
Appeal Decision

Site visit made on 2 June 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2020

Appeal Ref: APP/T0355/W/20/3244531

Land rear of 17 Ray Park Avenue, Maidenhead SL6 8DP

- 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 and Mrs Leiserach against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/01185, dated 15 April 2019, was refused by notice dated 12 July 2019.
 - The development proposed is demolition of garages and erection of two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The decision notice refers to a number of Policies from the Submission Borough Local Plan. As this emerging policy does not yet form part of the development plan for the Borough and may be subject to further change before it is adopted, I have afforded it limited weight in the determination of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character or appearance of the Maidenhead Riverside Conservation Area, the setting of 17 Ray Park Avenue, and upon existing trees on the site; and
 - Whether the proposed development meets the Sequential Test in respect to flood risk.

Reasons

Effect upon the Conservation Area

4. The appeal site comprises land to the rear of 17 Ray Park Avenue. It is partly occupied by a single storey garage block. Immediately to the front of the garage block is an area of hardstanding. To the south the boundary is heavily treed. The northern boundary is identified by a wooden fence, with the west boundary marked by a brick wall. Between the appeal site and the rear parking area that serves 17 Ray Park Avenue, is a well-established conifer hedge.
5. The site lies within the Maidenhead Riverside Conservation Area (CA), with the northern and western boundaries of the appeal site also forming the boundaries

- of the CA. The CA is focussed around Ray Park Avenue and Ray Mead Road, with The Maidenhead Riverside Conservation Area Appraisal (MRCAA) identifying that the origins of the area lie with the construction of three large Georgian Houses where around which, in the late 19th century/early 20th century, a suburban development was laid out.
6. The character of the CA is established through the layout of the plots and the architectural detailing of the buildings. Properties are large, detached residential buildings set back from the road, distinctive in their design, often with landscaping, gravel drives and gates to the front. The layout reflects its planned nature, which reinforces its suburban characteristic. Landscaped frontages and the presence of mature planting and trees creates a verdant character to the area.
 7. The host property, No 17, is a non-designated heritage asset. The MRCAA identifies that this building forms one of a group of properties, along with 9, 11, 13 and 15 Ray Park Avenue that are noted as a group of significant non listed buildings. The significance of the building therefore derives from its architectural detailing and its relationship with surrounding properties.
 8. The proposal would demolish the existing garages on site and replace them with a pair of semi-detached, 4 bedroomed dwellings. The dwellings would be two storeys in height, with accommodation provided in the roof space. Vehicular and pedestrian access would be via the existing access to the side of the host dwelling. Parking would be provided directly to the front of each dwelling, with private garden space to the rear of each plot.
 9. The proposed dwellings would be semi-detached, set within smaller plots, in a backland location. Within this part of the CA there does not appear to be other instances of backland development and, whilst there are a number of modern developments nearby, these lie outside of the CA. The siting, scale and setting of the dwellings would therefore be out of keeping with the established character of the area and as a result, the scheme would appear cramped within the plot, indicative of overdevelopment of the site.
 10. The existing buildings on the site, whilst not being of any significant architectural merit, are low key, functional and ancillary in use and, as such, make a neutral contribution to the character and appearance of the CA. In contrast, the proposed development would be none of these things. Rather it would be a large, readily perceivable, strident feature, which would be at odds with and harmful to the grain of the surrounding urban pattern.
 11. The host building and those around it, are good examples of the distinctive design and architectural detailing of the properties within the CA. The design of the proposed dwellings, whilst they would include some features and articulation of the elevations, overall would fail to compliment the architectural quality of the host building, a non-designated heritage asset, and other buildings within the CA. The proposed development would therefore fail to respond to the historical significance of its immediate locality and would constitute harm to the setting of the non-designated heritage asset.
 12. It is proposed that all existing trees on the site would be retained. The plans before me show that the dwellings would be constructed outside of the root protection areas of those trees. Furthermore, evidence submitted with the appeal indicates that the retention and protection of all trees on site during

construction is possible, although no-dig areas would be required to deliver the four parking spaces in front of the southernmost dwelling. Whilst I have not been provided with any details to show how this would be satisfactorily achieved, from the information before me, it appears that this is a matter which could be addressed by a suitably worded planning condition.

13. A line of well established, large mature trees lies along the southern site boundary, with their canopies extending over a substantial part of the site. At the time of my site visit only the two northern garages within the existing block were not shaded by these trees. I note that works to a number of these trees has recently been approved (19/01289/CA), however I have not been presented with any evidence to demonstrate how these works would reduce the potential for overshadowing of the site. Due to the siting of the dwellings, it is therefore likely that the proposed rear garden space of the dwellings would be shaded by these trees. This could potentially lead to pressure for these trees to be reduced or removed, which would have an adverse effect upon the character of the area.
14. Reference has been made to the impact of the scheme on trees to the front of the host property. Whilst these trees are not highlighted on the submitted tree survey, from what I have read and seen during the appeal process I have found no good reason to believe that development would have an adverse effect upon them. In the same regard, reference has also been made to the provision of utilities to serve the proposed dwelling and in particular the effect these works would have upon these trees. Whilst I have not been provided with detailed information, such matters appear to be capable of being adequately addressed via a suitably worded condition.
15. I have had regards to my duty under S72(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 as to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Accordingly, I conclude the proposal would cause less than substantial harm to the significance of the Maidenhead Riverside Conservation Area as a designated asset. Paragraph 196 of the National Planning Policy Framework (The Framework) requires such harm to be weighed against the public benefits of the proposal.
16. I have considered the issue of the provision of two additional dwellings in terms of their contribution to the supply of housing in the area, as well as in respect to helping to support local services and facilities and provide investment during the construction. However, given the modest scale of the development, the associated benefit carries only limited weight relative to the harm and the associated development plan policy conflict identified above.
17. For the reasons outlined above, I therefore conclude that the proposal would not secure the protection of existing trees on site and would fail to preserve the character or appearance of the Maidenhead Riverside Conservation Area and it would cause less than substantial harm to its significance as a designated asset. In the absence of any significant public benefits to outweigh this harm it would be in conflict with saved Policies DG1, N6, CA1, CA2, HE1, H10 and H11 of the Royal Borough of Windsor and Maidenhead Local Plan (RBWMLP), Policies NR2 and SP2 of the Borough Local Plan Submission Version 2018 and paragraphs 127 and 130 of The Framework. Amongst other things, these policies seek to conserve the local character and historic environment and

protect existing trees. The proposed development would also conflict with the aims of The Framework as it would fail to sustain the significance of the designated heritage asset where the public benefits would not outweigh the harm.

Flooding

18. Both parties agree that the appeal site is located within Flood Zone 3 and that for the type of development proposed, paragraphs 157 and 158 of the Framework identify that a Sequential Test is necessary to steer new development to locations that are at the lowest risk of flooding. The appeal is supported by a Sequential Test, with the study area and the parameters for the search, in relation to site size and capacity, agreed between the parties. The Council however, disagree with the use of their Housing and Economic Land Availability Assessment (HELAA) for identifying sites, on the basis that it does not provide a detailed list of all sites available and that further evidence should be presented to show how the assessment has gone beyond the HELAA. Concern is also raised in relation to the conclusion reached on one of the assessed sites.
19. 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.
20. The purpose of the HELAA is to identify sources of land to help meet development needs across a specific study area. From a review of the sites presented within the appendices to the Sequential Test, it is clear that a significant number of the considered sites from the HELAA were not comparable with the appeal site, either due to their size or capacity. This highlights an issue with regards to relying on the HELAA when seeking to identify potential small sites. By relying on HELAA, a significant number of what might otherwise be reasonable alternative sites within Flood Zones 1 or 2, could have been excluded on the basis that they are too small for inclusion within the HELAA. Indeed, given the modest size of the site, it seems reasonable to assume that there is a good likelihood that such alternative sites do exist. At this point, a further search through other sources would have provided a more complete picture. Whilst it is possible that this further search may have yielded no further sites, without this additional evidence, it is not possible for me to conclude that there are no other reasonable alternative sites, which are at a lower risk of flooding.
21. I note from the conclusion of the Flood Risk Assessment that the proposal would be unlikely to increase the risk of flooding elsewhere and that the development can be made flood resilient. However, without more evidence in relation to the availability of reasonable alternatives, this does not outweigh the requirement in the Framework to direct development to areas at a lower risk of flooding. It is therefore concluded that the need for the proposed development to be located on land at a lower 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.
22. For the reasons outlined above, I conclude that the proposal fails to meet the requirements of the Framework and, in this regard, is contrary to saved Policy

F1 of the RBWMLP and Policy NR1 of the Borough Local Plan Submission Version 2018 and paragraphs 157 and 158 of the Framework. These policies, amongst other things, seek to direct new development to locations of least flood risk.

Other Matters

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

Conclusion

24. I conclude, for the reasons outlined above, that the appeal should be dismissed.

Adrian Hunter

INSPECTOR