



Appeal Decision

Site Visit made on 9 December 2020

by S Thomas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/T0355/W/20/3257723

**Land at Lady Margaret Cottage, Charters Road, Sunningdale, Ascot
SL5 9QD**

- 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 David Chapman (Barham Developments Ltd.) against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/03547, dated 18 December 2019, was refused by notice dated 2 March 2020.
 - The development proposed is construction of a detached four bedroom dwelling with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of development in the banner above and as quoted by the appellant on the appeal form. This adequately describes the proposed development.
3. During the course of the appeal the appellant submitted a completed S106 legal agreement dated 25 November 2020. This was to secure mitigation measures for effects of the development on the Thames Basin Heath Special Protection Area (SPA). I am satisfied no party would be prejudiced and I have accepted this legal agreement.

Main Issues

4. The main issues are the effect of the proposed development on (i) the character and appearance of the area; (ii) protected trees and (iii) the living conditions of neighbouring occupiers of 'The Garth' in respect of outlook.

Reasons

Character and Appearance

5. The appeal site is located within the existing rear garden of the appeal property and accessed off Lady Margaret Road. The general character along Lady Margaret Road is of large detached properties set within spacious grounds with the hedgerows and trees to the front of the properties contributing to the area's attractive verdant character. The appeal site contributes to this spacious character.
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6. The proposed dwelling would be sited with one side elevation facing Lady Margaret Road. It would be viewed in the context of the much larger properties set in spacious grounds along this road which generally face the street scene. The proposed layout would depart from this general character and the dwelling would appear cramped into the plot at odds with the general character of the built form along Lady Margaret Road.
7. Due to the closeness of the proposed new dwelling to the existing garage, the built form would look cramped in the Lady Margaret Road street scene. Furthermore, the dwelling would be taller than the existing property and together with the level of fenestration on the side elevation facing Lady Margaret Road; these matters would only serve to emphasise the prominence of the dwelling in the street scene. Whilst I recognise that the trees would provide some screening during the summer months, I consider the dwelling would be much more visible during the winter months when there is no leaf coverage. This was the case at the time of my visit.
8. Whilst I note that the plot size would be larger than plots along Charters Road to the north and east, by virtue of the site's position fronting Lady Margaret Road it would be seen in context with the larger properties along this road. I note the appellants reference to Ladymeade, however this dwelling is set back from the road via a private drive and is not viewed in the same context as the appeal site. Similarly, Courtleigh Manor and the adjoined Courtleigh House appears as a substantial building fronting Lady Margaret Road set in spacious grounds and set back into the site. Therefore, the existence of surrounding properties does not persuade me the appeal scheme would be acceptable.
9. By virtue of its siting, layout and scale the proposed dwelling would not successfully integrate and sit comfortably into the street scene. Whilst it would be set back from the road this would not effectively mitigate its cramped appearance within the plot.
10. For the reasons above, the proposal would result in harm to the character and appearance of the area. Accordingly, it would be in conflict with saved Policies H10, H11 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted 2003) (Local Plan) and Policies NP/DG1, NP/DG2 and NP/DG3 of the adopted Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011-2026 (Neighbourhood Plan) (2014). Amongst other matters these policies seek that development proposals should be of the highest standards of design in order to create attractive residential areas, should not harm the character and appearance of the area with regard to density, should not result in a cramped appearance and the scale and layout should respond positively to townscape and integrate with local surroundings.
11. The proposal would also be contrary to the National Planning Policy Framework (the Framework) which states that development should be visually attractive as a result of layout and are sympathetic to local character, including the surrounding built environment and landscape setting.

Protected Trees

12. The southern boundary of the site has a number of prominent trees, protected by a Tree Preservation Order. They are a feature of visual interest along Lady Margaret Road and contribute to the local landscape character of the area. Whilst these trees were not in leaf during my visit it is clear from the evidence,

they make a significant contribution to the verdant character of the street scene. Of these, T6 and T7 are in closest proximity to the appeal scheme. The amended Tree Protection Plan¹ indicates that the adjusted Root Protection Zones (RPZ) of T6 would be outside the footprint of the proposed building. Given the distance of this tree from the proposed dwelling I am satisfied that the proposal will not result in harm to this tree.

