



Appeal Decision

Site visit made on 11 September 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Appeal Ref: APP/T0355/W/19/3225083

Land West of The White Cottage, Buckhurst Road/Mill Lane, Ascot, Berkshire SL5 7QE

- 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 M Holliday against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/03474/FULL, dated 28 November 2018, was refused by notice dated 23 January 2019.
 - The development proposed is erection of a single dwelling with associated landscaping and parking following demolition of existing residential outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single dwelling with associated landscaping and parking following demolition of existing residential outbuildings at Land West of The White Cottage, Buckhurst Road/Mill Lane, Ascot, Berkshire SL5 7QE in accordance with the terms of application Ref: 18/03474/FULL dated 28 November 2018 and subject to the conditions set out in the schedule attached to this Decision.

Procedural Matter

2. The Council's Decision Notice identified two reasons for refusal. The second reason related to impact on the Thames Basin Heaths Special Protection Area (SPA), as designated under The Conservation (Natural Habitats, etc) Regulations. The SPA is also a Site of Special Scientific Interest (SSSI). In the absence of an assessment to demonstrate no likely significant effect or sufficient mitigation measures to overcome any such impact on the SPA, including a financial contribution towards the Strategic Access Management and Monitoring (SAMM) project and provision of Suitable Alternative Natural Greenspace (SANG), the Council was not satisfied that the proposal complied with relevant local and national planning policy and advice.
3. During the appeal process, a legal agreement regarding the above has been drafted, agreed and signed by the appellant and the Council and a copy has been submitted to the appeal. Having due regard to this and its content, I am satisfied that its provision would result in the matters set out in the Council's second reason for refusal being appropriately addressed. As such, I consider such matters to be no longer in dispute and I have assessed and determined this appeal on that basis.

Background and Main Issues

4. I note the approved scheme for a single dwelling, ref: 17/03893/FULL, at the appeal site. From the submitted evidence, the approved dwelling is similar in volume to the existing buildings. However, the appeal proposal is different in

height, scale, extent and layout to those buildings and, to a lesser degree, the approved dwelling. As such, in the Council's view, the proposal would have a greater visual impact on Green Belt openness and its surroundings than the existing and approved buildings and is therefore inappropriate development in the Green Belt. The appellant argues that as the extent and scale of the proposed dwelling would be similar to the approved dwelling, there would be very little discernible difference in terms of the impact on Green Belt openness and states that the impact would be equal to, or better than, the approved dwelling.

5. Notwithstanding this, as the proposal is within the Green Belt, the main issues are:
- whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the surrounding area; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development, Green Belt openness and its purposes

6. Paragraph 145 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as 'not inappropriate' in the Green Belt, subject to certain conditions. These include buildings which represent limited infilling in villages or the partial or complete redevelopment of a previously developed site, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. In my view, it is this category development within part (g) of Paragraph 145 of the Framework, which is applicable in this case.
7. The Council accepts that the proposed dwelling would have a similar spatial impact on Green Belt openness as existing buildings with a very similar volume of built development on the site. However, the Council argues that the volume of built development within the proposal would be accommodated more vertically within the site. The proposed dwelling would be taller than the existing buildings, even taking into consideration the reduced ground level, as proposed. Furthermore, it is argued that the proposed dwelling would introduce a first floor to the built form on the site which currently does not exist. This is supported by the increase in overall floorspace proposed which I note would rise from 203.48m² to 213.2m², including the proposed ground and first floor areas.
8. From all that I have seen and read, whilst the proposal would be about 1m taller than existing buildings, I find that it would result in an overall reduction of the total build footprint on the site from 203m² to 174m² - around 12%. In addition, the total amount of hardstanding on the site would reduce by about 44%, from 396m² to 174m². The volume of the proposed building would also be less than existing buildings by approximately 4m³.
9. Taking the above into account, I find that the visual impact of the proposal on Green Belt openness would be similar to the approved dwelling. This is illustrated

by the submitted drawings, particularly Drawing No: HA17-015. Moreover, an area of hardstanding would be replaced with a more landscape garden area. Whilst I accept that this would have a limited impact on openness, it would visually reduce the overall horizontal sprawl of buildings, enabling a more compact and consolidated built form on the site.

10. The maximum height of existing buildings is 3.8m. The proposal dwelling would be 4.8m tall. As such, whilst the proposed dwelling would be about 1m taller than existing buildings, from what I observed during the site visit, I find that the ability of observers to perceive the increase in height over the existing buildings would be limited. This is due to the proposal being around 40 metres from the public highway on Mill Lane which I consider to be the main public viewpoint of the site. The proposal would also be sunk into the ground by around 0.8m. In my view, this would not be easily viewed or discerned from surrounding areas off the site and the visual impact of the proposal would be further mitigated due to the ground level on the site falling away from Mill Lane.
11. The approved dwelling is very similar in size, scale, height and layout to the dwelling proposed. Furthermore, I note that the proposed dwelling is considered by both parties to be on previously developed land. From the evidence submitted, and given the above to be the case, I also note the Council's acceptance of this in granted planning permission to the approved dwelling on that basis. Taking account of this, I find that the appeal proposal would have a similar impact on the openness of the Green Belt when compared to the approved scheme.
12. The Council states that the presence of additional roof lights and a dormer window in the roofscape of the proposal would accentuate the increased mass of development and its higher height within the landscape. It is also argued that the proposal would be located within a landscape that is open to the north and east and would be highly visible from its surroundings. I acknowledge that the features identified in the proposed roofscape would indicate the presence of a first floor. However, I find that this would not significantly alter the overall physical and visual extent, scale, mass and height of development which I consider to be very similar to the approved dwelling and also the existing buildings on site in terms of volume.
13. In relation to the open nature of land adjacent to the site and the potential wider visibility of the proposal, I find the site to be in a reasonably visually enclosed location. There are several mature trees and hedges which screen the site from the public highway and it is noted that many of these trees are to be retained. To the north and east of the site, I saw that there are significant belts of trees and shrubs which screen the site well in wider views taken from those directions. Given the sense of enclosure which these trees and shrubs provide, I find the site to be reasonably enclosed and contained in its surrounding context. As such, I disagree with the Council's characterisation of the site as sensitive and open.
14. Although marginally taller, it is evident that the extent of the overall built form on the site, as proposed, would be reduced and would form a more compact visual presence and appearance. There would be more open space around the proposed building which would also be in keeping with the pattern of development and level of openness in the Green Belt and surrounding area. In my view, the proposal would not vary greatly from the approved dwelling in terms of its scale, extent and visual impact on openness and its surroundings. Moreover, it would not result in any material increase in the volume of the built form on the site as it would consolidate and reduce the extent of building on the plot.
15. The proposal comprises the redevelopment of previously developed land and this is acknowledged by the Council. Furthermore, I find that the proposal would not

have a materially greater impact on Green Belt openness or its purposes than the existing buildings or result in any substantial harm. It would be of similar overall scale, extent and height to the approved proposal. As a result, and in accordance with part (g) of Paragraph 145 of the Framework, I conclude that the proposal would be 'not inappropriate development' in the Green Belt. It would therefore comply with Policies GB1 and GB2(A) of the Windsor and Maidenhead Local Plan (the Local Plan), emerging Policy SP5 of the Borough Plan and the Framework.

Character and appearance

16. The appeal site is within a semi-rural setting and is characterised by the mature landscape features of trees, hedgerows and shrubs which surround large, detached two-storey dwellings set within generous and spacious plots. The style of these large dwellings varies in design and materials. However, the pattern of development in the locality is consistent, as I observed during my site visit.
17. Based on the evidence and my observations, I find that the scale, extent, materials and design of the proposed dwelling would be in keeping with the character and appearance of the surrounding properties and wider area. Although the plot size of the proposal would not reflect the spaciousness of the surroundings, the proposed dwelling would be set well back from the public highway and would be proportionate to its plot size and surrounding space. The introduction of a second storey to the built form on the site would be subtly accommodated within the roofspace proposed and this would not be out of step with surrounding properties.
18. In addition to my observations, I note that no statutory or non-statutory body has raised any significant objection to the proposal. Moreover, where concerns have been raised regarding the impact of the scheme on the local landscape, these can be reasonably addressed by suitably worded conditions. Furthermore, the Council has indicated that in terms of the impact on character and appearance, the proposal would result in minimal harm and would be acceptable in relation to relevant local planning policies.
19. Consequently, I conclude that the proposed dwelling would have no significant adverse effect on the character or appearance of the surrounding area. It would therefore comply with Policies GB1 and GB2(A) of the Local Plan, emerging Policy SP5 of the Borough Plan and the relevant sections of the Framework.

Other considerations

20. As I have determined the proposal as being not inappropriate development in the Green Belt, there is no requirement to demonstrate very special circumstances to justify the scheme in its location. Nonetheless, the proposal would facilitate the use of previously developed land which has extant planning permission for a residential dwelling and would result in a more efficient use of the site.
21. I have had regard to other considerations relating to neighbour amenity, highway safety and parking, ecology and the proposed financial contribution and mitigation measures for the SPA and I find these aspects to weigh in favour of the proposal. I have also considered the Council's ability to demonstrate a five-year supply of housing land, noting the latest position submitted as being only 4.5 years. As such, I note the appellant's point that the proposal would contribute towards meeting local housing need. However, I give this only limited weight as the contribution to housing need would be minimal and there is no indication that the proposed dwelling would constitute affordable housing. I have also had regard to other appeal decisions identified by both parties in support of their cases. Whilst the relevance of these other cases is noted, I must assess the proposal before me

principally on its own merits and confirm that I have done so. Therefore, I give limited weight to these other cases in my overall assessment.

Conditions

22. I have had regard to the planning conditions suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered those conditions to better reflect the Planning Practice Guidance.
23. In addition to the standard implementation conditions relating to time and compliance with approved plans, conditions concerning detailed ground and floor levels, external surface materials, the provision of a construction management plan, the construction of means of enclosure and details regarding external lighting. These conditions are necessary and reasonable and have been imposed for reasons of character and appearance and in the interests of residential amenity of future and neighbouring occupiers.
24. Moreover, I have attached conditions regarding potential impact on habitats and roosts, biodiversity enhancements, tree and hedgerow retention and protection and the detailing and implementation of hard and soft landscaping. These are required to ensure compliance with the Framework and relevant licencing and regulations and are imposed in the interests of protecting and enhancing biodiversity, residential amenity and for reasons of character and appearance.
25. Further conditions concerning vehicle parking, movement and access, cycle parking and storage and refuse and recycling storage facilities are reasonable and required and have been attached to this planning approval in the interests of highway safety, the free flow of traffic, residential amenity and to support sustainable modes of transport. Finally, I have also removed permitted development rights. This is necessary to ensure that the approved development in this case is retained and remains acceptable in its context and that Green Belt openness is protected.
26. It is necessary that the requirements of Conditions 3, 4, 5, 6 and 13 are agreed prior to development commencing to ensure an acceptable scheme for reasons of character and appearance and in the interests of residential amenity.

Conclusion

27. Having due regard to the above matters, and based on the evidence before me, I conclude that the proposed development would be not inappropriate in the Green Belt. Whilst the proposal would have a limited impact on Green Belt openness, I find that, on balance, the harm identified would be clearly outweighed by other material considerations in favour of the proposal. The proposal would also have no significant adverse effect on the character or appearance of its surroundings.
28. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Location Plan' – Ref: P101 Rev A; 'Proposed New Dwelling & Floor Plans' – Ref: P105; 'Block Plan' – Ref: P106; 'Comparison Areas Existing & Proposed' – Ref: P107; and 'Comparison Elevations Consented & Proposed' – Ref: P108.
- 3) No development shall commence until details of all finished slab levels in relation to ground level (against OD Newlyn) have been submitted to, and approved in writing by, the local planning authority.
- 4) No development above slab level shall take place until details of the materials to be used on the external surfaces of the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out and maintained in accordance with the approved details.
- 5) No development shall take place until specifications of all finished materials to be used in any hard surfacing on the application site have been submitted to, and approved in writing by, the local planning authority and thereafter undertaken in accordance with the approved scheme.
- 6) Prior to the commencement of any works, including demolition, a construction management plan ('the plan') detailing how areas are to be accommodated and used for on-site materials storage, demolition and construction traffic (including cranes), ancillary temporary buildings, facilities for operatives and vehicle parking and manoeuvring, including any phasing of such uses during the works period, shall be submitted to, and approved in writing by, the local planning authority. The plan shall be implemented as approved and maintained for the duration of the works or as may be agreed in writing by the local planning authority.
- 7) The development hereby permitted shall not be occupied until all walls, fencing or any other means of enclosure (including any retaining walls), have been constructed in accordance with the details that have first been submitted to, and approved in writing by, the local planning authority.
- 8) Prior to the installation of any external lighting for the development hereby permitted, details (including positioning, type and lux levels) shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details and so maintained thereafter.
- 9) The demolition of the existing building or any development/works which may cause disturbance to the roosts within the site shall not in any circumstances commence unless the local planning authority has been provided with a licence issued by Natural England pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations 2010 authorising the specified activity / development to go ahead. The development shall hereafter be carried out in accordance with the approved details within the EPSL.
- 10) Prior to the construction of the dwellinghouse hereby permitted, full details of biodiversity enhancements shall be submitted to, and approved in writing by, the local planning authority. The biodiversity enhancements shall be undertaken in full prior to substantial completion of the development and retained thereafter in accordance with the approved details.

- 11) The erection of fencing for the protection of any retained tree and any other protection specified shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.
- 12) No tree or hedgerow shown to be retained in the approved plans shall be cut down, uprooted or destroyed, nor shall any retained tree be lopped or topped other than in accordance with the approved plans and particulars and without the written approval of the local planning authority, until five years from the date of occupation of the building for its permitted use. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 Tree work. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate vicinity and that tree shall be of the size and species, and shall be planted at such time, as specified by the local planning authority.
- 13) No development shall take place until full details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority and these works shall be carried out as approved within the first planting season following the substantial completion of the development and retained thereafter in accordance with the approved details. If, within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity, unless the local planning authority gives written consent to any variation.
- 14) No part of the development hereby permitted shall be occupied until vehicle parking and turning space has been provided in accordance with the relevant approved drawing(s). The space approved shall be kept available for parking and turning in association with the development.
- 15) No part of the development shall be occupied until covered and secure cycle parking facilities have been provided in accordance with details that have first been submitted to, and approved in writing by, the local planning authority. These facilities shall thereafter be kept available for the parking of cycles in association with the development at all times.
- 16) No part of the development shall be occupied until a refuse bin storage area and recycling facilities have been provided in accordance with details that have first been submitted to, and approved in writing by, the local planning authority. These facilities shall thereafter be kept available for such use in association with the development at all times.
- 17) The gradient of private drives shall not exceed 1 in 12.
- 18) Irrespective of the provisions of Classes A, B, C, E, F and G of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no enlargement of any dwellinghouse or erection of an ancillary building within the curtilage of or to any dwellinghouse the subject of this permission shall be carried out without planning permission having first been obtained from the local planning authority.

END OF SCHEDULE