
Appeal Decision

Site visit made on 11 April 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/T0355/W/17/3166778

Former Hunters Lodge and 1 and 2 Ascot Lodge, London Road, Ascot SL5 7EQ

- 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 Mark Hendy of Shanly Homes Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/01991, dated 13 June 2016, was refused by notice dated 12 December 2016.
 - The development proposed is redevelopment to provide 8 houses following demolition of existing dwellings. Amended design to planning permission 13/00974.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The refused application was submitted as an appeal against conditions 14 and 21 of planning permission ref:14/02408 for the redevelopment to provide 8 houses following demolition of existing dwellings. That planning permission in turn was a revised scheme, planning permission having originally been approved under ref:13/00974 as quoted within the original description which I have used above. Condition 14 required the implementation of vehicle parking and turning spaces in accordance with a scheme that needed to be submitted and agreed before commencement of the approved development. Condition 21 required the submission of an arboricultural method statement and tree protection plan for approval by the Council and then compliance with the approved statement and plans.
3. The purpose of the application was to construct 3 additional parking spaces 1 close to plot 2 and the others close to plots 6 and 7. When I visited the site, it was apparent that the development was well advanced and it has been confirmed by the appellant that it has been completed. The acts of development would affect only a very small portion of the overall appeal site. I have therefore, following consultation with the main parties, decided that the appeal should be considered on the basis of a proposal for planning permission. The parking space close to plot 2 has been constructed and the appellant is seeking its retention.

Main Issue

4. The main issue is the effect of the developments upon the character and
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appearance of the area, with particular reference to the protected trees on the site.

Reasons

5. The appeal site is on the southern side of London Road and the roadside boundary is defined by a dense hedge. Between the hedge and the road, outside of the site, is a row of mature trees. Within the site behind the hedge are grassed areas which also include mature trees protected by a Tree Preservation Order. The trees outside of the site as well as those within it provide a dense vegetated boundary to the site. These trees and the hedge contribute to the generally leafy character and appearance of the street-scene on both sides of the road and breaks up the views of the modern development.
6. Within the verge between the existing driveway in front of Plots 6 and 7 and the hedge, there are 3 holly trees. These are identified on the arboricultural implications report¹ as trees '12', '15' and '20'². Each of these trees is of significant height with canopies above the hedge. Although indicated by the appellant as being of low overall quality, they form an important part of the substantial belt of trees which contributes positively to the visual amenity of the area. The retention of these trees will continue to provide this benefit to the leafy qualities of the area. If they were to be significantly damaged or removed, it would open up this part of the site which would be detrimental to the existing character and appearance of the area.
7. The incursion of this part of the development into the Root Protection Areas (RPAs) of tree '12' would be 11%, tree '15' would be 15% and '20' would be 2.3% according to the appellant's arboricultural implications report³. I am concerned about the impact that this could have upon these trees even though holly trees are moderate or good at tolerating some root pruning. The Council does not dispute these figures but refers to the general situation that trees have a mass of fine, non-woody absorptive roots of which are concentrated within the uppermost 660mm of the soil. Water is taken up by these root systems and BS 5837⁴ sets out the method for protecting RPAs. The appellant has gone on to state that the incursion with the RPAs would be even less significant due to the method of construction which includes a cellular confinement structure containing stones, as well as porous surfacing.
8. The need for such careful construction techniques indicates the sensitivity of the proposed position of these parking spaces which would in my view encroach significantly into the area around these trees that should normally be protected from construction work. There is no consensus between the main parties regarding the appellant's view that the reduced "over-dig" will effectively limit further the incursion within the RPAs.
9. I consider that a precautionary approach is necessary because damage to the tree roots could generally speaking, not be undone. This is consistent with the advice within BS 5837 which explains the default position that "structures",

¹ Arboricultural Implications Report – Proposed additional vehicular parking at Hunters Lodge and 1 and 2 Ascot Lodge, London Road, Ascot (ref:SJA air 13164-06)

² Table 1 of the arboricultural implications report doesn't show tree '20' but does include tree '29'. It would appear that there has been an error as '20' is referred to within the text and the 'tree protection plan'. I have therefore taken the information about tree '29' in that table to mean tree '20' elsewhere within the representations.

³ Arboricultural Implications Report – Proposed additional vehicular parking at Hunters Lodge and 1 and 2 Ascot Lodge, London Road, Ascot (ref:SJA air 13164-06)

⁴ BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations

which I take to mean manufactured objects such as the proposed parking areas, should be located outside of trees to be retained. Although tree protection measures could be implemented, the fencing would need to be closer to the trees than the edge of the parking areas, even further into the RPAs. Additional damage through compaction due to construction activity could occur even if there were to be close expert supervision. The site is largely completed and therefore there is unlikely to be much construction machinery or storage of materials nearby but nevertheless the proposals are within a sensitive position with respects to these trees.

10. The holly trees are unlikely to cause significant problems with falling leaves if cars on the proposed spaces are parked. Notwithstanding this, due to the potential harm to these trees through the construction process that could lead to the loss or significant damage, I consider that this part of the proposal could harm the character and appearance of the area.
11. The parking area that has already been constructed close to the front of Plot 2, falls within the RPAs of the common lime trees identified as '63' and '64' within the appellant's arboricultural implications report. These trees are identified within the report as being around 22m in height and they are much higher than the hedge, visible from the road. As a part of the group of trees on this, they contribute positively to the visual amenity of the area.
12. The parking area is surfaced with block paving which is raised above the previous ground level. The appellant estimates that the encroachment of this hard-surfaced area within the RPA of limes '63' and '64', are by 4% and 3% respectively which is accepted by the Council. This is far less significant incursion within the RPAs than would be the case with the other proposed parking spaces.
13. As with the holly trees, limes are moderate to good at tolerating some root pruning. Whether or not I allow this appeal, any pruning will have already taken place given that the development is in situ. Removing the development could cause harm although I have no evidence from either party about that. I consider the position of this parking space could possibly, if constructed as originally proposed, cause little harm to the lime trees, I do not know for sure whether the hard surface has used permeable paving as proposed which would be an important matter in securing their long term well-being.
14. In addition, the Council is concerned about pressure for cutting the trees back due to the position of vehicles close to the canopies of the trees. This parking area would not be within the existing canopy spread of these or other trees and in the short term it seems that there would not be much risk to property. The appellant's evidence indicates that the nearest lime as referenced '63' is 1.1m away. It would take 3 to 4 years before any pruning would be necessary. By that stage, the tree would be much closer to the front of the dwelling and the previously approved car parking space which although not over-hung may be susceptible to failing limbs in high winds as well as falling sap and leaves. Pressure to carry out some pruning would increase anyway by that stage whether or not this parking space is approved.
15. The parking space in front of Plot 2 is better located than the others. However from the submitted evidence, it is not clear that its retention could be accepted without harm to the nearby lime trees.

16. In relation to the main issue I consider that the proposal would have a harmful impact upon the character and appearance of the area. This would not comply with LP⁵ Policies DG1 and N6 or NP⁶ Policies NP/DG1 and NP/DG3.

Other Matters

17. The appellants say that prospective buyers of these properties are being deterred due to the level of parking provision. However, I consider that a reasonable amount of parking already exists and the Council has confirmed that their parking standards are complied with. The need for parking is not an overriding justification for construction within the RPAs of these trees and this does not outweigh my conclusions in relation to this part of the proposal.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

A Harwood

INSPECTOR

⁵ The Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003)

⁶ The Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011-2026
