



Appeal Decision

Site visit made on 23 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/T0355/W/19/3220196

Maryland, Horsegate Ride, Ascot SL5 9LS

- 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 Ashley Homes Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/00311 dated 12 January 2018, was refused by notice dated 20 July 2018.
 - The development proposed is erection of 2no. detached dwellings with associated garaging, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has confirmed that the Borough Local Plan 2013-2033 Submission Version 2017 (the emerging Local Plan) has been submitted for examination. I understand that the examination process is yet to conclude. I have given relevant emerging policies limited weight in my consideration of this appeal. This is because, in the absence of information to the contrary, there may be outstanding objections to them, and their content may yet change prior to being formally adopted.

Main Issues

3. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area, including its effect on existing trees;
 - Whether the proposal makes an adequate contribution towards affordable housing;
 - The effect on the integrity of the Thames Basin Heaths Special Protection Area; and
 - If the proposal were to be inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly

outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

4. The National Planning Policy Framework (February 2019) (the Framework) sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless, amongst other exceptions, they represent limited infilling in villages. It is common ground between the main parties to this appeal that, for the purposes of assessing whether the proposal constitutes inappropriate development in the Green Belt, the site is located within the village of South Ascot. The Framework is a very important material consideration in regard to assessing proposals for development that affect the Green Belt.
5. A nationally prescribed definition for limited infilling is absent in the Framework. It is therefore important and necessary to consider the Council's development plan for direction in this regard. The supporting text to saved Policy GB3 of the Royal Borough of Windsor and Maidenhead Local Plan (adopted June 2003) (the Local Plan) defines infilling as building on undeveloped land within the existing built up area of a settlement and in general represents the closing of an existing small gap in an otherwise built up frontage.
6. Indeed, saved Policy GB3 states that there will be a general presumption against allowing proposals for residential development and that new infill dwellings will only be permitted where the development represents the closing of an existing small gap in an otherwise built up frontage and would not result in harm being caused to the physical or visual character of the settlement. I shall come to consider whether harm would be caused in a character and appearance context later in my reasoning. I must first determine whether or not the proposal would represent limited infilling in line with the definition of infilling set out above.
7. The appeal site is formed of part of the grounds of Maryland, a detached residential property, and is bound by Horse Gate Ride to the north and Coronation Road to the west. Access is drawn from Horse Gate Ride. The site is grassed with various planting situated to its boundaries.
8. There are various existing developments situated in the vicinity of the site, some of which I understand have occurred recently. These include residential properties located opposite the site on both the northern side of Horse Gate Ride and the western side of Coronation Road. It is however apparent that the southern side of Horse Gate Rise in the immediate vicinity of Maryland is characterised by a loose and low-density pattern of development. Indeed, there is clear separation between Maryland and its nearest property to the east, where a planted/wooded area that seemingly makes up part of the grounds of a neighbouring school is situated.
9. The appeal site itself provides what can be observed to be a substantial break in development between Maryland at where Horse Gate Ride meets Coronation Road. With respect to the southern side of Horse Gate Ride, I do not consider that the proposal would represent the closing of an existing small gap in an

otherwise built up frontage. Similarly, the same is the case with respect to the eastern side of Coronation Road where the road's frontage from Horse Gate Ride southwards is formed of a continuous and long extent of planting/hedgerow. Therefore, by virtue of failing to comply with the relevant Local Plan definition, the proposal does not represent limited infilling within a village.

10. I acknowledge that various appeal decisions elsewhere have been referenced in the evidence before me. I note the appellant has referred to an appeal in the Central Bedfordshire District. This is however of very limited relevance given that a different development plan and particular site circumstances would have been in place. For the avoidance of doubt, I have considered the proposal on its own individual merits based on the site-specific circumstances to hand.
11. For the above reasons, the proposal would be inappropriate development in the Green Belt and, in this regard, it would conflict with saved Policies GB1, GB2 and GB3 of the Local Plan, Policies SP1 and SP5 of the emerging Local Plan and with the Framework in so far as these policies state that inappropriate development is, by definition, harmful to the Green Belt.

Openness

12. The Framework indicates that openness is an essential characteristic of the Green Belt, and that one of the Green Belt's purposes is to assist in safeguarding the countryside from encroachment.
13. The proposal's effect upon the openness of the Green Belt would be tempered to some degree by virtue of the planting that exists to the site's boundaries. However, the development would still have a visual presence and impact. Furthermore, openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The proposal would introduce 2 large detached dwellings in a location where there is currently no development. The proposal would thus inevitably result in a loss of openness.
14. For the above reasons, the proposal would cause harm to the openness of the Green Belt. The proposal would conflict with saved Policy GB2 of the Local Plan and the Framework in so far as these policies confirm that openness is an essential characteristic of Green Belts.