13. T7 is located in closer proximity to the proposed dwelling. The adjusted RPZ for this tree would conflict with the development footprint. The evidence indicates that there is rooting activity within the area of the proposed built footprint with significant roots present. The trial pits indicate that roots grow through the trial trenches and thus it is likely they extend further into the garden. Whilst the development would only incur into 5% of the area of the RPZ, this is a mature beech tree which is likely to be particularly susceptible to root damage. Clearly, the potential impacts on root protection areas could harm the tree's future health. I am not satisfied that the construction of the dwelling can be done a manner that would not detrimentally affect the health of this protected tree.
14. Furthermore, considering the number of habitable windows on the side elevation facing Lady Margaret Road and the very close proximity of T7, this is likely to lead to overshadowing of these windows and also other associated issues with leaf fall in gutters. This is likely to cause an inconvenience to future occupiers and there is likely to be pressure for post development pruning of this tree to the detriment of its future health and appearance.
15. Accordingly, based on the available evidence, there is likely to be harm caused to existing tree T7 contrary to saved Policy N6 of the Local Plan and Policies NP/EN2.1, NP/EN2.2 and NP/EN3 of the Neighbourhood Plan. Together these seek that development should set out how the health of trees will be protected during development and not result in an unacceptable impact on the landscape or environmental value of the site. With regards to potential impact on protected trees, I do not consider the proposal would result in specific conflict with the provisions of saved Local Plan policy DG1.

Living Conditions

16. The proposed dwelling would be sited adjacent to the side boundary of the neighbouring property 'The Garth'. Whilst existing large conifer trees will remain along this boundary which will provide some screening, nevertheless, the scale and height of the dwelling and proximity to the boundary would result in it being particularly prominent and imposing when viewed from the rear garden of The Garth, in particular the side elevation of the proposed dwelling. This will be accentuated by the proposed removal of tree group 7. The proposed dwelling would appear overly dominant in views from the garden and would harm outlook for the occupiers of this property when enjoying their private garden.
17. For the above reasons, the proposal would result in harm to the living conditions of existing occupiers of The Garth with regard to outlook. Whilst I do not find clear conflict with the specific provisions of saved policies H10 and H11 of the Local Plan, by virtue of the harm to the living conditions of neighbouring occupiers the proposal would conflict with Paragraph 127 of the Framework

¹ Y1/19.03/BD/08A

which states that developments should create places with a high standard of amenity for existing users.

Other Matters

18. The appeal site lies within 5km of the SPA, designated for its populations of three bird species. The Council have undertaken an Appropriate Assessment and concluded that the occupants of the development would put extra pressure on the SPA.
19. The completed S106 agreement would appear to secure the necessary avoidance and mitigation measures and access monitoring arrangements to mitigate the impact on the SPA, which would be directed to the Council's identified Suitable Alternative Natural Greenspace (SANG) at Allen's Field. This is in line the Council's preferred approach to SPA mitigation on smaller housing sites in line with the Council's Thames Basin Heath SPA Supplementary Planning Document (2010). Whilst this appears to have overcome the Council's concerns regarding the effect of the development on the SPA, in light of my findings on the main issues above, I do not consider it necessary to look at this matter in detail.

Planning Balance

20. The Council is unable to demonstrate a 5-year supply of housing (5-year HLS) and therefore paragraph 11 of the Framework is engaged. Whilst there is a dispute between the parties regarding the exact 5-year HLS figure, the shortfall is considerable and attracts significant weight.
21. If the planning obligation to secure SPA mitigation measure were to be acceptable, the policies in the Framework that protect assets of particular importance would not provide a clear reason for refusing the development.
22. The proposal would make a welcome contribution of one new dwelling to the area's housing stock in line with the Government's aim in Framework Paragraph 59 to significantly boost the supply of homes. It would also include modest associated economic and social benefits, and it would be situated in an accessible location. However, even if the shortfall in the 5-year HLS is of the scale suggested by the appellant, I find that the adverse impacts of granting permission, including the harm to the character and appearance of the area, living conditions of existing occupiers and to a protected tree, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

23. The proposal would conflict with the development plan and the other considerations, including the provisions of the Framework, do not outweigh this finding. Therefore, for the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR