



Appeal Decision

Site visit made on 12 October 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/T0355/W/21/3267862

Ruddles Pool, Maidenhead Road, Windsor SL4 5TW

- 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 Mohammed Ariff of the Windsor Muslim Association against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/03287, dated 23 November 2019, was refused by notice dated 23 October 2020.
 - The development proposed is part change of use of dwelling (C3) to a place of worship (D1) with improved vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant was unable to provide access to the site. Views of the site were restricted to those from Maidenhead Road and the footpath on the opposite side of the river. The site visit was undertaken on that basis. In addition, photographs of the site were provided by the appellant showing the grounds and interior of the property. I have been able to reach a decision based on both the site visit and the additional information provided to me.
3. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published. The parties have had an opportunity to comment on the implications of the revised Framework during the appeal process. I have had regard to comments received and determined the appeal in accordance with the revised Framework.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on highway safety;

- the effect on the living conditions of nearby residents, with regard to noise and disturbance;
- whether or not the need for the proposed development has been justified in this location;
- whether or not the specific circumstances of the appellant justify the proposed development; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. Ruddles Pool is a substantial detached residential property. It is located on the north side of Maidenhead Road in a residential area that backs on to the River Thames. There is some sparse residential development on this side of the road, the opposite side is more densely built up and suburban in character. The appeal site lies within the Green Belt.
6. The proposal seeks the conversion of the appeal property into a mosque for the local Muslim community with part of the building retained in residential use for the Imam and his family.
7. The scheme proposes no enlargement of the building. Additional car parking and cycle storage would be provided as well as a new vehicle access gate onto Maidenhead Road.

Whether inappropriate development in the Green Belt

8. The Framework sets out in paragraph 137 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belts are their openness and their permanence. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. The scheme does not involve the construction of new buildings which are considered to be inappropriate development. It therefore falls to be considered under paragraph 150 of the Framework which explains that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of a permanent and substantial construction.
10. Policies GB1 and GB8 of the Windsor and Maidenhead Local Plan 2003 (WMLP) allow for the change of use of a building in the Green Belt provided it would not have a greater impact on the openness of the Green Belt or the purpose of including land within it. This is consistent with the Framework. Policy GB8(1) in requiring an additional test for a change of use to not be harmful to the character and setting of the building is more restrictive than the Framework. This is therefore inconsistent with the Framework in this regard and I therefore give this policy less weight.

11. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development. An assessment of openness requires a consideration of the scale of the development, its locational context and both its spatial and visual implications.
12. The scheme proposes some limited physical changes to the site including the extension of an area of hard surfacing to create access and space for eight additional car parking spaces, the formation of a new vehicle access from Maidenhead Road and the formation of additional bicycle parking spaces at the front of the site.
13. Caselaw has established that the effect on openness in the Green Belt might not be confined solely to permanent physical works. In this context, car or cycle parking has the potential to effect openness.
14. The proposal would give rise to some increase in vehicle movements and parking on site. However, the extent of car and cycle parking would be limited and would be of a transitory nature. Even if all spaces were to be occupied at the same time, this would be for short periods whilst people were attending the mosque or other activities offered at the site. For this reason, I find the vehicle parking would not harm the spatial openness. In addition, it would be close to the existing building and screened from the wider area by both the boundary wall to Maidenhead Road and, in the case of car parking, hedge planting to the southern edge of the parking area, thereby limiting views of it from the riverbank. In this context, it would not cause any visual harm to openness.
15. The formation of additional hardstanding would not result in a form of development that would be physically larger than that which currently exists on the site. There would also be very limited views of this, restricted to glimpses of it from the riverbank. It would not therefore result in loss of either spatial or visual openness. The new gated access would be within an existing structure and there would be no loss of openness arising from this.
16. The Framework sets out at paragraph 138 that the Green Belt serves five purposes. Relevant to the scheme before me are a) to check the unrestricted sprawl of large built-up areas and c) to assist in safeguarding the countryside from encroachment. Notwithstanding the limited physical changes to the site, the proposal would intensify activity on the site with activity from early morning to late evening, increased vehicle movements and visitor numbers to the site. These factors would combine to have an urbanising effect particularly in the context of the tranquil and semi-rural character of the site when viewed from the riverbank. Some limited harm would arise from this. This leads me to conclude that the scheme would conflict with the aforementioned purposes of the Green Belt.
17. Accordingly, when considered against the existing residential use of the site, the proposal would materially change the nature of the site. Whilst I have found it would not cause a loss of openness it would conflict with the purposes of the Green Belt. It would therefore be inappropriate development, which is, by definition harmful to the Green Belt. It would conflict with both Policies GB1 and GB8 of the WMLP and national policy to protect Green Belt. In accordance with the Framework, I attach substantial weight to this harm.