Character and appearance

15. As already identified, there is loose and low-density pattern of development in existence to the southern side of Horse Gate Ride. I am aware that properties situated on the opposite sides of Horse Gate Ride and Coronation Road to the site are defined, in townscape area terms, as 'Villas in a Woodland Setting'. I indeed noted, during inspection of the site's surroundings, the presence of numerous substantial detached properties situated on generously sized plots. I do not consider that the proposed dwellings would appear especially large and bulky against the context of these surroundings. Furthermore, the proposed plot areas would appear commensurate in size to the dwellings that they would serve.
16. Whilst the entire appeal site is covered by a Tree Preservation Order, I must consider the effect of the proposal on the individual specimens that would be affected. The appellant's proposal is supported by an Arboricultural Report, which includes a tree survey schedule and a tree protection plan. It is

proposed that all trees upon the site, bar a single Scots Pine (T16), be retained and protected during construction work. The tree protection plan before me is annotated to indicate the root protection areas (RPAs) of all trees to be retained and where specialist ground plates are proposed to be placed within RPAs to guard against compression during construction. I am satisfied that appropriate protection measures would be put in place to adequately protect all trees to be retained.

17. However, I have concerns about the intended removal of T16, which is necessary to enable the construction of the appeal scheme. The tree has been surveyed as being of high standard and is a tall and prominent specimen. Indeed, it is situated close to the site's boundary and is visible from public vantage points and makes a positive contribution to the character and appearance of the area notwithstanding the proximity of other large trees. Replacement tree planting, I consider, would not mitigate for the loss of such a substantial mature tree.
18. For the above reasons, the proposal would cause harm to the character and appearance of the area, with particular regard to its effect on existing trees. The proposal conflicts with saved Policies DG1, H10 and N6 of the Local Plan, Policies NP/EN2 and NP/DG1 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan (adopted April 2014) (the Neighbourhood Plan) and Policies SP2, SP3 and NR2 of the emerging Local Plan in so far as these policies require that development proposals should seek to retain mature or important trees, groups of trees or woodland on site.
19. I do not consider that the proposal conflicts with saved Policy H11 of the Local Plan or with Policy NP/DG2 of the Neighbourhood Plan. This is because these policies refer to such matters as the scale, bulk and density of new development. The harm I have identified relates specifically to the loss of an existing tree.

Affordable Housing

20. Saved Policy H3 of the Local Plan sets out that, upon suitable sites a proportion of residential schemes shall be developed in the form of affordable housing. Suitable sites are defined as sites of 0.5Ha or over or where 15 net additional dwellings are proposed. The Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments. The Framework defines major developments, when for housing, as being where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. In this case the site exceeds 0.5Ha in area. I am thus content that the provision of affordable housing would be justified in this case.
21. I am satisfied, given that only 2 units are proposed, that an off-site contribution in lieu of on-site provision would represent a suitable approach. Indeed, the Council's Affordable Housing Planning Guidance Document (2016) sets out an approach to accruing financial contributions from small schemes based on the floor space proposed and the open market value of the relevant property in question. It would however appear that, from the evidence before me, the Council do not currently have the information before them to enable them to calculate what this off-site contribution would be. Nevertheless, the appellant has stated that they would be prepared, in principle, to enter in to a legal agreement. However, as I have found the proposal unacceptable for

other reasons, it has not been necessary for me to pursue progress on this matter between the main parties.

22. In the absence of an appropriate mechanism to secure a contribution at this time, I must conclude that the proposed development does not make an adequate contribution towards affordable housing. The proposal conflicts with saved Policy H3 of the Local Plan and Policy HO3 of the emerging Local Plan Policy in so far as these policies require that the Council will seek to achieve that a proportion of the total capacity of suitable residential schemes be developed in the form of affordable housing.

Integrity of the SPA

23. The site lies in the proximity of the Thames Basin Heaths Special Protection Area (the SPA) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives.
24. For the purposes of this appeal, I am the competent authority and must, before the grant of planning permission, undertake appropriate assessment prior to considering the issue of mitigation. I note that the appellant has stated that they would be prepared to enter in to a legal agreement to secure mitigation. Indeed, the Thames Basin Heaths Special Protection Area Supplementary Planning Document (July 2010) provides guidance on how the impact of new residential developments on the SPA may be mitigated against. I have however found the appeal proposal unacceptable for other reasons such that it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, if I had done so and a positive outcome had ensued it would not have affected the planning balance or my conclusions on this appeal.

Whether very special circumstances exist

25. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
26. Whilst not benefits of the proposal, I note here that no adverse effect upon highway safety would be anticipated and that the proposal would be expected to safeguard the living condition of neighbouring and future residential occupiers.
27. The Framework reaffirms the Government's objective of significantly boosting the supply of homes. The proposal would deliver 2 additional housing units within a Borough where the Council has confirmed it cannot currently demonstrate a five-year supply of deliverable housing sites. Indeed, they have stated that their current supply figure is 4.62 years. For the avoidance of doubt however, I have not applied the tilted balance as set out in paragraph 11 of the Framework. This is because the Green Belt provisions contained within the Framework provide a clear reason for refusing the proposal.
28. However, the contribution of 2 large dwellings within a Borough where the supply of deliverable housing sites is limited would not clearly outweigh the significant harm identified to the Green Belt (including harm derived from loss

of openness) and the other harms I have identified so as to amount to the very special circumstances necessary to justify the proposal. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

29. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR