
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: 13 June 2017

Appeal Ref: APP/T0355/W/17/3166400
20-24 Braywick Road, Maidenhead SL6 1DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Jake Collinge against Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/02349/OUT, is dated 12 July 2016.
 - The development proposed is the demolition of existing dwellings and erection of 8 detached 2-storey dwellings with access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. This is an outline proposal with access the only detail being considered at this stage. However I will consider the proposal on the basis of it being for 8 dwellings given the explicit reference within the description but all other matters are reserved for future consideration. The plans that have been submitted are illustrative showing how the site could potentially be developed. The plan referenced '2273/PL101' was initially submitted with the planning application. A further plan referenced '2273/PL101 Rev A' was subsequently submitted to the Council prior to the lodging of the appeal. Given that "layout" is not a detailed matter for consideration at this stage, I will consider both of these plans as illustrating alternative ways of developing the site. A further plan showing 7 dwellings would not comply with the description of the proposed development and I have not therefore considered that plan.
3. The appeal was submitted before a decision was made. The Council has confirmed that it would have refused planning permission and why.
4. Following my site visit, the *Supreme Court Judgment of Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council* was issued. The Council and the appellant have been given an opportunity to comment upon any implications for the present appeal.

Main Issues

5. The main issues are the suitability of the site for the proposed development with respect to:-
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- The effect upon the character and appearance of the area including reference to trees; and
- Taking account of local housing needs, whether any adverse impacts would significantly and demonstrably outweigh any benefits (the planning balance).

Reasons

Character and appearance

6. The appeal site is within a residential area to the west of Braywick Road, close to the centre of Maidenhead. The wide dual carriageway of Braywick Road provides a substantial break between the land around the appeal site and the much lower land on the opposite, eastern side of the road. There is a leafy suburban feel to the dwellings on this side of Braywick Road and many of the dwellings nearby are large and within spacious, long plots. The widths of garden plots in the area are varied although there is a tighter grain of development further towards the town centre. This character is described within the Council's Townscape Assessment¹.
7. The two existing dwellings on the appeal site are within larger plots than is generally the case nearby and No 24 is set much further back from the road than those to the north and those to south. The site slopes up substantially to the west and the rear gardens are secluded, with the mature landscaping including several protected trees providing a buffer between adjoining gardens.
8. The proposal would involve the demolition of the existing large dwellings and the construction of 8 dwellings. The submitted plans show 4 dwellings facing towards Braywick Road and another 4 behind them accessed via a drive. These plans show that it would be possible to include 4 dwellings along the frontage of the site and retain sufficient space for landscaping between and to the front of the dwellings in order to comply with the leafy qualities of the area. Although no circulation or parking areas for the dwellings is shown, other than the access through to the rear, the space between the dwellings and the road would be similar to that nearby such as at the adjoining dwelling at No 18. I see no reason why it would not be possible to include substantial landscaping and also accommodate the functional requirements for vehicles to park and turn within each of the plots. The tighter grain of development of the proposed dwellings along the front would appear comparable with other nearby dwellings. This would create a gentle transition between the looser developments to the south and those to the north as one approaches the town centre. I have reached this view taking account of the Townscape Assessment.
9. The submitted plans also show 4 dwellings to the rear of the site. In that area, there are some significant trees. An arboricultural report has been provided by the appellants as well as a constraints plan. I will refer to the tree identification numbers shown on the appellant's information rather than those on the Tree Preservation Order (TPO) that covers some of the trees on and next to the site.
10. Within the north western corner of the appeal site is a large walnut tree (T5) estimated at 14m high by the appellants. It stands substantially above the other vegetation along the boundaries in this part of the site. Near to this is an

¹ Royal Borough of Windsor and Maidenhead Townscape Assessment

oak (T4) within the garden of the adjoining dwelling at No 18. This is a similar height as the walnut and also stands above the surrounding boundary vegetation. Both of these trees provide a high amenity value which can be appreciated from the appeal site and neighbouring dwellings. These trees are subject to the TPO. They are on land that is substantially higher than the land at the front of the site. As a consequence, the trees can be seen from that direction between the existing dwellings and provide a backdrop to the site and contribute towards the leafy character of the area.

11. The other protected tree is the oak (T11) within the site, close the southern boundary. This tree has a symmetrical appearance and although lower than T5 and T4 is well above the height of the adjoining boundary hedge. Although this is less visible from the wider area it will be seen from adjoining properties and again has a high amenity value that contributes significantly to the leafy qualities of the area. Some of the trees that are not subject to the protection of the TPO but are also of more localised amenity value, are shown by the appellant for retention. Other trees and shrubs within the site and the boundary planting have a more localised positive impact that could be replaced by suitable planting through a landscaping scheme.
12. Trees T4, T5 and T11 in particular are important constraints to development. The positions and footprints of the proposed dwellings could be altered from the 2 alternative illustrative schemes. I am concerned however about the degree of the limitation that these trees in particular would provide to developing this part of the site and whether 4 dwellings could be constructed without detriment to those trees.
13. In the south west corner of the site, T11 has a substantial canopy spread. The construction of dwellings in the positions shown for plots 7 and 8 could be kept outside of the canopy spread and the Root Protection Area (RPA). However, this tree is on the southern side of the proposed garden areas and would therefore cast a substantial shadow over much of the proposed private amenity space for both of these dwellings. This could lead to pressure on the Council for the removal of the tree due to the impacts of the shading upon living conditions at the properties. To overcome these concerns in my view would necessitate moving the nearest dwellings further away from T11 than is shown on either of the submitted illustrative schemes.
14. Whether the dwellings proposed for the north western corner of the site (plots 5 and 6) are presented as detached or semi-detached buildings, the rear garden areas particularly for plot 5 would be constrained by T5 and to a lesser degree by T4. This garden would not be shaded substantially by these trees, and construction work would be outside of the RPAs. However, both T4 and T5 would already cover a substantial part of the garden of proposed plot 5 and would cover a greater area as the trees grow. Although some restrictions can be placed on the construction of buildings in domestic gardens, it is difficult for the Council to control other activities such as the placement of garden and play equipment and other similar domestic paraphernalia as well as the activity that goes with them. Such activities could adversely impact upon these trees.
15. I consider that the site would be suitable for 4 dwellings towards the front. However I do not consider the rear part of the site could accommodate 4 dwellings in a manner that would adhere to the spacious characteristics of the area without harmful impacts upon trees T4, T5 and T11 which are features

that contribute to the existing pleasant leafy character of the area. The impacts could be greater if the Council's concerns about the accuracy of the constraints plan are correct. I have also considered the other cases drawn to my attention by the appellant but my concerns relate to the impact upon these specific landscape features.

16. In relation to the first main issue, the proposals would have a harmful impact upon the character and appearance of the area due to the unacceptable impacts upon important trees. The scale of development would result in the loss of or damage to important features which contribute to the character and appearance of the area. This would not comply with Local Plan² Policies DG1, H11 and N6. This would constitute a poor design, not complying with the National Planning Policy Framework (Framework).

The planning balance

17. The Council confirms that they cannot demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date in these circumstances. I will apply the planning balance required by paragraph 14 of the Framework. Policies DG1, H11 and N6 reflect the requirements of section 7 of the Framework being policies that seek to add to the overall qualities of the area over the lifetime of the development and the establishment of a strong sense of place. These policies are consistent with the Framework and I will give them substantial weight.
18. The site is within a location that is accessible to the town centre without reliance upon private vehicle use. In this as well as in terms of the lack of impacts upon biodiversity and effect upon neighbouring living conditions, the proposal would not be harmful.
19. Social benefits through the provision of 8 dwellings and the contribution towards housing supply in an accessible location are considerations that I give moderate weight to. There would be short term economic benefits from the construction process as well as the additional spending by new residents in the area, including the town centre. These are further benefits of limited weight.
20. In relation to this matter, even though there is a shortfall in 5 year housing supply and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts due to the lack of compliance with Local Plan Policies DG1, H11 and N6 as well as section 7 of the Framework would significantly and demonstrably outweigh the benefits of the proposal. The proposal would not be a sustainable form of development and would not comply with the policies in the Framework taken as a whole.

Conclusion

21. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR

² The Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003)