
Appeal Decision

Site visit made on 3 July 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 3 August 2017

Appeal Ref: APP/T0355/W/17/3169962

Priory Lodge, Priory Road, Sunningdale, Ascot SL5 9RQ.

- 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 G Scott (Hart Homes) against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/02810, dated 22 August 2016, was refused by notice dated 19 January 2017
 - The development proposed is the erection of a detached five bedroom dwelling with attached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A request to view the proposal from the adjoining property at Home End was made by a neighbour in advance of the undertaking of the site visit. Although it was not possible to complete this aspect of the visit on the allotted day, I am satisfied that I was able to fully assess the impact of the proposal on all neighbouring properties from the appeal site.

Main Issues

3. The main issues are the effect of the development on, firstly, the Thames Basin Heaths Special Protection Area (SPA), secondly, the character and appearance of the area and, thirdly, the living conditions of neighbouring occupiers.

Reasons

SPA

4. It is common ground between the main parties that the impact of the development on the SPA can be addressed by a planning obligation which would secure the appellant's proposal to amalgamate two flats on Chobham Road into a single dwelling. I understand that despite the best efforts of the Appellant to provide the obligation, it has run into legal difficulties. Therefore as things stand there is no signed and dated obligation before me that is acceptable to the Council.
5. I have had regard to the letters dated 19 & 21 July from Ascot Lawyers. However, irrespective of the site history, the obligation is necessary to mitigate the impact of this particular development on the SPA. It is therefore

appropriate that all current interests should be bound by the agreement including Metro Bank to avoid the risk of there being an adverse impact on the SPA at a later date however unlikely that might be.

6. I have also considered the possibility of imposing a negatively worded condition to address the matter. The *"Planning Practice Guidance"* states; *"A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases"*. It goes on to say that these conditions should only be used in *"exceptional"* circumstances where the case is *"complex"* and *"strategically important"*. I am not persuaded that the circumstances of the appeal scheme before me fulfil the aforementioned criteria and therefore, I conclude that it would not be appropriate for me to deal with this issue by way of a planning condition.
7. Accordingly, the lack of an obligation in this instance means that the effect of the development on the SPA would be unacceptable. The development would thus conflict with Policy NRM6 of the *"South East Plan 2009"*. This states that new development will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the SPA and that such measures must be agreed with Natural England.

Character and appearance

8. The wider area is residential in nature and distinguished by detached houses occupying generous plots of varying shape and size. This settlement pattern along with the presence of large numbers of mature trees and landscaping within plots are principal components of the locality. These features lend the area a spacious and verdant quality which is further enhanced by grass verges and a wide variety of building types and architectural styles. It is undoubtedly a high quality residential environment which conveys a sense of tranquillity and exclusivity.
9. The proposed two-storey dwelling would be sited on a vacant plot of land between Ashbury House, Priory Lodge, Home End and 114 Chobham Road. It would be accessed via a private drive serving Ashbury House. Given its backland location behind existing houses public views of the dwelling would be extremely limited. Whilst it would be visible from adjacent private gardens, the site is enclosed by mature landscaping such that views of the dwelling would be heavily filtered. I do not therefore agree with the Council that the dwelling would be prominent.
10. Whilst I accept that the plot size would be smaller than some in the vicinity, the appellant's analysis demonstrates that it would be within the range found more generally along Priory Road and only marginally less than its immediate neighbour to the north-west Ashbury House. The dwelling would be sited centrally within its plot with adequate separation to neighbouring dwellings and its own site boundaries. The amount of outdoor amenity space would be proportional to the size of the dwelling and the plot ratio would not be dissimilar to other dwellings in the locality. I therefore find little to support the Council's view that the appeal scheme would amount to overdevelopment of the site.
11. Overall there would be some change to the character and appearance of the areas through a loss of openness on the appeal site. However, for the reasons

given above, this would not be readily apparent from public vantages and therefore I conclude that the proposed development would not cause unacceptable harm to the character and appearance of the area. There would thus be no conflict with Policy H11 of *"The Royal Borough of Windsor and Maidenhead Local Plan 2003"* (the LP) and Policies NP/DG1.1, NP/DG1.2 and NP/DG2.2 of the *"Ascot, Sunninghill & Sunningdale Neighbourhood Plan 2011-2026"* (the NP). Collectively these state that planning permission will not be granted for schemes which fail to respond positively to the local townscape or introduce a scale or density that is incompatible to the character of the area.

Living conditions

12. Other than a fleeting reference to Home End the Council has failed to explain which neighbouring properties would be harmed by the development or in what manner.
13. On my site visit I was able to view the appeal site from No 114. Along with others in the vicinity this property currently enjoys a high degree of privacy due to the presence of mature landscaping to its site boundaries. The Council argue that landscaping should not be used as a way to prevent overlooking. However in this case the boundary landscaping is well established. It is therefore an inescapable fact that the existing landscaping would largely screen the dwelling when viewed from neighbouring properties and gardens. In these circumstances it would be remiss not to consider the landscaping when coming to a view on overlooking.
14. There are no details of any local privacy distances that might be breached if I were to allow the appeal and it seems to me that there would be more than ample separation between the dwelling and its immediate neighbours. I acknowledge that the dwelling may well be visible from the upper floor windows of neighbouring properties and vice versa. However, that in itself does not equate to an unacceptable loss of privacy. Moreover, the site sections clearly illustrate that no direct overlooking of adjacent properties or gardens would occur.
15. Habitable room windows in the front elevation of the dwelling would directly face those in the rear of Priory Lodge. However, well in excess of the standard 21 metres would be provided. Furthermore, taking account of the levels difference and boundary landscaping, it is doubtful whether there would be any meaningful inter-visibility between the two properties. There would be no first floor windows in the side elevation facing Ashbury House and only two small obscured glazed, non-habitable room windows facing Home End.
16. Whilst I understand the concerns of local residents, for the reasons given above, there is no compelling evidence before me which would lead me to conclude that the development would have an unacceptable effect on the living conditions of neighbouring occupiers with particular regards to privacy. There would thus be no conflict with the requirements of the *"National Planning Policy Framework"* to always seek a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

17. Local residents have expressed a wide range of concerns including but not limited to the following; noise and disturbance, overshadowing, highways and

inadequate drainage. However, the Council did not object to the application on these grounds and in the absence of any substantive evidence to the contrary I have no reason to take a contrary view on these matters.

18. I have noted concerns about damage to the access track serving the site which is shared with neighbouring properties. However, as this is a private road and not Public Highway, matters pertaining to its upkeep are private matters to be resolved between the parties at the appropriate time.

Conclusion

19. Whilst I have found the proposal to be acceptable in terms of its effects on the character and appearance of the area and living conditions, this does not outweigh the harm I have found in relation to the SPA and the conflict with the development plan in that regard. For the reasons given above, I conclude that the appeal should be dismissed.

D. M. Young

Inspector