



Appeal Decision

Site visit made on 8 October 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2019

Appeal Ref: APP/T0355/W/19/3225817

**Bouchra Indian Restaurant and Takeaway, Westborough Road,
Maidenhead, SL6 4AS**

- 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 Clearview Residential Limited against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref: 18/02588 dated 4 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is demolition of the existing two-storey building and the erection of 7 no. four-bedroom two-storey houses with accommodation in the roof space; and associated landscaping, amenity space and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted plans/drawings relating to a 7 no. 3-bedroom scheme, which the appellant requests I consider in determining this appeal. I have noted the appellant's reasoning for the amended scheme, and the Council's view that the revised plans should not be accepted. The proposed reduction in ridge height and reduction in bedrooms represents a material change to the original scheme and changes the description of the development.
3. I have applied the 'Wheatcroft Principles'¹ and find that the acceptance of the amended scheme would deprive those who should have been consulted on the changed development, the opportunity of such consultation. I have therefore dealt with the appeal on the basis of the scheme that was determined by the Council for 7 no. 4-bedroom dwellings.
4. The appellant has submitted a Statement of Common Ground (SoCG) as they expected the appeal to be determined under the Hearings procedure. As it is being determined under the Written Representations procedure and the Council has not signed the SoCG, whilst I have noted its contents, I have not treated this as common ground between the parties.
5. In the decision notice, the Council has referred to Policies IF7 and SP3 of the Borough Local Plan Submission Version (2017), the subject of an Examination that had been paused. On 23 October 2019 the Council agreed to a public

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

consultation (commencing 1 November 2019) on the Submission Version Incorporating proposed changes (October 2019), which incorporates various changes to address issues raised by the Examining Inspector. The relevant policies are now numbered IF6 and QP3 but have not changed in substance from the previous version. However, having regard to the stage which the Plan has reached in the examination process, I give these policies little weight.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on highway safety;
- whether it has been demonstrated that there is no longer a need for the public house as a community facility; and,
- whether the proposed development would provide adequate space for the storage and collection of refuse and recycling.

Reasons

Character and appearance

7. The appeal site lies on the eastern side of Westborough Road which is lined with mainly residential dwellings. Although some of the architectural styles vary, they are all of a similar height (approximately 7.5 – 8 metres (m)) and set back a similar distance from the highway. The former public house (PH) building has a steep pitched roof that is much higher than nearby dwellings giving it a considerable prominence within the street scene. It would be replaced by a block of three and block of four dwellings set back approximately 10.8m from the highway.
8. With an eaves height of approximately 5.4m and ridge of approximately 10.3m, the roofs would be around 0.5m taller than the existing PH building and substantially taller than the neighbouring and nearby dwellings. The roof would be out of proportion with the rest of the proposed dwellings, appearing as a dominating feature, not typical of buildings nearby. By virtue of these steep extensive roofs and resultant overall height, the dwellings would be an imposing and incongruous presence in relation to the neighbouring properties, significantly out of keeping with and harmful to the character and appearance of the area.
9. Whereas the PH building occupies less than half of the site, the new dwellings would occupy the majority of the width of the site. With small gaps between the flank walls of the terraces, and existing dwellings to the north and the south, the new dwellings would appear cramped on the site. Being set back to accommodate tandem car parking does not alleviate the visual incongruence and cramped feeling. In fitting seven dwellings and parking across the frontage the slivers of landscaping would provide little relief, adding to the feeling of the site being cramped and over-developed, and exacerbating harm to the character and appearance of the area.
10. For the reasons set out above, the proposed development would conflict with Policies DG1, H10 and H11 of the Royal Borough of Windsor & Maidenhead

Local Plan (2003) (the Local Plan). In combination and amongst other things, these require that development adheres to a high standard of design, that is of a scale, height, building lines and density compatible with and does not cause harm to the character and appearance of an area. The proposed development also would be contrary to Policy QP3 of the Borough Local Plan Submission Version Incorporating proposed changes (2019) (the BLPSV) which expects development to contribute towards achieving sustainable high quality design, respecting and enhancing local character, paying particular attention to density, massing and scale.

11. I acknowledge that the development would result in the more efficient use of previously developed land, in accordance with the principles of paragraphs 117, 118, 122 and 123 of the National Planning Policy Framework (2019) (the Framework). However, by virtue of the harm to the character and appearance of the area, the proposed development would be contrary to paragraph 127 of the Framework, which expects new development to be sympathetic to and maintain local character and add to the quality of an area.

Highway safety

12. Policy P4 of the Local Plan expects all development proposals to provide car parking in accordance with standards in Appendix 7 of the plan. These standards appear to have been superseded by the Council's Parking Strategy, adopted in 2004 (the CPS). The CPS sets out the requirement for a maximum standard of three spaces per four-bedroom dwelling in an area defined with poor accessibility, and two spaces in an area having good accessibility. Being over 800m from Maidenhead Station the development is in an area of 'poor accessibility' so the 15 spaces provided by the development (6 no. dwellings with two spaces and 1 no. with three spaces) would be deficient by six spaces.
13. Paragraph 106 of the Framework expects maximum standards should only be applied where there is compelling justification that they are necessary for managing the local road network, or for optimising the density of development in specified areas. The Council has cited known pressures for parking in the area which in principle would indicate that a departure from the maximum standard should be justified.
14. The appellant's Transport Statement has confirmed that average car ownership per household is 1.46 although this is understood to be all households. This does not provide substantive evidence of why 2 spaces for a 4-bedroom dwelling, instead of the required 3 spaces, would be appropriate in this location. I have not been provided with a parking survey to demonstrate the level of existing parking pressure in the locality. Whilst my visit can only represent a brief snapshot of normal conditions, I noted that notwithstanding a high proportion of dwellings in the street having off road parking, around half of the on-street parking was taken up, at mid-morning on a Tuesday. The convenience store across the road from the appeal site appeared to generate a significant number of vehicle movements over the duration of my visit. Furthermore, on-street parking would be likely to increase at evenings and weekends (e.g. when people return from work and/or have visitors) in what is a relatively high density street.
15. The appeal site has reasonable accessibility having regard to the general distance to shops, other services and some bus services, and Maidenhead Station. However, given the size of the dwellings and potential for larger

families and visitors, I am not satisfied that the provision of two spaces per dwelling would not result in more on-street parking. I have had regard to the moderately high density of dwellings in the area, the amount of on-street parking taken up at my visit, and the loss of further on-street parking when the development is complete through dropped kerbs outside the development. This leads me to the conclusion that the proposed development would result in an increase in the amount of on-street parking that would be significantly harmful to highway safety.

16. The proposed tandem parking results in two spaces being marginally short on their southern corner (due to the angle of the footway) of the requisite 10.8m depth in accordance with the Council's Highway Design Guide (2010) (the HDG). This could lead to vehicles overhanging the footway. This is a technical, albeit very small breach in respect of the requirements of Policy T5 which expects development to comply with the HDG. Nevertheless, it adds to my concerns about the provision of car parking and the harm to highway safety.
17. Therefore, based upon the evidence before me, I am not satisfied that the proposed development would make adequate provision for off-street parking in accordance with the CPS. The appeal scheme would therefore be contrary to Policies P4 and T5 of the Local Plan which expects development to provide adequate car parking. Whilst the Council suggest the proposal would conflict with paragraph 109 of the Framework, I have little evidence before to indicate that the cumulative impact of the development on the road network would be severe. The proposal would however in my view, fail to comply with paragraph 108 of the Framework, which seeks to ensure that the impacts on highway safety can be mitigated.

Community facility

18. The appeal site comprises a two storey PH building and car park that is understood to have ceased operating as such a number of years ago, and more recently part of the premises has been open as an Indian restaurant and takeaway. At my site visit the site was closed off, the inside of the building appeared to have been cleared out, and the roof tiles and some windows had been removed.
19. The Council's first reason for refusal states 'It has not been demonstrated that there is no longer a need for the Public House which is regarded as a community facility...'. It has been brought to my attention that following the refusal of the appeal scheme, the Council has confirmed that the appellant was granted planning permission on 24 July 2019 for a development of 6 no. 3-bedroom houses on the site (application Ref: 19/01343/FULL). In support of this revised application the appellant submitted further evidence to satisfy the Council that there was no community need for the facility. Consequently, the Council has removed its objection on these grounds.
20. In considering this appeal I have noted the content of representations objecting to the loss of the site for use as a public house. I have considered the evidence submitted by the appellant and their property agent, including the marketing of the property which has taken place. This suggests sustained marketing campaigns have taken place over a combined period of 16 months instructed by both Enterprise Inns and latterly the appellant, with various viewings and some offers made, but none understood to be seeking a future

public house use. I am satisfied that on the basis of the information provided there is no longer a need for the property to be retained as a public house.

21. Therefore, adequate evidence has been submitted to demonstrate compliance with the requirements of Policy CF1 of the Local Plan and Policy IF6 of the BLPSV. These policies seek to retain community facilities unless evidence can be provided to show that the facility is not needed.

Refuse and Recycling facilities

22. The site layout plan does not show a designated area where bins for refuse and recycling would be provided within the 25 metre carry distance guideline to the road, as set out in the Manual for Streets. Therefore, as submitted to the Council, the scheme provides inadequate provision for refuse and recycling. The Council is concerned that without such facilities, bins are likely to be stored on the Highway, which will look unsightly, and could cause a danger to pedestrian safety.
23. The proposed development has sufficient space within each rear garden to provide such facilities, albeit some at a slightly longer carry distance to that recommended (between around 25 – 35m). There would be paths provided to the back of and between the dwellings that would help make carrying refuse and recycling possible for most future occupants. Therefore, I am satisfied that should the appeal be allowed, the Council's suggested condition no. 11 would have adequately dealt with this matter. There would be no conflict with paragraphs 8 or 20 of the Framework which require development helps to minimise waste and pollution and secures sufficient provision for waste management.

Other Matters

24. I have noted the contents of the Arboricultural and Planning Integration Report (July 2018) confirming the requirement to remove a small number of relatively insignificant trees and shrubs, with opportunities for new planting to enhance the area in the future. I consider that suitable new tree planting and landscaping, which could be secured by the imposition of an appropriate planning condition, would mitigate such loss.
25. The Preliminary Ecological Appraisal (August 2018) (PEA) identified various measures to prevent harm to certain species during construction, prevent the spread of any invasive species and provide opportunities for ecological mitigation and enhancement in the new development. It also recommended a further bat survey. The appellant's Bat Survey Report (August 2018) indicated an absence of roosting bats and concluded that there would be no ecological constraints to the demolition of the buildings. The matters raised in the PEA, could be addressed by the planning conditions recommended by the Council's ecological adviser.
26. Although at the time of determining the application, the Council could demonstrate a deliverable 5-year housing land supply of 6.63 years, it has confirmed that this situation has now changed as a consequence of the publication of the revised Framework. At the time of writing the appeal statement, the Council revised this down to a 4.74 year supply. The appellant has set out how changes to the methodology in the National Planning Practice

Guidance, results in the Council only being able to demonstrate between a 2.35 to 2.83 year supply.

27. Whilst the parties are in dispute regarding the housing land supply position, as it is clear that the Council cannot demonstrate a 5-year housing land supply, in accordance with paragraph 11d) of the Framework the tilted balance must be applied. The development would result in some modest temporary economic benefits from constructing seven dwellings and once built a modest sustained benefit to the economy. The Council would receive a financial contribution towards local infrastructure through a CIL payment. There would also be a modest benefit to the aims of supporting strong, vibrant and healthy communities. The appeal scheme would result in the re-use of previously developed land and there are a small number of services and facilities that would be accessible by walking or public transport, giving the development some accessibility merits.
28. However, I have found that there would be significant harm to the character and appearance of the area, and in respect to highway safety. I consider that these adverse impacts significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework as a whole.

Conclusion

29. The proposed development would be contrary to the development plan and there are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR