



Appeal Decision

Site Visit made on 4 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/T0355/W/20/3265984

Essex Lodge, 69 Osborne Road, Windsor SL4 3EQ

- 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 Sorbon Estates Ltd against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/00935, dated 6 April 2020, was refused by notice dated 20 November 2020.
 - The development proposed is demolition of existing building and construction of new building comprising 10 x two bedroom flats with associated landscaping, parking, alteration to existing access and new bin enclosure.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Sorbon Estates Ltd against the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal, the Windsor Neighbourhood Plan (WNP) was made following a referendum on 6 May 2021. In accordance with section 3 of the Neighbourhood Plan Act 2017, it now forms part of the development plan for the area. As such, any planning decision should be made in accordance with policies contained within a Neighbourhood Plan that has passed referendum, along with the Local Plan policies unless material considerations indicate otherwise in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004. I have therefore determined the appeal on this basis.
4. Both parties have been provided with an opportunity to comment on the implications of the WNP having been made. I have had regard to those comments in reaching my decision.
5. During the course of the appeal, I was provided with a copy of a completed signed planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 20 April 2021. This deals with contributions towards tree planting and care. I will discuss this later in this decision.

Main Issues

6. The main issues are the effect of the proposed development on the character and appearance of the area, including upon the setting of the Inner Windsor Conservation Area and on a non-designated heritage asset.

Reasons

7. The appeal site is a triangular plot located which occupies a prominent position at the corner of Osborne Road and Bolton Avenue, on a busy traffic roundabout. The buildings around the roundabout are largely set back from the junction, although Dene Court, a substantial four-storey block of flats on the opposite side of Bolton Avenue is less spaciouly positioned within its plot. Neighbouring buildings along both Bolton Avenue and Osborne Road are three-storey blocks of flats set back from the road behind generous front gardens and grass verges. This contributes to the open and spacious character of the area.
8. The opposite side of Osborne Road forms the boundary of the Inner Windsor Conservation Area (CA). The CA is characterised by residential development that developed during the 19th century, in a variety of styles including terraces, semi-detached houses and grand Victorian villas. Osborne Road, as one of the main historic routes within the CA, is lined by larger properties set back from the road creating a sense of spaciousness. Mature tree planting is present and contributes to the verdant character of the area. These traditional 19th century residential buildings contribute to the significance of the CA.
9. Essex Lodge forms part of the setting to the CA. It is an attractive, substantial two-storey late Victorian building built in a mock-tudor style. Despite two unsympathetic single-storey extensions to the roundabout elevation, the building retains much of its original character and appearance, which is visible above the boundary fencing. Its spacious positioning within its plot reflects the residential character of the CA. Essex Lodge displays a similar appearance, scale and detailing to King's House on the opposite side of Osborne Road within the CA. Together these visually related buildings, form a gateway to Osborne Road and the town centre beyond. For these reasons, Essex Lodge makes a positive contribution to the setting of the CA.
10. Essex Lodge is also a non-designated heritage asset (NDHA) as confirmed in the WNP. I note that the previous Inspector for the recently dismissed appeals¹ on the site considered the current building makes a limited positive contribution to the character and appearance of the area through its historic appearance. I also note the reference in that recent decision that Inspectors in previous appeals noted that the building is not considered to be of listable quality.
11. At that time of those previous appeals, I note the building had not been listed as a NDHA. In view of the recently made status of the WNP, I give additional weight to the historic appearance and function role of Essex Lodge as a gateway building, its contribution to the wider area, the street scene, the adjacent CA and its identification as a NDHA. I accept that the lack of landscaping within the site and its enclosure by high, timber close-boarded

¹ APP/T0355/W/19/3235908 and APP/T0355/W/19/3233296

fencing, detracts from its appearance. However, this in itself does not nullify the building's contribution which is visible above this boundary fence.

12. The proposal would demolish the existing building and replace it with a three-storey building. The replacement building would have a stepped footprint, widening towards the roundabout. It would have a varied roofscape incorporating gable features to its three main elevations, facing towards Bolton Avenue, Osborne Road and the roundabout. It would be constructed in a design and materials to reflect that of the existing building retaining certain decorative features from the original building. Landscaping would surround much of the site, with an area of surface parking off Bolton Avenue. The boundary fence would be replaced by railings.
13. The proposed building would increase the bulk and scale of development on the plot. The elevations to both Bolton Avenue and Osborne Road would extend towards the site boundary as a three-storey building which would be significantly closer to the roundabout and more prominent than the existing single-storey extensions to this elevation. Whilst positioned close to the boundaries some space for landscaping would be retained which goes some way to addressing the concerns of the previous Inspector in dismissing an appeal for a larger building on the site. Whilst the landscaping along the site boundaries would make a positive contribution to the character and appearance of the area, the building due to its width would nonetheless be relatively close to the site boundaries. This would emphasise the scale of the building and make it appear large within the plot.
14. In the context of the larger scale buildings present on the corners of the south and west side of the roundabout, the proposed building would not appear unduly large or cramped within the plot. However, in the context of the two-storey development on the northern side of the roundabout, including King's House, the proposed building would appear significantly larger, bulkier and less spaciouly laid out.
15. The two-storey existing building follows the established building line along Osborne Road. Whilst the single-storey extensions project beyond this, they are relatively unobtrusive due to their height and do not visually interrupt the building line. The proposed building would have a larger footprint than the existing and being three-storeys in height, it would be highly visible. It would sit forward of the development along Osborne Road and, to a lesser extent, Bolton Avenue. This would increase the sense of enclosure both at the junction but also in views along both of these roads. This would erode the open character of the area.
16. The more cramped form of development within the plot would be uncharacteristic of the more spacious arrangement of properties within the CA. Whilst the replacement building would be designed to incorporate some of the original features and detailing of Essex Lodge, it would nevertheless appear disproportionately large in comparison to King's House. As such, its role as a gateway building to the CA in conjunction with King's House would be significantly diminished. There would be some harm to the CA arising from the proposed development within its setting.
17. The proposal would lead to less than substantial harm to the significance of a designated heritage asset, namely the CA. As required by paragraph 196 of the

National Planning Policy Framework (Framework) harm needs to be weighed against the public benefits of the proposal.

18. The scheme would result in a net gain of nine residential units on a brownfield site in an accessible location. The replacement of the boundary fencing with metal railings and soft landscaping would provide some enhancement to the appearance of the plot and make a contribution to the green leafy character of the area. Through the submitted UU, the scheme secures improvements to an existing lime tree as well as planting a new tree in open space off Bolton Avenue. Some economic benefits will arise both during the construction through local employment and during occupation of the development through support of local shops and businesses. The site will also benefit from sustainable urban drainage.
19. These combined benefits carry moderate weight in the balance. The harm to the significance of CA, due to the adverse effect on its setting, carries great weight, and it is not outweighed by the combination of public benefits which would arise from the proposed development.
20. Paragraph 197 of the Framework sets out that the effect of an application on the significance of a NDHA should be taken into account in determining the application. In weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required to have regard to the scale of any harm or loss and the significance of the heritage asset.
21. The proposal involves the complete demolition of the existing building and so the scale of the harm to the asset would therefore be substantial. The proposal would result in the loss of all attributes forming the significance of the heritage asset. The harm arising from the total loss of the building therefore attracts great weight in the planning balance.
22. Whilst the building is not statutorily protected it has been identified as significant within the WNP which reflects the value placed on this building by the local community for its historic character and appearance. As I have set out above, Essex Lodge makes a positive contribution to the area, street scene and setting of the CA which in combination with the adjacent King's House as both a gateway building and through its historic appearance, contributes to its significance.
23. In the context of the proposed replacement building, its effect on the character and appearance of the area and the setting of the CA, and taking into account the moderate public benefits of the scheme as set out above, the loss of the NDHA is not justified.
24. I conclude that the proposed development would harm the character and appearance of the area, including the setting of the Inner Windsor Conservation Area. It would therefore conflict with Policies DG1, H10 and CA2 of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003). These policies together require new development to be a high standard of design that enhances the existing environment, to not cause harm to the character of the surrounding area through the loss of important features which contribute to character, to enhance or preserve the character or appearance of the conservation area, retaining buildings that contribute to its distinctive character.

Other Matter

25. The Council cannot demonstrate a five year supply of deliverable housing sites. This is not disputed. However, as I have identified harm to a designated heritage asset, paragraph 11 of the Framework and the presumption in favour of sustainable development does not apply in this case.

Conclusion

26. The proposal conflicts with the development plan read as a whole and there are no material considerations to indicate that the application should be determined otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR