



Appeal Decision

Site visit made on 22 February 2022

by Oliver Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2022.

Appeal Ref: APP/T0355/W/21/3284858

11 Mallow Park, Maidenhead SL6 6SQ

- 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 Anthony against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/01434, dated 7 May 2021, was refused by notice dated 23 September 2021.
 - The development proposed is the division of former whole residential site into two parts. New build dwelling within one part, to form end-of-terrace 2-bed residential property with associated amenity space, private entrance, refuse and bicycle store, and with proposed unallocated on-street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application by the Council it has adopted a new Local Plan, the Borough Local Plan 2013-2033 (BLP). The BLP has superseded the policies in The Royal Borough of Windsor and Maidenhead Local Plan. As a result, the Council now considers that an additional reason for refusal applies, relating to measures to adapt to and manage climate change. Both parties were able to comment on these changes, which I have taken into account in my decision. I have therefore determined the appeal having regard to the newly adopted policies.
3. Submitted Plan S.003 Revision 7 shows elevations using what appear to be incorrect compass points. From the description of development and the evidence before me, it is clear to me that the proposed dwelling would have its front facing the footpath, an orientation confirmed by the Block Plan.
4. In addition, the proposed Block Plan shows a different garden length than Plan S.003 Revision 7, and I have assessed the proposal based on the length shown on the latter plan. I do not consider that any parties will have been prejudiced by my considering the appeal on this basis.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether adequate living conditions would be provided for the occupants of the proposed dwelling, in respect of private external space; and

- Whether the proposal would provide measures to adapt to and manage climate change.

Reasons

Character and Appearance

6. Mallow Park forms part of an estate of predominantly two-storey residential dwellings. The appeal site itself is at the end of a mews terrace, with dwellings set back on either side from a footway which provides access to the front. This mews part of Mallow Park has a relatively high density, open plan appearance which contrasts with lower density areas nearby, including at adjacent Briar Dene.
7. I note that the Council describe the proposal as a cohesive addition to its immediate setting. However, the garden as proposed would have an unusual triangular shape, being relatively narrow and jagged, and finishing at a point to the rear.
8. The appellant has provided extracts from the Council's Townscape Assessment. This highlights that late-20th Century suburbs, such as the appeal site, are characterised by buildings on staggered or irregular plots and have more open garden boundary treatments.
9. I have considered the examples of unusual or irregular plot sizes and smaller gardens cited by the appellant, and I recognise that the garden to 11 Mallow Park also finishes at a point. However, the gardens around the appeal site have a somewhat more regular form, in contrast to the appeal proposal. I consider that the awkward and contrived shape of the rear garden would not reflect the predominant character of properties nearby and, whilst not prominent from public views, would give the appearance of a contrived and overdeveloped layout, including when viewed from nearby properties.
10. Furthermore, the existing property's front garden is largely open. Nearby properties have trees and hedging in their front gardens, though they remain essentially open plan in character, with few having vertical boundaries to the sides of the front gardens.
11. In order to provide private garden space for occupiers, additional landscaping is proposed to the front garden. Given its intended purpose, the landscaping arrangements would make the area more enclosed, but the effect of this would be to diminish the open character of the mews, harming the area's appearance.
12. For the above reasons, I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would therefore fail to comply with BLP Policies QP1 and QP3, which require that development makes a positive contribution to the area and has a high quality of design.
13. The proposal would also fail to accord with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks to ensure, amongst other things, that developments will function well and add to the overall quality of an area.

Living Conditions

14. There is no dispute between the main parties that the proposed garden would exceed the amount required by the Royal Borough of Windsor and Maidenhead

Borough-Wide Design Guide Supplementary Planning Document 2020 (the SPD). Notwithstanding this, the SPD also states that high quality private open space is necessary, so that occupants can undertake important household functions such as the drying of clothes, growing food and pursuing domestic leisure activities.

15. To this end, the SPD states that garden spaces should be 'roughly rectangular'. I recognise that the SPD is guidance rather than Development Plan policy, but Policy QP3 of the recently adopted BLP also requires that new development provides high quality private space.
16. Although cycle parking is provided in the side garden, so is already catered for, given the garden's unusual form it would be difficult for occupants to practically use the space for the activities referred to above, which are particularly necessary for the two-bedroom family accommodation proposed. As a result, it would not result in high quality open space, harming the living conditions of occupants and adding to my concerns above in respect of the proposal's contrived arrangement.
17. I recognise that occupiers would also have the front and side garden available to them. The SPD gives a general rule that front gardens should not be counted towards private space because of their size and privacy, though in lower density areas, where houses are set back within their plots, it advises that front gardens may be counted.
18. I have already found that the appeal property is within a higher-density part of the estate and the front garden currently has little screening, being essentially open. The SPD says that landscaping can be used to provide screening to private spaces and additional front landscaping is proposed. Despite the relatively large size of the appeal site's front garden, its depth is not sufficiently long enough to afford occupants much privacy, even with the proposed landscaping, and notwithstanding that the existing masonry wall providing a boundary to the side.
19. Whilst the front garden would provide some amenity, occupants are unlikely to feel private given the close proximity of the footpath and public views available through the entrance, particularly in winter months when foliage is reduced. The garden to the side includes the cycle shed and would provide little usable space. I therefore do not consider that the front or side gardens sufficiently compensate for the harm I identify above.
20. I have considered the gardens identified in other parts of the estate, such as Gwendale, some of which are said to have smaller gardens than the proposed development and less than the SPD's standard. However, these examples generally have rear gardens with a broader, more usable form and so differ from the appeal proposal. As such, I do not consider that they justify allowing a new dwelling with the extent of harm I have identified.
21. Therefore, I conclude that adequate living conditions would not be provided for the occupants of the proposed dwelling, in respect of private external space. It would therefore fail to comply with BLP Policy QP3, the SPD and the advice of the Framework, which require that development proposals provide a high standard of living conditions for future users.

Climate Change

22. BLP Policy SP2 requires that all developments should demonstrate how they have been designed to incorporate measures to adapt to and manage climate change. It says that such measures may include maximising natural heating and ventilation, solar shading, thermal mass, heating and ventilation, the use of planting to shade garden areas, and minimisation of surface water run-off.
23. In March 2021 the Council published an interim 'Position Statement on Sustainability and Energy Efficient Design' (the Position Statement) which seeks to require net-zero carbon where possible, demonstrated through a detailed Energy Assessment and Carbon Reporting Spreadsheet. Where net-zero carbon is not feasible, the Position Statement says that any shortfall may be provided through a cash-in-lieu contribution to the Council's Carbon Off-set Fund.
24. The Council considers that following the recent adoption of the BLP, in the absence of any Statement or secured financial contribution, this matter is a further reason why permission should be refused. The Council Officer's Report makes reference to the Position Statement, and to an Energy and Sustainability Statement having been provided with the application. The Officer Report also states that the Council's aims and objectives in reducing the impact on the climate have been met.
25. However, the Council has subsequently confirmed that part of the Council's report was written in error, and that no Energy and Sustainability Statement was in fact submitted by the appellant or considered by the Council. I have sought further comments from the appellant in response, but they do not question the Council's position in this respect.
26. On the basis of the information available to me, it has not been demonstrated that measures to adapt to and manage the effects of climate change have or could be incorporated into the proposal or its design, or whether zero-carbon is feasible and therefore whether a contribution is required or justified.
27. I therefore conclude that the proposal would not provide measures to mitigate climate change effects and would therefore fail to comply with BLP Policy SP2, the Position Statement and the Framework's advice that new development should be planned in a way to help reduce greenhouse gas emissions.

Other Matters

28. My attention has been drawn to a number of comments made about the Council's handling of the case and a previous planning application, but I have considered the proposal on its planning merits.

Planning Balance and Conclusion

29. At the time of the appeal application's decision, the Council was unable to demonstrate five years supply of housing land. No evidence has been provided to me to suggest that this has changed subsequently, despite adoption of the new Development Plan. As such, the tilted balance set out at paragraph 11 of the Framework is engaged.
30. The proposed development would result in a number of social and economic benefits. The proposal would make a positive contribution to the supply of

housing in the area and bring social and economic benefits from its future occupants. However, the proposal is for only a single dwelling, meaning that such benefits would be limited.

31. In light of the harm that I have identified to the character and appearance of the area, the living conditions of occupiers and the absence of measures to adapt to and manage climate change, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
32. Having considered the Development Plan as a whole and all other material considerations, including the Framework, for the reasons given above I conclude that the appeal should be dismissed.

Oliver Marigold

INSPECTOR