Character and appearance

18. Development along the north side of this section of Maidenhead Road is characterised by gated, detached residential properties set within generous grounds, opening up to the riverside which forms their northern boundary. From the road they are viewed behind tall boundary walls. Due to their location on the fringe of the settlement and the low density of development the northern side of the road has a semi-rural character. This contrasts with the more suburban character to the south where there is extensive housing development. The semi-rural character is particularly strong in views from the footpath running along the riverside on the opposite side of the Thames with the area appearing tranquil and significantly more peaceful than the front of the side where Maidenhead Road and its traffic dominates.
19. Whilst there are limited physical changes proposed, the scheme would introduce additional parking into the site with more comings and goings throughout the day as well as larger numbers of people within the grounds. This could be up to 30 families on a regular basis. This increased activity would at times be likely to diminish the tranquillity of the area, as experienced from the riverbank, especially if large numbers of visitors to the mosque were to congregate outside the building. This would harm its semi-rural character.
20. I conclude the proposed development would cause moderate harm to the character and appearance of the surrounding area. It would therefore conflict with Policies DG1 and N2 of the WMLP which together support development that does not result in the loss of important features that contribute to the character of the surrounding area and that does not adversely affect the character and setting of the river. It would also not accord with the Framework which requires development to be sympathetic to local character.

Highway safety

21. Ruddles Pool is located on Maidenhead Road, the A308, a busy road linking Windsor and Maidenhead. It is subject to a 40 mph speed limit. Vehicle access to the appeal site is currently via a gated, private no-through access road. The appeal proposal seeks the formation of a new vehicle access to the east of the existing, which would provide direct access onto the A308 instead of utilising the existing private access.
22. The appellant has stated that car journeys to the facility would be limited and discouraged in favour of walking, cycling and an organised communal minibus. There is an established shared footpath and cycleway outside the appeal site. There are limited formal and informal pedestrian crossing points on Maidenhead Road both to the east and west of the appeal site, but some distance from it. There are also bus stops within around a 5 minute walk of the site on Ruddlesway providing public transport access to the town centre. It would therefore be feasible for visitors to the site to come by means other than the private car.
23. I certainly agree that the appeal site is very well connected to the cycle network, with a designated path running outside the site. It would also provide secure cycle parking within the site. This would make cycling to the facility an attractive and safe option for visitors.

24. In terms of walking, Maidenhead Road is busy and traffic-dominated which reduces its attractiveness as a walking route. I note that it is intended that the proposed facility would serve the local community rather than the entire town community. Nevertheless, the proposed development would be located on the periphery of Windsor, some 3 kilometres from the town centre and separated from the nearest residential areas to the south by the A308 which effectively severs the appeal site from this area.
25. The Chartered Institute of Highways and Transportation's *Planning for Walking* advocates 'walkable neighbourhoods' with a catchment of 800 metres or 10 minutes. It seems to me that in the circumstances of the site, users of the proposed development would be coming from distances further than this and therefore less likely to walk. Moreover, with some prayer times during the early morning or late evenings when it would be dark, it seems likely that many visitors to the site would come by car.
26. I have had regard to the appellant's suggestion that some form of communal minibus could be provided. However, no details of this have been provided nor any mechanism to secure such provision. I can only give this very limited weight.
27. The submitted drawings indicate that parking for eleven cars would be provided in connection with the place of worship with a further two parking spaces within a garage serving the residential flat. Cycle parking for fourteen bicycles would also be provided.
28. The Council's Parking Strategy 2004 requires one parking space per 10 square metres of open hall. The Council has indicated that the prayer room including its entrance hall covers just over 100 square metres and would require the provision of eleven spaces. A further two additional parking spaces would be required for the retained residential use on site.
29. The Council's statement of case sets out that the use would attract a demand for fourteen spaces. Two of the spaces would be accommodated within a double garage. The Council has advised that the garage would not meet the minimum dimensions of 6 metres by 6 metres required to accommodate this number of vehicles. It would therefore only provide for a single parking space. Furthermore, one of the proposed spaces would be behind the inward opening gates and could not be practically used as a parking space. Consequently, I find that the scheme would provide eleven useable parking spaces which would be less than the required amount.
30. With insufficient parking provided within the site as well as the limitations to the accessibility of the site, the proposed development would be likely to lead to overspill car parking along Maidenhead Road which I observed had no parking restrictions. This would potentially cause congestion and harm the free flow of traffic along this main road. Overspill parking could also take place in the residential streets on the opposite side of the road resulting in some inconvenience or nuisance to residents in this area. Any overspill parking would be likely to be greater on festivals and other celebrations throughout the year when more visitors would be likely to attend the site.
31. The need for additional parking appears to have been recognised by the appellant who has acknowledged that the selection of a more rural and

- spacious site outside a centre would provide more space for parking. This adds to my concern about the potential impacts of this on the surrounding area.
32. It has been suggested that any overspill parking would be managed by the operators of the facility or through the imposition of parking restrictions. However, I have no evidence demonstrating how parking management would be achieved by the operators, nor of any proposals for the introduction of parking restrictions. I therefore give this limited weight as a means of mitigation.
33. Notwithstanding that the level of car parking falls short of requirements, there could potentially be up to eleven vehicles coming to the site at any one time. This would represent a significant intensification of vehicle movements to the site when compared to a single residential dwelling.
34. The provision of a new vehicular access onto the A308 with a reasonably high intensity use would be likely to impact on the free flow of traffic along this strategic route between Windsor and Maidenhead town centres, particularly with vehicles having to wait to turn right into the site. This would increase congestion particularly at busier times of day. Furthermore, the new access would require a visibility splay of 2.4 metres x 120 metres in both directions in accordance with the Borough's Highway Design Guide. It has not been demonstrated that this can be achieved in splays to the west.
35. Moreover, with the increased number of vehicles crossing the footpath and cycleway, there would be an increased risk of conflict between users of the highway.
36. I accept that some visitors to the facility may come by means other than the private car, however, in the absence of robust evidence to the contrary and in the circumstances of the appeal site, I find that attendance at the site by private car is highly likely with harms to highway safety arising from this as I have set out above.
37. The appellant has indicated that the prayer room would not be a sufficient size to accommodate any significant increase in numbers. Nevertheless, as proposed it would be a relatively large space and could accommodate several worshippers at the same time. I also acknowledge that prayers, services and other activities would be spread throughout the day to limit movements at any one time. There would nevertheless be a significant intensification of the use compared to the existing residential use of the site.
38. The appellant has argued that the Council has refused the scheme on highways grounds based on its future growth. However, from the Council's evidence it is clear that the Council has concerns about the current proposal. Furthermore, although any physical enlargement of the facility would be subject to planning controls, there is nothing to stop the operators of the site from increasing the provision of services they deliver throughout the day. On this basis, it is not unreasonable to anticipate that there could be some future growth of the proposed use.
39. It has been suggested that the Council has been inconsistent and discriminatory in its assessment of harm to the A308 arising from right-turning vehicles causing congestion along the road when compared to other uses. This includes uses which would generate large numbers of vehicle movements

including a hospice, Oakley Court Hotel and a scheme for an ALDI supermarket. I do not have the full details of these schemes and I am therefore unable to draw any meaningful comparisons with the scheme before me. I did however observe that the hotel had a dedicated right turn lane which the appeal scheme would not.

40. I have considered the appeal before me on its own merits and found that I concur with the Council's view that right turning vehicles could harm the flow of traffic along the A308. The evidence put to me does not indicate that the Council's objection to the scheme was based on discriminatory views or prejudice.
41. I conclude that the proposed development would significantly intensify the number of vehicles to the site, which has not been demonstrated to have adequate visibility. It would also increase the risk of congestion along Maidenhead Road and result in overspill parking. The increased intensity of the use would consequently increase the risk of conflict between users of the highway. Thus, the proposal would significantly harm highway safety and therefore conflicts with Policy T5 and DG1 of the WMLP which together require development to provide adequate off street parking and vehicle access, to not have an unacceptable effect on the local road network and to comply with adopted highway design standards.
42. It would also be contrary to the Framework which requires safe and suitable access to the site to be achieved for all users and for permission to be refused for development that has an unacceptable impact on highway safety and results in severe residual cumulative impacts on the road network. It also requires developments to give priority first to sustainable modes of travel.

Living conditions

43. The appeal property is located at the south-eastern corner of the plot behind a boundary wall. Directly to its east and close to the boundary there is a residential property, Chantry (previously known as Sutherlea). This is set further back from the road than the appeal property and directly adjacent to a large patio area within the appeal site. To its west, and separated by an extensive area of garden, the site adjoins Riverside Lodge.
44. The proposed place of worship would provide a range of activities and services. This would include five daily prayer services, in the summertime commencing as early as 4.30 am with the final service at 10.30 pm, with later starts and earlier finishes during the winter. In addition, an after school club and Saturday language schools are proposed in addition to other services and community based activities. The appellant has confirmed that there will be no 'call to prayer' by means of an external speaker. It is proposed that no congregational meetings would take place outside.
45. In comparison to a residential use, the place of worship and community facilities would significantly intensify the level of activity at the site, including the numbers of people on site at any one time, increased vehicle movements and general activity levels throughout the day. Whilst only 30 families would use the facility, based on an average family size of between 2 to 3 people, this would nevertheless be the equivalent of at least 60 people, and likely higher numbers, congregating on the site on a regular basis.

46. Despite the proposed mitigation, in the form of windows being affixed shut, and restricting congregational activity to indoors, as a community hub it is likely that people would gather informally both inside and outside the building when either arriving or leaving the venue. It would be difficult to prevent this, particularly in the summer months when the doors to the patio would likely be open.
47. The increase in activity on the site from early morning to evening would be significant and would be likely to affect the occupants of neighbouring properties, especially Chantry due to its very close proximity to the site.
48. I appreciate that a large gathering of people could occur in association with the existing residential use of the site. However, it seems to me that such occurrences would be significantly less frequent than would occur with the appeal scheme. This does not therefore justify the intensification of the use of this site.
49. This leads me to conclude that the proposed development would adversely affect the living conditions of adjoining occupants, in regard to noise and general disturbance. It would therefore conflict with Policy NAP3 which does not allow development proposals that are likely to cause unacceptable levels of noise beyond the site boundaries. It would also not accord with the Framework which supports development that promotes health and well-being with a high standard of amenity for existing users.

Justification for location

50. Policy CF3 of the WMLP sets out that proposals involving the change of use of a residential property to a community facility will be permitted where it is essential that the facility is located within a residential area. Whilst this policy does not require a sequential test approach, there is a need for the change of use to be justified within the area.
51. The Council has recognised that the local community needs a permanent place for its assembly. However, it considers it has not been demonstrated that this location is justified stating that places of worship are better located in sustainable centres where they are accessible and the use would be more compatible with higher levels of noise and activity associated with such locations.
52. The appellant states that the Windsor Muslim Association (WMA) Community Group have been seeking a suitable site for a decade. It is evident that the WMA has considered alternative locations but these have been found to be unsuitable, either due to being unable to secure a lease, the relevant change of use or inadequate parking. In the absence of securing an alternative site, the appellant's reasons for seeking to develop the appeal site for these purposes is understood.
53. I agree that the proposed use should be in a location that would be readily accessible by its congregation and those it intends to serve. Its location should also enable them to travel to it by means other than the private car. This does not mean it should necessarily be located within a town or district centre as this will depend on where its congregation is drawn from.
54. I understand that the proposal seeks to serve a local need. I would not expect to be provided with detailed information as to where the community who would

be served by the proposed development are residing. However, I have been provided with very limited evidence as to where the congregation would come from. If local and therefore easily accessible to the community it serves by means other than the private car, the need for this development within this established residential area, rather than in one of the more sustainable centres as advocated by the Council, would weigh more strongly in favour of the proposal. I do not have sufficient information to reach a firm conclusion in this regard.

55. My attention has been drawn to a recently approved scheme¹ for another place of worship at Ascot House off Dedworth Road, Windsor. However, this scheme was not in the Green Belt nor within a residential area. It was found that it would not adversely affect nearby residential occupiers, it was in a reasonably sustainable location and whilst insufficient parking was provided, there were other opportunities for parking within the locality. As such, whilst I acknowledge that it did conflict with the development plan, I do not find it comparable to the scheme before me. As a change of use from a non-residential unit to a community use it would also have not been subject to the requirements of Policy CF3 as in the scheme before me. I have no evidence that this scheme was subject to a lesser level of scrutiny than the scheme before me.
56. The appellant has clearly struggled to find a suitable location for their proposal. However, it has not been sufficiently demonstrated that it is essential for the proposed place of worship and community use to be located within a residential area. For this reason, I conclude that the proposal would conflict with Policy CF3 of the WMLP.

Specific circumstances of the appellant

57. The WMA consists of around 30 families who currently meet at the United Reformed Church premises. They have no permanent place of worship or premises to meet the range of needs they require. The proposed development would provide for this.
58. The scheme would enable them to share their religious and cultural ties more effectively, enabling them to engage with the wider community as they have indicated they wish to do. It would also provide space for English language classes and after school clubs for children who may be speakers of other languages as well as providing various community and well-being services to support local people and families in need. This includes women's groups and a social club for the elderly.
59. There is some local support for the scheme from the local community in recognition that the WMA have a need for permanent premises and because of the work it does in helping the wider community. The proposal would provide a permanent place of worship and community space for the WMA. This would be a significant benefit of the scheme which would carry substantial weight in its favour.

Other considerations

60. I have no information about the environmental performance of the existing building and the extent to which its reuse would have a less harmful impact on

¹ Council Ref 20/02440

the environment compared to the construction of a new building. Nevertheless, it seems to me that there would likely be some environmental benefits associated with this. It therefore carries very limited weight in the scheme's favour.

61. The appellant has stated that the WMA are unable to afford a new build or significant building works to convert a less suitable building. However, I have been provided with no evidence to substantiate this position. I therefore give this very limited weight.
62. The appellant has asserted that many of the objections to the scheme are based on religious prejudices. I have no firm evidence of this.
63. I also have no evidence that the time taken to determine the application nor the preparation of the officer's report to the DCP demonstrates any breach of the Council's duties under the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010.
64. Whilst the Council quoted paragraph 145 of the 2019 Framework within its decision notice, I have no evidence to suggest that the scheme was not correctly considered against national policy.

Planning Balance

65. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause limited harm to the purposes of including land within the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.
66. In addition, the proposed development would cause moderate harm to the character and appearance of the area. In addition, the intensification of the use of the property would significantly harm the living conditions of nearby residential occupiers through increased noise and disturbance. It would also significantly harm highway safety.
67. The PSED sets out that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; and advance equality of opportunity, and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
68. I have no remit to address whether the Council complied with the PSED in the exercise of any planning duty, but I am bound by the duty myself. The mosque would be used as a place of worship by people of the Islamic faith. It would also provide meeting space for the elderly and women. The protected characteristics of race, religion, age and gender are therefore engaged.
69. In this regard, an approval of the scheme providing a permanent and dedicated place of worship and community facility for the local Muslim community would advance equality of opportunity and foster good relations. I find that this carries substantial weight in favour of the proposal.
70. Article 9 of the Human Rights Act 1998 and the European Convention on Human Rights sets out that everyone has the right to freedom of religion and to manifest his religion or belief, in worship, teaching, practice and observance.

The proposed development would provide a permanent place of worship for the local Muslim population. This would certainly make it easier and more convenient for the local community. However, there is no evidence that the local community would be prevented from practicing its religion should this proposal be dismissed. This could either be undertaken in the existing premises they use or in other nearby mosques in Slough, Reading or Wokingham. I do not therefore find that a dismissal would violate the appellant's rights under Article 9. This therefore carries very limited weight in favour of the scheme.

71. The re-use of an existing building carries very limited weight in favour of the scheme. However, its location within a residential area has not been justified and this therefore does not weigh in favour of the scheme.
72. Whilst I have attached substantial weight to the provision of a place of worship for the local Muslim community, I find that this and the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

73. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR