



Appeal Decision

Site visit made on 25 August 2020

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2020

Appeal Ref: APP/T0355/W/20/3249168

Oaklea, 20A Cromwell Road, Ascot SL5 9DG

- 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 James Gillespie against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/02535, dated 11 September 2019, was refused by notice dated 19 February 2020.
 - The development proposed is demolition of existing single dwelling house. Construction of new building comprising 4 x 2 bed flats with off street parking for 4 cars and provision for refuse and recycling storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects on:
 - the Thames Basin Heaths Special Protection Area (the SPA); and
 - the character and appearance of the area.

Reasons

Thames Basin Heaths

3. The appeal site lies within 5 km of the SPA. The Council has published its 'Thames Basin Heaths Special Protection Area Supplementary Planning Document (Part 1)' (the SPD). This explains that the SPA is designated to protect a network of important bird conservation sites which provide habitats for populations of Dartford warbler, nightjar and woodlark which are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
4. Under the Habitats Regulations I am unable to grant planning permission for a proposal where it, either on its own or in combination with other plans or projects, is likely to have a significant effect on the SPA without having undertaken an appropriate assessment in light of the SPA's conservation objectives, and ascertained that it will not adversely affect the integrity of the site.

5. Natural England, the Government's appropriate nature conservation body, considers that any new residential development resulting in a net increase in the number of dwellings within 5 km of the Thames Basin Heaths SPA could have a significant impact upon it, either alone or in combination with other plans or projects. This is due to the potential for increased recreational use of the SPA resulting in disturbance to the protected ground and near ground nesting birds. This evidence is not disputed.
6. In light of this evidence I cannot conclude that the proposal will not have an adverse effect, and thus need to move to the second, appropriate assessment, stage. To this end the SPD indicates that mitigation can be provided through financial contributions towards the provision of Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring. The appellant accepts this approach and has confirmed that he is willing, in principle, to provide this through the provisions of a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
7. However, while I have been provided with a draft Planning Obligation, I do not have a completed Obligation which would ensure that the relevant contributions are secured. Without that obligation I am unable to conclude as part of an appropriate assessment that the proposal, on its own or in combination, will not have an adverse effect.
8. Further, on the evidence in front of me, I do not consider this case to be so exceptional that a planning obligation should be secured by condition. As the national Planning Practice Guidance makes clear (Reference ID: 21a-010-20190723) ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.
9. Without the obligation in place I can only conclude that the proposal would be harmful to the SPA. It would therefore be contrary to Policy NRM6 of the South East Plan which requires development that is likely to have a significant effect on the SPA to demonstrate adequate measures are put in place to avoid or mitigate any potential adverse effects, the SPD and paragraph 175 of the National Planning Policy Framework (the Framework) which states that if significant harm to biodiversity cannot be avoided, mitigated or compensated for then planning permission should be refused.

Character and appearance

10. The appeal site lies on the west side of Cromwell Road. This is a narrow street with frontage development. Towards the northern end, development is principally made up of pairs of semi-detached dwellings which form part of the Victorian Village in the Council's Townscape Assessment. While buildings of this character continue further to the south on the opposite side of Cromwell Road, they do not extend as far as the appeal site on the western side, with the existing appeal property marking a significant change being a detached property in 1930s style. The properties to the south of the appeal site are also in different styles; those immediately to the south being of 1930s style although built in the last decade and these are set back behind a small parking area. The appeal site thus marks a significant change in the character of the street scene and area and, in my view, the appeal site relates more to the area to the south than that to the north.

11. The appeal proposal would locate the new building of four 2-bedroom flats a comparable distance into the site as the buildings to the south with parking in front and it would be a similar style to those properties. It would be of approximately the same width as the existing property but would extend further into the site. However, this would be a similar depth to those immediately to the south. While it would be larger than the existing property it would be in keeping with the overall scale and bulk of buildings to the south of the appeal site. There would be more dwellings than at present, and therefore it would be at a higher density, but as the appeal site is larger than others in the area this would be comparable with that in the surrounding area.
12. The proposal would therefore be in keeping with the character and appearance of the area. It would comply with Policies NP/DG1, NP/DG2 and NP/DG3 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan which require development to respond positively to local townscape, respecting the form and character of the street and surrounding area, be of similar density, scale and bulk to the surrounding area and be of good quality design. It would also comply with Policies DG1 and H11 of the Royal Borough of Windsor and Maidenhead Local Plan which require that the design of new buildings should be compatible with the established street façade, and not to cause damage to the character of the area. It would also comply with the relevant policies of the Framework relating to design.

Other matters

13. Local residents have expressed their concerns over a number of other matters. I can understand concerns about parking, but from what I have read, the proposal would comply with the relevant parking standard, and therefore not give rise to additional highway safety concerns or inconvenience to other road users. I consider that issues relating to disruption during construction and drainage could be dealt with by planning conditions.

Conclusion

14. While the proposal would be in keeping with the character and appearance of the area, the issue of the effects on the SPA is overriding and consequently, for the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR