



Appeal Decision

Site visit made on 24 May 2021

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021.

Appeal Ref: APP/T0355/W/20/3253114

437-441 St. Leonards Road, Windsor, SL4 3DT

- 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 Dr C Marsden-Huggins against the decision of The Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/01513, dated 31 May 2019, was refused by notice dated 5 December 2019.
 - The development proposed is described as full planning application for the demolition of the existing buildings on site and the erection of a 50-bed hotel with associated facilities.
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Decision

1. The appeal is allowed and planning permission is granted for full planning application for the demolition of the existing buildings on site and the erection of a 50-bed hotel with associated facilities at 437-441 St. Leonards Road, Windsor, SL4 3DT, in accordance with the terms of the application, Ref 19/01513, dated 31 May 2019, and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matters

2. Since the Council made its decision the Windsor Neighbourhood Development Plan 2019-2034 (2021) (WNP) was approved at referendum on 6 May 2021. Although the Council has not made the order bringing the WNP into effect, I accord it substantial weight.
3. I have also had regard to The Royal Borough of Windsor & Maidenhead Borough Wide Design Guide SPD (2020) (SPD) which was adopted after the Council's decision.
4. The application plans include a landscaping scheme which shows 3 trees planted along the front of the site. As part of the appeal, the appellant has included a plan which replaces the trees with hedge plants. As this is a minor amendment, and the nature of concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take this amended plan into account. I shall therefore determine the appeal and application for planning permission on the basis of the plans referred to on the decision notice as well as the amended landscaping plans submitted as part of the appeal.

Main Issue

5. The main issue is the effect of the proposed development upon the character and appearance of the area, with particular reference to the proposed building's scale and the proposed landscaping including the removal and replacement of trees.

Reasons

6. The appeal site is a former petrol filling station used for car sales. It is located on the B3022 St Leonards Road opposite the junction with the B3173 Imperial Road. To the rear of the site there is a former shop, car showroom and garage workshop. A canopy roof extends from the former shop and the showroom over the petrol pumps and part of the garage forecourt. To the side of the showroom there is a 2 storey property which would have originally been a house but according to the applicant has been used as an office for the past 30 years. There are 2 entrances to the site from St Leonards Road.
7. A footpath to Windsor Cemetery runs along one boundary along the side of the site separating it from the adjacent Victorian houses. The rear gardens serving a modern block of flats, Littleacre, runs along the other side boundary. Windsor Cemetery lies to the rear.
8. Because of the site's junction location, the streetscape approaching it from either direction along the B3022, and along Imperial Road, are important in defining the character and appearance of the area around it.
9. The streetscape along the St Leonards Road section of the B3022 from Windsor Town Centre is varied. It comprises a mix of 2 storey houses including semi-detached and detached post Victorian properties interspersed with Victorian houses, including 2 terraces and a semi-detached house on the same side of the appeal site on the immediate approach to it. Houses are either set behind low brick walls, or hardstanding to accommodate parking. Rear gardens back onto the footway on the opposite side of the road with wooden and concrete panel fences along their boundary. These end at the 3 storey flatted development, Imperial Court, which is opposite the appeal site and extends to the junction with, and along the corner of, Imperial Road.
10. Beyond Littleacre, heading along the B3022 towards Bracknell, detached houses are set well back from the road and mainly screened behind front fences, hedges, and trees. On the opposite side of the road, beyond the Imperial Road junction, there is a small modern parade with ground floor shops. Beyond that there is a small terrace of Victorian houses. The approach to St Leonards Road along Imperial Road is open on one side with school buildings set back behind mature trees, landscaped areas and playing fields. On the Imperial Court side there are large detached houses set well back from the road behind front gardens and driveways.
11. Although the area is categorised as 'Victorian Village' in the Royal Borough of Windsor and Maidenhead Townscape Assessment, the Victorian housing on the approach to the site is surrounded by more modern housing, as I have described. The Imperial Court flats opposite it, define the site's context as much as development either side of it. As such, Victorian era development does not define the character of the area around the appeal site. Furthermore, the site provides a prominent gap along St Leonards Road between the older

Victorian housing and the modern Littleacre flats, thus marking the end of older housing on this side of the road. It interrupts the residential road frontage. The existing buildings on the site, by virtue of being set back further from the road than adjacent residential properties and being predominantly single storey, also interrupt the building line and roofscape along this stretch of St Leonards Road.

12. The proposal is to demolish the existing buildings and replace them with a 4 storey, 50 bedroom hotel with underground parking. The proposed building has been designed with a symmetrical stepped profile. The sides would be 2 storey, stepping up to a third storey which would then step up again to a flat roof. The roof would be set in from the eaves with a recessed section in its centre to further break up its mass when viewed from the street.
13. It would cover a substantial part of the plot. Most nearby buildings including the Victorian houses and Littleacre and Imperial Court flats have limited landscaped curtilages visible from St Leonards Street. Therefore, in the context of the appeal site's immediate surroundings I do not consider the building would appear cramped or the site overdeveloped.
14. The site is separated from neighbouring properties by the cemetery footpath on one side and rear gardens serving the flats on the other. The sides of the proposed building would be further set in, increasing the building's distance from its neighbours. The gap between buildings would be significant such that the proposed building would appear as a standalone structure rather than part of a continuous built frontage. The width to height ratio would lead to a well proportioned building which would follow the approximate building lines of properties along this stretch of road.
15. Whilst the roof height would exceed that of its neighbours', paragraph 7.25 of the SPD acknowledges that the form and mass of buildings can be manipulated to ease the change and moderate the perceived scale of buildings. In this case, the distance between buildings and the stepped profile and insets that break up the form of the proposed building would achieve the aim of the guidance in this regard and prevent the building from dominating the street scene. It would also be a comparable height to the Imperial Court flats opposite. I also note that the roofscape rhythm is not uniform on the appeal site side of the road. The nearest predominantly 2 storey terrace includes two 3 storey projecting pitched roof gables which add variety to the roof forms and heights in the vicinity of the appeal site.
16. Overall, I am satisfied that the proposed development would not appear cramped or overly dominant and would not harm the character and appearance of the area. There would therefore be no conflict with Policy DG1 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations adopted June 2003) (LP), the SPD, and paragraph 130 of the National Planning Policy Framework which require development to have regard to the scale, height and building lines of adjacent properties and not harm the character of the surrounding area.
17. The Council's other concern is the removal of existing trees and whether those proposed to replace them would survive in the long term, and the effect that their loss, and other proposed soft landscaping, would have on the character and appearance of the area.

18. Trees identified for removal in the appellant's Aboricultural Impact Assessment (AIA) include T1 (Ash Tree), T5 (Ash Tree), T9 (Foxglove Tree), T11 (Ash Tree), H17 (group of Leyland and Lawson Cyprus trees) and T14 (Ash Tree). All of them were assessed as being of low quality generally and of low amenity value. The Council has not disputed that assessment.
19. T1 at the front corner of the cemetery footpath contributes most to the street scene because of its prominent location. However, it is assessed in the AIA as being in a poor condition with significant wounds because of its growing into the adjacent fence. Most other trees that line the cemetery path would be retained, except T5, and replacement trees are proposed. The Council had concerns that the health of the retained and replacement trees along the path would be compromised by the inclusion of a high strength root barrier and because the basement would encroach into the root protection area of T3 (Crab Apple Tree). I understand that the barrier is not now part of the proposal. The other trees to be removed are mainly to the rear of the site, partially visible from the cemetery, and in some cases the road, and do not contribute much to the character of the area.
20. T12, a 12 metre high Monterey Cypress, is the most prominent tree affected by the proposed development because of its height, although it is assessed in the AIA as being of low amenity value. It is currently visible from the street and cemetery, although the proposed development would likely obstruct views of it from St Leonards Road. It is proposed that it would be retained. The Council is concerned that because part of its root protection area would be affected by the development it might not survive. The appellant has suggested it can be retained by careful excavation during demolition and construction, and pruning to reduce further root expansion. I see no reason why this would not be possible.
21. More trees are proposed in the landscaping scheme than would be removed. Hedges are proposed along the rear and side boundaries and in a raised bed at the front of the site. The Council is concerned that the limited amount of land available for planting and managing the trees and hedges, the depth of the proposed raised bed, and the need for significant pruning to prevent encroachment onto adjacent land, will limit their effectiveness in softening the visual impact of the proposed building. Nevertheless, the proposed landscaping would increase the amount of planting around the site. The raised bed at the front of the site, even if it were to contain only low level hedges, would improve the street scene and reflect the low level planting at the Imperial Court flats opposite, and houses further along St Leonards Road towards Windsor Town Centre. I also note that whilst parts of the B3022, and Imperial Road, are identified as green routes in the WNP, which form part of the essential green character and historic fabric of Windsor, the section of road including the appeal site is not included.
22. Overall, I conclude that, subject to further details on the maintenance and long term management of the proposed landscaping scheme, and the protection of trees during construction being agreed, the proposal would enhance the character and appearance of the area and accord with Policies DG1 and N6 of the LP and Policy BIO.01 of the WNP which seek the retention of existing suitable trees wherever practicable, and landscaping that would enhance the built form.

Other Matters

23. Representations raised concerns relating to highway safety, parking provision, access to public transport and distance from the town centre, overlooking, the need for a hotel, overshadowing, daylight levels, drainage, noise, ground stability, air quality, cycle storage provision and signage and external lighting. I have had regard to these matters and agree with the Council in concluding that either no harm would occur, or that based on the evidence before me the level of harm would not be significant enough to warrant withholding planning permission.

Conditions

24. I have considered the conditions suggested by the Council. A condition specifying the approved plans, is necessary in the interests of clarity. A condition preventing a start to development until a Construction Management Plan has been approved, and conditions requiring the agreement of details of the stackable parking bays and cycle parking are necessary to ensure highway safety and encourage alternative modes of transport. A condition regarding contaminated land is necessary to protect against pollution and harm to health. Conditions requiring a Construction Environmental Management Plan, controlling plant and machinery noise levels, and requiring agreement of finished slab levels, external lighting details and an extraction filtration system are necessary to safeguard the living conditions of neighbours. A condition regarding drainage is necessary to ensure the proposal is sustainable in terms of surface water management and to safeguard against flooding. Conditions relating to hard and soft landscaping, tree protection and external materials and finishes are necessary to safeguard the character and appearance of the area. A condition regarding details of biodiversity improvements is necessary in the interests of protecting and enhancing biodiversity. The appellant has agreed to the list of pre-commencement conditions proposed by the Council.
25. For the reasons given above I conclude that the appeal should be allowed.

P D Sedgwick

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Prior to the commencement of development, including site clearance, demolition or groundworks, a site specific construction management plan showing how demolition and construction traffic, (including cranes), materials storage, facilities for operatives and vehicle parking and manoeuvring will be accommodated during the works period shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented as approved and maintained for the duration of the works or as may be agreed in writing by the Local Planning Authority.
- 3) Prior to the commencement of development, including site clearance, demolition or ground works, a site specific Construction Environmental Management Plan shall be submitted to and been approved in writing by the

Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- a) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
 - b) Arrangements for liaison with the Environmental Protection Team.
 - c) All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
 - d) Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
 - e) Procedures for emergency deviation of the agreed working hours.
 - f) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
 - g) Control measures for dust and other air-borne pollutants.
 - h) Measures for controlling the use of site lighting whether required for safe working or for security purposes.
- 4) Prior to any equipment, machinery or materials being brought onto the site, details of the measures to protect the trees shown to be retained on the approved plan (including off-site trees which influence the site) during construction, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to any equipment, machinery or materials being brought onto the site and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. These measures shall include fencing and ground protection in accordance with British Standard 5837. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
- 5) Prior to commencement of development a surface water drainage scheme for the development, based on the submitted sustainable drainage strategy, shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:
- a) Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels and relevant construction details.
 - b) Supporting calculations confirming compliance with the Non-statutory Technical Standards for Sustainable Drainage Systems, the agreed discharge rate of 5 l/s, and the attenuation volumes to be provided.

- c) Details of the maintenance arrangements relating to the proposed surface water drainage system, confirming who will be responsible for its maintenance and the maintenance regime to be implemented.

The surface water drainage system shall be implemented and maintained in accordance with the approved details thereafter.

- 6) Prior to commencement of development, details of all finished slab levels in relation to ground level (against OD Newlyn) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- 7) Development other than that required to be carried out as part of an approved scheme of remediation must not commence until requirements 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until requirement 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- A) a survey of the extent, scale and nature of contamination;
- b) an assessment of the potential risks to:
- human health;
 - property (existing or proposed) including buildings;
 - crops, livestock, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- c) an appraisal of remedial options, and proposal of preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme.

A detailed remediation scheme to bring the site to a condition suitable for intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as

contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

4. Reporting Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of requirement 2, which is the subject of the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with requirement 3.

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

- 8) No development above slab level shall take place until details of the materials to be used on the external surfaces of the development have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- 9) Prior to the installation of any hardsurfacing on the site, details of all the finishing materials to be used shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved scheme.

- 10) No lighting, including security lighting, shall be installed until details of location, height, design, sensors and luminance have been submitted to and approved in writing by the Local Planning Authority. The details shall be sufficient to demonstrate that the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways and will be in accordance with the Zone E2 (Rural) light levels at Table 2 in the ILP publication 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'. The lighting shall thereafter be installed and operated in accordance with the approved details.
- 11) Prior to the occupation of the development, details of equipment for the purpose of extraction and filtration of odours including maintenance, cleaning and filter replacement schedule shall be submitted to and approved in writing by the local planning authority. The approved extraction/filtration scheme shall be installed before the use hereby permitted is commenced and shall thereafter be retained as such.
- 12) Prior to the occupation of the development, details of the vehicle parking stackable bays shall be submitted to and approved in writing by the Local Planning Authority. The space approved shall be retained for parking in association with the development.
- 13) Prior to the occupation of the development, details of covered and secure cycle parking facilities shall be provided in accordance with the approved drawing. These facilities shall always thereafter be kept available for the parking of cycles in association with the development.
- 14) Prior to the occupation of the development, the hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved hard and soft landscaping scheme shall be implemented within the first planting season following the approval of details and accordance with the approved details. The development shall be retained as approved. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
- 15) Prior to the occupied of the development, the locations and specifications of biodiversity enhancements such as but not limited to increased opportunities for roosting of bats and nesting birds (gaps in tiles, soffits, roof spaces and other features, built in roosting / nesting features); insect boxes; planting enhancements using native species; access gaps within boundary enclosures and wildlife-friendly lighting; shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall be installed as agreed.
- 16) The rating level of the noise emitted from fixed plant and stationary equipment shall not exceed the existing background level (to be measured over the period of operation of the proposed plant and equipment and over a minimum reference time interval of 1 hour in the daytime and 15 minutes at night). The noise levels shall be determined 1m from the nearest noise-sensitive premises. The measurement and assessment shall be made in accordance with BS 4142: 2014.

- 17) The development hereby permitted shall be carried out in accordance with the following approved plans: PL_050 Revision 18 OS Location Plan; PL_050 Revision 18 Proposed Site Plan; PL_099 Revision 19; PL_100 Revision 19; PL_100 Revision 19; PL_101 Revision 18; PL_102 Revision 18; PL_103 Revision 18; PL_200 Revision 19; PL201 Revision 18; PL300 Revision 19.

*****End of Conditions*****