



Appeal Decision

Site visit made on 18 May 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2020

Appeal Ref: APP/T0355/W/20/3246613

**Land adjacent 1 Woodside Road, Woodside Road, Winkfield, Windsor
SL4 2DP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Kingsmead Homes against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/02742, dated 30 September 2019, was refused by notice dated 10 January 2020.
 - The development proposed is described as the 'erection of detached two-storey dwelling'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Kingsmead Homes against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Procedural matters

3. Outline planning permission is sought but with access and layout to be considered at this stage. I have determined the appeal on this basis.
4. The appellant has submitted a proposed site plan and indicative street scene for approval. I have treated the street scene details as illustrative only. As such, I do not afford these details full weight and I am mindful that alternative arrangements could be proposed in any subsequent conditional reserved matters submission or submissions.

Main issues

5. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - ii) the effect on the openness of the Green Belt;
 - iii) the effect of the proposal on trees and ancient woodland; and

- iv) would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development in the Green Belt

6. The appeal site is an open parcel of land to the north west of the A332 sited within the settlement boundary of Woodside. However, the village is within the Green Belt.
7. 'Saved' policy GB1 of The Royal Borough of Windsor and Maidenhead Local Plan (incorporating Alterations Adopted June 2003) (LP) sets out that within the Green Belt approval will only be given, save in very special circumstances, for the construction of new buildings for purposes including residential development that accords with policies, including GB3 of the LP. 'Saved' policy GB3 sets out a general presumption against allowing new development but for a number of exceptions. Relevant here is exception 1) regarding infilling within the boundaries of a recognized settlement.
8. The policy states that new dwellings will only be permitted where the development represents the closing of an existing gap in an otherwise built up frontage and would not result in harm to the settlement's character. Additionally, although not part of the policy the supportive text at paragraph 2.1.18 of the LP provides additional context. This includes that proposals to develop on the very edge of the recognized area or to develop sites whose present openness contributes to the settlement's physical or visual character, will not be acceptable in principle.
9. However, these policies are aged and pre-date the first publication of the Framework. The Framework directs that policies should be afforded due weight having regard to the degree of consistency with it. Whilst there are inconsistencies, the thrust of the LP policies is broadly consistent with the Framework but provide further detail on the definition of what the Framework describes as limited infilling. As such, I afford them moderate weight.
10. Additionally, both parties have drawn attention to the Council's emerging policy within the Royal Borough of Windsor & Maidenhead Local Plan 2013-2033. However, both parties indicate that it should be afforded limited weight and I have no evidence to reach a contrary conclusion. Nonetheless, it is material. Although very similar it broadens the definition of infill to be the infilling of a small gap within an otherwise built up frontage or a group of houses.
11. The Framework sets out at paragraph 143 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings should be regarded as inappropriate development, unless they meet the exemption criteria at paragraph 145 a) – g). These include the limited infilling in villages. However, the Framework does not provide any definition of limited infilling. As such, it remains a judgement for the decision maker.
12. The appeal site is on the edge of the built-up area of the village and has an open appearance which contributes positively to the low-density rural character of the village. It provides a sense of space on arrival to Woodside from the busy A332. The proposal, even though sited to the northern part of the appeal

site would erode this spacious and open character. Furthermore, the proposal does not represent the closing of an existing gap within a built-up frontage. The site is located at the end of Woodside Road beyond the built form on the south-west side of the road. It is at the very edge of the recognized settlement area. The A332 does not have a built-up frontage. As such, the proposal would not meet the definition of infill within the LP.

13. The appeal site does not relate strongly to any group of houses. It is sited adjacent to 1 Woodside Road. However, to the rear of the site the housing fronts onto a different road and the built form is not in close proximity. The development of Potbury Close to the west is separated by numerous open private rear gardens. On the opposite side of Woodside Road, I observed the built form projects closer to the A332. However, whilst this has dormer windows facing toward No 1, the built form on that side of the road is sited behind a fence and high hedge. As such, it does not relate strongly to the appeal site and the proposal would not form part of a group of houses with it. Therefore, the proposal would not form infill within a group of houses as allowed under emerging policy.
14. The appellant has provided several appeal decisions in support of their case that the LP definition of infill should not be used. However, I have already acknowledged that the weight to be afforded to the LP policies here is modest and as such I consider that the LP definition is material and adds useful context when considering the proposal against the Framework. Whilst the proposal relates to only one dwelling and may therefore be considered limited, for the reasons given above it would not represent a form of limited infilling under paragraph 145 e) of the Framework having regard to the specific circumstances of the appeal site and its context.
15. Therefore, in conclusion on this main issue the proposed dwelling would be inappropriate development in the Green Belt having regard to the Framework, the relevant development plan policies (including emerging policies). The proposal would be contrary to 'saved' Policies GB1 and GB3 of the LP and Section 13 of the Framework. These policies seek to protect the Green Belt from inappropriate development.

Openness of the Green Belt

16. The appellant has contended that the site is not inappropriate development in the Green Belt and as such not harmful to its openness or the purposes of including land within it. However, as I have found the development to be inappropriate it is necessary for me to also have regard to the effect on the Green Belt's openness.
17. 'Saved' policy GB2 of LP sets out that within the Green Belt permission will not be granted for new development if it would have a greater impact on its openness. This is broadly consistent with paragraph 133 of the Framework which sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
18. The proposal would introduce the built form to a site that is currently open on the very edge of the village. The proposal would erode the open and spacious character at the entrance of the village both visually and spatially. The appeal site contributes significantly to this openness. Whilst the proposal would have a

modest density it can only reduce openness on a site that is currently undeveloped.

19. Therefore, in conclusion on this main issue the proposal would harm the openness of the Green Belt. As such, the proposal would be contrary to 'saved' Policy GB2 of the LP and Section 13 of the Framework.

Trees and ancient woodland

20. The Council considers that the trees and vegetation between the appeal site and the A332 is ancient woodland. This is a narrow strip at its eastern end, increasing in depth to the south west as part of a far larger area of land with a sylvan character and appearance. The Council have reached this conclusion based on an Ancient Woodland Inventory Review (dated June 2019) (Inventory Review) carried out by Thames Valley Environmental Records Centre on their behalf. This has been submitted to Natural England so that the land may be included on the national inventory. However, I have no evidence to indicate that it has been verified or approved by Natural England. Furthermore, the Council's own evidence sets out that Natural England have previously advised them that the land is not ancient woodland.
21. The Framework defines ancient woodland within the glossary at annex 2 as an area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites. On that basis it does not need to be currently included in the national inventory to be considered as ancient woodland. Furthermore, I have no evidence to reach a conclusion contrary to the findings within the Inventory Review and as such I place significant weight on its conclusions.
22. Whilst the vegetation between the appeal site and the A332 is a relatively small wedge at the periphery of a much wider woodland area that does not in my mind necessarily diminish the need to protect what the Framework sets out as an irreplaceable habitat. Paragraph 175c) states that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
23. Additionally, the Guidance – Ancient Woodland, Ancient Trees and Veteran Trees: Protecting them from Development (Standing Advice) sets out a strategy to avoid impacts, then mitigate and finally compensate as a last resort. The layout of the development details the dwelling and associated parking being located away from the green wedge. Moreover, the appellant's Arboricultural Report, dated September 2019 by Certhia Consulting Ltd (Arboricultural Report) provides details of tree root protection areas and shading. This indicates that no direct impacts would occur to the woodland. I have also had regard to potential indirect impacts. However, the existing context includes likely significant disturbance from existing nearby residential development and the traffic on the busy A332. I find that one additional dwelling and the use of the land as garden is unlikely to cause any indirect effects over and above the existing context. This includes gardens directly adjoining more substantial areas of woodland immediately to the south west.
24. As such, I conclude that there would not be any demonstrable impact on the ancient woodland and I find it unnecessary to consider mitigation (which the

Standing Advice states includes 15 metre buffer zones) or compensation measures.

25. Finally, the Council have raised concern over the potential impact on an Oak tree, identified as T3 on the appellant's Arboricultural Report. This has been identified as a B-category tree and positively contributes to the character and appearance of the area. The proposed parking area would be located within the Oak's tree root protection area and the Council is concerned that harm to roots may arise from this. However, the appellant's Arboricultural Report details at paragraph 9.5 why no special surface treatments are required, and I have no evidence to reach a contrary conclusion. Even if I did, I consider that this is a matter that could reasonably be addressed through appropriate conditions if I were minded to allow the appeal. Furthermore, the Council's arboriculturalist has raised concern that this may be the siting for a garage. However, no such proposal is before me at this time.
26. Therefore, in conclusion on this main issue the proposal would not have a harmful effect on trees and ancient woodland. As such, the proposal would not be contrary to 'saved' Policies N6 and DG1 of the LP, policy NP/ENV2 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011-2026 (adopted 29 April 2014) or paragraph 175 of the Framework. These seek to protect the character and appearance of the area through protection of its features, including landscaping and trees. Furthermore, they seek to prevent the loss or deterioration of ancient woodland.

Other considerations

27. The Council have stated that they are unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the Framework. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 should therefore be applied. However, I have applied policies of the Framework that protect areas or assets of particular importance and found that they provide a clear reason for refusing the development proposed.
28. Nonetheless, paragraph 59 of the Framework refers to the objective of significantly boosting the supply of homes. However, the provision of one additional unit would make little meaningful difference. When judged against some of the core planning principles the proposal would perform well in that it would be within a settlement boundary with access to the services and facilities of the village. These factors weigh positively in favour of the development.
29. The appellant highlights that the proposal is for outline planning permission with only access and layout to be determined at this stage. They highlight that the access has not formed one of the Council's reasons for refusal. Furthermore, the effect on the character and appearance of the area has not been raised as an issue beyond the effect on trees. But I have found no harm in relation to the effects of the proposal on trees and ancient woodland. However, these factors are broadly neutral considerations.
30. Paragraph 144 of the Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whilst there are other considerations in favour of the proposal, even if taken cumulatively they do not clearly outweigh

the identified harm. The Framework states that harm to the Green Belt should be attributed substantial weight.

31. Therefore, in conclusion on the final main issue the other considerations in this case do not clearly outweigh the identified harm. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusions

32. For the reasons given above I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR