and buildings.

Living conditions of future occupiers

17. The Council and appellant differ on the amount of external space that would be provided for future occupiers of the development, and the Council does not have an adopted standard. In any case, it is clear that the amount of useable space would be limited to a narrow strip along the elevation for Flat 1 and a small communal courtyard space next to the main entrance at the rear. The Juliet balconies on the upper floors would not provide any meaningful access to outdoor space. However, there is public open space a short distance to the west, which would provide a reasonable alternative for occupiers of this flatted development and help to offset the negative effects of limited on-site provision.
18. As a consequence, the proposal would have an acceptable effect on the living conditions of future occupiers of the development in terms of external space provision. Therefore, it would meet the aims of paragraph 17 of the NPPF which seeks a good standard of amenity for future occupants of land and buildings.

Other Matters

19. I note concerns from local residents about visibility onto Park Corner and the potential for additional on-street parking as a result of the development. With the proximity of a school, I recognise that the streets are likely to be parked up in connection with the morning and afternoon school runs. However, the development provides an adequate number of parking spaces in line with Council standards, which should reduce the potential for on-street parking. Although details of extract flues have not been finalised, their siting and number on the building are unlikely to prevent vehicles from parking in the designated on-site spaces. Furthermore, amendments to the site access, visibility splays and adjoining footway have overcome initial concerns from the Highway Authority.
20. Notwithstanding the school runs, Park Corner and Lodge Way are quiet roads with a 20mph speed limit, and so I am content that there would be an acceptable effect on parking and highway safety. The construction of the development would inevitably result in some disruption, but this can be controlled through a management plan secured by condition.
21. The appellant has produced a drainage assessment which includes a surface water drainage strategy. Although the Lead Local Flood Authority has requested further information, the Council has indicated that this is not necessary for the size of development and has no objections on this matter. I see no reason to come to a different view.
22. I note concerns regarding potential subsidence effects, but the evidence is not clear and it would ultimately be a civil matter between the affected parties. Although the site has evidently been used for the storage of vehicles, there is little evidence to indicate that the lack of a contamination report is a major flaw. Any discovery of contamination during the construction process could be reported to the relevant authorities.

23. The development would have some effect on light to the rear patio at 3 Park Corner, particularly later in the afternoon and evening. However, the layout of the development would avoid any built form immediately adjacent to the patio and would be sufficiently set back to prevent an unacceptable loss of light. The layout also avoids negative effects to other properties in terms of light and would provide adequate levels of natural light to the proposed flats which all have dual aspects.

Planning balance

24. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Considering paragraphs 49 and 14 of the NPPF as a consequence, there are no adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of providing a net gain of eight dwellings, or any policies in the NPPF that indicate development should be restricted. Thus, the presumption in favour of sustainable development applies to the granting of planning permission.

Conditions

25. Conditions 1 and 2 setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. Condition 3 is necessary to ensure that demolition and construction traffic is managed safely, and needs to be a pre-commencement condition to ensure that management is approved before any works commence. Conditions 4, 5 and 6 are necessary to ensure that the development has an acceptable effect on the character and appearance of the area. Condition 4 is a pre-commencement condition as it requires existing and proposed ground levels to be established before works can commence.
26. Condition 7 is necessary in the interests of biodiversity, and it is reasonable to require details of enhancement measures as the ecology report submitted with the original application does not contain sufficient clarity. Condition 8 is necessary to ensure that adequate noise mitigation measures are implemented before the development is first occupied to minimise effects on neighbouring residents. Conditions 9, 10 and 11 are necessary to ensure that access arrangements, parking and turning spaces and adequate visibility splays are implemented before the development is first occupied.
27. Conditions 12 and 13 are necessary to ensure the implementation of cycle parking and bin storage facilities, while Condition 14 is necessary to safeguard the living conditions of future and neighbouring occupants in terms of privacy.

Conclusion

28. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Thomas Rumble MRTPI	Woolf Bond Planning
Christian Gattesco	Ascot Design
Rob Peirce	TECL Ltd
Stephen Craig	Burwood Rumsby

FOR THE LOCAL PLANNING AUTHORITY:

Claire Pugh	Royal Borough of Windsor and Maidenhead
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INTERESTED PERSONS WHO SPOKE AT THE HEARING:

Richard Ryland	Local resident
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DOCUMENTS SUBMITTED AT THE HEARING

1. Annotated version of Site Layout Plan 15-P1200-105 Rev C showing the extent of landscaping and amenity space within the development, submitted by the appellant.
2. Additional photographs showing existing parking areas adjacent to dwellings in Park Corner / Keeler Close, submitted by the appellant.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15-P1200-LP01, 15-P1200-100 Rev B, 15-P1200-101 Rev A, P-15-P1200-102 Rev C, 15-P1200-103 Rev C, 15-P1200-105 Rev C and 15-P1200-106.
- 3) No development shall commence until a management plan showing how demolition and construction traffic, (including cranes), materials storage, facilities for operatives and vehicle parking and manoeuvring will be accommodated during the works period has been submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented as approved and maintained for the duration of the works.
- 4) No development shall commence until detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside the application site, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to the construction of the building hereby approved, samples of the materials to be used on the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- 6) Prior to the construction of building hereby approved, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved within the first planting season following the first occupation of the development and retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity within the next planting season, unless the Local Planning Authority gives its prior written consent to any variation.
- 7) Prior to the construction of the building hereby approved, details of the biodiversity enhancements outlined in the ecology report by AA Environmental Limited dated 1 February 2016 shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development and shall be retained thereafter.
- 8) Prior to the construction of the building hereby approved, details of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development and shall be retained thereafter.

- 9) No part of the development shall be occupied until the proposed new access arrangements including the bellmouth buildout, footway widening works, closure and stopping up of the existing north-eastern site extremity access together with the front boundary fence realignment to Park Corner and Lodge Way have been constructed in accordance with the approved plan 15-P1200-100 Rev B and also drawing No. 66003-LR-002 Rev A.
- 10) No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with the approved plan 15-P1200-101 Rev A. The space approved shall be kept available for parking and turning in association with the development.
- 11) No part of the development shall be occupied until the visibility splays of 2.4m x 25m have been provided in each direction at the access to Park Corner in accordance with drawing No. 66003-LR-002 Rev A. The areas within these splays shall be kept free of all obstructions to visibility above a height of 0.6 metres from the surface of the carriageway.
- 12) No part of the development shall be occupied until covered and secure cycle parking facilities have been provided in accordance with the approved plans. These facilities shall thereafter be kept available for the parking of cycles in association with the development at all times.
- 13) No part of the development shall be occupied until the refuse bin storage area and recycling facilities have been provided in accordance with the approved plans. These facilities shall be kept available for use in association with the development at all times.
- 14) The building hereby permitted shall not be occupied until the windows in the first and second floor on the north-east and south-east elevations which serve the rooms marked as lobby, hall and bathroom have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.