



Appeal Decision

Site visit made on 8 February 2019

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 10 July 2019

Appeal Ref: APP/T0355/W/18/3215760

151 Vansittart Road, Windsor SL4 5DL

- 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 Ms Burns (S G Investments Limited) against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/01786, dated 18 June 2018, was refused by notice dated 11 October 2018.
 - The development proposed is the demolition and redevelopment of Nos. 151-153 Vansittart Road, Windsor to provide 5 x 4 bedroom dwellings along with private communal amenity space, parking, cycle and bin storage and a new access from Fawcett Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. To address the Council's concerns about the internal layout of some of the proposed dwellings, the appellant submitted amended drawings as part of the appeal. By reason of these amendments being internal alterations to the proposed dwellings, regard has been had to these drawings in the assessment of the appeal scheme. It is not considered that these internal alterations cause prejudice to the Council or local residents.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the streetscene and (b) the risk of flooding.

Reasons

Character and Appearance

4. The appeal site comprises 2 bungalows and their gardens which are located within the urban area of Windsor at the junction of Fawcett Road and Vansittart Road. The proposed development includes the demolition of these bungalows and the erection of a terrace of 5-dwellings. The streetscene along Vansittart Road has a mixed residential character comprising mainly bungalows and 2-storey dwellings some of which have accommodation within their roofspace. To the west of the site is Chiltern Court which is a 3-storey apartment scheme set within its own curtilage.

5. There is disagreement between the Council and the appellant concerning the implications of the proposed development on a sycamore tree which is located adjacent to the junction and is sited within the footway. The appeal scheme would include works within the root protection area (RPA) of the tree, principally associated with the construction of parking and manoeuvring areas. Part of the RPA already includes the footprint of a bungalow.
6. The main area of disagreement is the extent of the tree's roots and whether the impermeable surfacing of the roads and footways have distorted the root growth. Based upon the tree radar images provided by the appellant, there is root growth shown both under the surfaced areas and within the garden with no obvious greater concentration of roots being within the site. Subject to the appropriate arboricultural protection measures and methods of construction proposed by the appellant, I am satisfied that the tree's health would not be adversely harmed by the appeal scheme and, as such, there would not be a conflict with Policy N6 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Alterations adopted June 2003) (LP) which seeks to protect trees during development.
7. At this prominent location at a junction, the height and width of the proposed terrace would have a bulky appearance that would not be well related to the dwellings fronting Vansittart Road and those on the opposite side of Fawcett Road. Chiltern Court sits within its own curtilage and has its own identity and character which is separate to the dwellings fronting these roads.
8. The appeal scheme would have the appearance of a contrived design, especially the footprint of the dwelling within Plot 1 and the width of its front elevation. The appeal scheme would also appear a cramped form of development. This would be evidenced by the communal front garden being dominated by parking and manoeuvring areas; the limited depth of the rear gardens of Plots 1 to 4 which could be seen from the adjacent park; the siting of a communal bin store below a bedroom window of the dwelling on Plot 5 and the proximity of the front elevation of this dwelling to Vansittart Road. This latter matter would not alone be a reason for this appeal failing because this relationship would be similar to the flank walls of the properties to the north of Fawcett Road. Overlooking of the park does not make-up for the limited depth of some gardens relative to the likely number of occupiers.
9. On this issue it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the streetscene and, as such, it would conflict with LP Policies DG1, H10 and H11. Amongst other matters, these policies require new residential development to display high standards of design and not to be incompatible with, or cause damage to, the character and amenity of an area. The aims and objectives of these policies are consistent with securing high quality development as sought by the policies of paragraph 127 of the National Planning Policy Framework (the Framework).
10. Reference is made in the Council's reason for refusal to Policy SP3 of the Borough Local Plan Submission Version but this policy has been given only limited weight in the assessment of the appeal scheme because the plan has yet to be adopted. However, this policy raises similar design, character and appearance matters as the adopted Local Plan policies.

Risk of Flooding

11. The appeal site is located within Flood Zone 2 and, for the type of development proposed, a sequential test is necessary as identified at paragraphs 157 and 158 of the Framework to steer new development to areas with the lowest risk of flooding. However, there is a difference between the parties regarding what could be reasonably available sites as part of the sequential test.
12. In the absence of any specific or detailed guidance about undertaking a sequential test, the Planning Practice Guidance refers to a pragmatic approach being taken on the availability of alternatives. The sequential test in this case should consider the comparative flooding risks of reasonably available candidate sites capable of accommodating housing development of a similar type to the appeal scheme.
13. The starting point for the appellant's sequential test is the various studies and reports produced by the Council which ought to include the relevant candidate sites which have been identified as being suitable for residential development. However, the appellant's methodology goes well beyond the principle of looking at the comparative flooding status of reasonably available alternative sites. The process of discounting some sites on the basis of falling outside arbitrary criteria or value judgements defined by the appellant, rather than just flooding concerns, is not adequately explained.
14. It is reasonable for the assessment undertaken by the appellant to focus upon the main urban areas rather than the whole of the Borough as might be anticipated for larger schemes or the preparation of development plans. In addition, discounting sites either falling within Flood Zone 3 or with planning permission for housing development is appropriate. Further, it could be reasonable for some form of filtering process to be applied to sites, including by size, to reflect the type of housing development.
15. However, using the appellant's criteria and without the full details being provided, a significant number of what might otherwise be reasonable alternative sites within Flood Zones 1 or 2, including within the urban areas, could have been excluded for being too big without further evidence as to any assessment made concerning flooding. Further, where the appellant discounts candidate sites then there is a lack of detailed evidence, including ownership constraints, to enable me to make an assessment about whether or not they might be reasonable alternatives.
16. Although the proposed development could be made flood resilient and would be unlikely to increase flood risk elsewhere as demonstrated by the Flood Risk Assessment, in the absence of more detailed evidence about reasonable alternatives these matters do not override the primacy of steering developments to areas of lower probability of flooding. Accordingly, on this issue it is concluded that the need for the proposed development to be located on land at risk of flooding has not been adequately demonstrated through the sequential test and, as such, there would be a conflict with the policies of the Framework.

Other Matters

17. The Council is able to demonstrate that, as of 28th February 2019, it has a 4.08 year housing land supply. Irrespective of the housing land supply this is a

case where the site is within an area at risk of flooding and, when assessed against the policies in the Framework taken as a whole, unacceptable harm has been identified. There are also identified conflicts with the relevant design policies of the development plan. These matters significantly and demonstrably outweigh the provision of the proposed dwellings within the urban area. For these reasons, the appeal scheme would not be sustainable development and a decision other than in accordance with the development plan is not justified.

18. Residents of neighbouring properties have raised concerns associated with their living conditions and the availability of parking. However, these matters do not alter the main issues which have been identified as the basis for the determination of this appeal.

19. Accordingly, it is concluded that this appeal should fail.

D J Barnes

INSPECTOR