



Appeal Decision

Site visit made on 15 March 2022

by Oliver Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

Appeal Ref: APP/T0355/W/21/3287620

34a St Lukes Road, Old Windsor, Windsor SL4 2QQ

- 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 K Brook against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/00154, dated 18 January 2021, was refused by notice dated 24 May 2021.
 - The development proposed is a two-storey side extension and two new rooflights.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey side extension and two new rooflights at 34a St Lukes Road, Old Windsor, Windsor SL4 2QQ in accordance with the terms of the application, reference 21/00154, dated 18 January 2021, and the plans submitted with it, subject to the conditions in the Schedule to this decision below.

Preliminary Matters

2. The description above is taken from the Council's Decision Notice which more accurately describes the proposal, including the two rooflights. I also note that the Appellant has utilised that description on the appeal form.
3. Since the determination of the application by the Council it has adopted a new Development Plan, the Borough Local Plan 2013-2033 (BLP). The BLP has superseded the policies in The Royal Borough of Windsor and Maidenhead Local Plan. Both parties were able to comment on this change, which I have taken into account in my decision. I have therefore determined the appeal with the newly adopted policies in mind.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area, and
 - Whether the proposal would lead to an increase in flood risk

Reasons

Character and Appearance of the Area

5. This part of the village is formed of two storey semi-detached and terraced buildings, predominantly in residential use but also forming its commercial core, including a convenience store and other retail businesses adjacent to and

opposite the appeal site. The appeal site itself consists of a garage and beauty business at ground floor level with residential accommodation at first floor level.

6. The Council's Borough-Wide Design Guide Supplementary Planning Document 2020 (the SPD) states that side extensions should be subordinate to the original building and should not erode the street scene's character.
7. The proposed extension would have ridge and eaves lines which match those of its host, and to that extent it would not be subordinate. However, its width would be relatively narrow compared with that of the original dwelling and to some extent it would balance the currently unsymmetrical semi-detached pair. To my mind, it would not appear overly bulky or dominant to the host property or in the street scene.
8. The proposal would extend at two-storey height to the side boundary, reducing the existing gap at first floor between the appeal property and the adjacent property, 32 St Lukes Road. The Council is concerned that the extension's width and position close to the boundary would result in a 'terracing' effect whereby gaps between dwellings are filled, altering the balance between buildings and spaces over time and harming the area's character.
9. When the appeal application was determined, the Development Plan policy in force (H14) required a minimum gap of one metre at first floor level between an extension and the site boundary. However, this has now been superseded by Policies QP1 and QP3 of the BLP, which makes no specific requirement for such a gap. That said, Principle 10.3 of the SPD does still typically require a one-metre gap. However, this is for light, access and servicing reasons, none of which are raised as a concern by the Council.
10. Nevertheless, the SPD makes clear that important gaps between buildings should be maintained. As acknowledged by the Council, the gap between the proposed development and No 32 would remain, serving a side path allowing for pedestrian access to the rear of that property.
11. I am also conscious that the street scene already includes rows of terraced properties, together with semi-detached blocks with relatively long frontages. Whilst it could be argued that this makes the gap formed by the appeal site more important, the terrace of which No 32 forms a part is set well forward of No 34a's frontage, and at an angle to it, meaning that the gap has relatively little importance to the street's rhythm.
12. Furthermore, the siting of the buildings provides a clear visual differentiation between the blocks, even after the gap's width at first floor level is reduced by the proposal. In this context, I do not consider that the extension would have a harmful terracing effect on the street scene.
13. I therefore conclude that the proposal would not harm the character and appearance of the area. It would therefore comply with policies QP1 and QP3 of the BLP, the aims of the SPD, and the National Planning Policy Framework (the Framework), all of which require a high quality of design.

Flood Risk

14. It is common ground that the site lies within high-risk Flood Zone 3. At the time that the appeal application was decided, the relevant Development Plan

- policy (F1) normally sought to control flood risk by restricting new floorspace to a cumulative 30sqm limit.
15. However, BLP Policy NR1 does not seek to control flood risk in this way and does not impose a specific numeric limit on floorspace. Therefore, regardless of the proposal's size and previous development, it seems to me that the main thrust of the Council's original flood risk objection has fallen away.
 16. That said, Policy NR1 states that proposals will only be supported where an appropriate Flood Risk Assessment (FRA) has been carried out, and it has been demonstrated that development is located and designed to ensure that flood risk is acceptable in planning terms.
 17. The Planning Practice Guidance (PPG) advises¹ that an FRA should be credible and fit for purpose, and appropriate to the scale, nature and location of the development. It also advises that proposals which would not significantly increase the number of people present in an area at risk of flooding, such as the appeal proposal, would generally need a less detailed assessment than others.
 18. The application was accompanied by an FRA, which the Council considers is insufficient because it does not provide details required by the Standing Advice from the Environment Agency (EA). Missing details include estimates of flood levels, and existing and proposed floor levels. Furthermore, flood-resistant materials (required up to at least 300mm above flood level) have not been specified, and no specific flood resiliency measures have been provided. The Appellant does not dispute these points but has suggested a planning condition to secure the submission of a further FRA would be appropriate.
 19. The EA's Standing Advice for minor extensions such as this is that floor levels should be no lower than existing. The FRA specifies the proposed level within the garage to be 'as existing', but no existing plans have been provided. It also states that beyond the garage, the level threshold of the external area has not yet been developed. Therefore, precise existing and proposed floor levels are not before me.
 20. Nevertheless, bearing in mind the relatively small scale of the proposal, I have considered whether a planning condition could be used to secure details of the comparative levels, to ensure that they comply with the Standing Advice, as well as estimated flood levels to inform further details of resistant materials and resiliency measures. Given the statements in the original FRA and the relatively flat nature of the ground that I saw on site, I consider it likely that this information can be provided, and the mitigation measures installed or undertaken, without significantly altering the proposal. However, an element of uncertainty remains until flood level details have been provided and assessed, so the information needs to be submitted to and approved before development commences, as suggested by the Appellant.
 21. Therefore, subject to a condition requiring a revised FRA, I conclude that the proposal would not lead to an increase in flood risk. It would therefore comply with Policy NR1 of the BLP, and the guidance in the Framework and the PPG.

¹ Paragraph: 031 Reference ID: 7-031-20140306

Other Matters

22. I have also considered the representation received from a local resident regarding the effect on daylight to 32 St Lukes Road. Notwithstanding the SPD's advice about a one-metre gap for light, I saw that this property only has a secondary ground floor window facing the proposed extension, which is already somewhat screened by an existing boundary treatment. No 32's siting means that light will still be available to the front and rear windows at ground and first floors, and I am therefore satisfied that the proposal would not result in any significant harm to occupiers' living conditions. I also note that the Council has not raised concerns about this matter.
23. Reference has been made to 38 and 40 St Lukes Road, a pair of Grade II listed houses. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
24. In determining the application, the Council did not consider there to be harm to the listed building or its setting from the proposal. Given the distance of the appeal site from these buildings, the intervening properties and the nature of the proposal, I agree.
25. I have also considered the comments from the Council's ecologist in respect of bats. However, the Council is satisfied that the attic space is already in use as habitable accommodation and so the proposal would not cause detrimental ecological harm. I see no reason to disagree.

Conditions

26. The Council has provided a list of conditions, which I have assessed having regard to the advice in the PPG. Standard conditions relating to a time limit for commencement and adherence to the approved plans are necessary in the interests of certainty.
27. A condition is also required to ensure that external materials are of similar appearance to the existing building, in the interest of the character and appearance of the area. As set out above, a revised FRA is required to avoid an increase in flood risk, and that it is necessary to have this information prior to the commencement of development.

Conclusion

28. For the reasons given above, having regard to the Development Plan and all other material considerations, I conclude that the appeal should be allowed.

Oliver Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 001, 002, 003.
- 3) The materials to be used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing building. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a revised Flood Risk Assessment has been submitted to and approved in writing by the Local Planning Authority (which shall include estimates of flood levels, existing and proposed floor levels together with flood resiliency measures and materials). The development shall only be undertaken in accordance with the approved Flood Risk Assessment.

End of Conditions