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# Appeal Decision

Site visit made on 25 July 2022

**by Les Greenwood MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 August 2022**

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**Appeal Ref: APP/T0355/W/22/3290555**

**Land To The Rear Of Charnwood, 12 Lime Walk, Maidenhead SL6 6QB**

- 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 M Booker against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
  - The application Ref 21/00940/FULL, dated 24 March 2021, was refused by notice dated 23 July 2021.
  - The development proposed is the erection of 2No 5 bed detached dwellings and an associated access road following demolition of an existing extension to the existing property.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 2No 5 bed detached dwellings and an associated access road following demolition of an existing extension to the existing property in accordance with the terms of the application Ref 21/00940, dated 24 March 2021, subject to the conditions in the attached Schedule.

## Preliminary matters

2. The site address has been adjusted during the course of the application to clarify the extent of the site involved. I have used the revised address here, in the interest of accuracy.
3. On 8 February 2022, after the appeal was submitted, the Council adopted the Borough Local Plan 2013-2033 (BLP) in place of the previous Local Plan. Both of the main parties have had a chance to comment on the implications of the new policies for this appeal within the normal exchange of statements.
4. The appellant asks that I consider a set of amended plans as part of the appeal. Although the changes proposed on those plans are fairly minor, I agree with the Council that considering them without any opportunity for formal public consultation would potentially be prejudicial. The *Procedural Guide – Planning Appeals – England* advises that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I therefore base this decision on the application plans considered by the Council.

## Main issue

5. The main issue is the effect of the proposal on the setting of the Pinkneys Green Conservation Area, the setting of the grade II listed building Mead House<sup>1</sup> and the character and appearance of Lime Walk.

## Reasons

### *Character and appearance*

6. Lime Walk is a cul-de-sac of sizeable, mainly post-war detached houses set on spacious plots amidst trees and hedges, just outside of the conservation area and on the edge of the town. Charnwood is a period property, located at the end of the street, with a very large garden that bounds the conservation area at the back. Although I understand that there were once more trees here, most of the site is now rough grass, with a few trees and shrubs near the boundaries. The proposal is to build 2 sizeable detached houses in the garden, with a shared access past Charnwood enabled by demolition of a side section of that house.
7. The Council's *Conservation Area Appraisal - Pinkneys Green* (CAA) records that Pinkneys Green is historically an independent rural settlement which maintains a rural feel due to the expanse of common land surrounding the village. Mead House is the only listed building within the conservation area, a substantial 17<sup>th</sup> or 18<sup>th</sup> Century house. Other houses along the southern side of Pinkneys Drive are noted by the CAA as important non-listed buildings.
8. A number of these houses, including Mead House, sit close to Pinkneys Drive with extensive back gardens bounding the appeal site. The CAA advises that the large gardens of these properties help to preserve a feeling of openness. It is notable, however, that the conservation area boundary has been drawn with the Lime Walk area outside of the designation. I note the comments suggesting that Lime Walk merits inclusion in the conservation area, but must base this decision on the current situation.
9. The *Royal Borough of Windsor and Maidenhead Townscape Character Assessment – Volume 1 Maidenhead and Cookham* identifies the site and Lime Walk as a 'Leafy Residential Suburb' (LRS) whose key characteristics include individual houses well set back from the road on large garden plots; unified by a 'leafy' streetscape character. This aptly describes Lime Walk.
10. The proposed houses would sit well away from the Pinkneys Drive houses, including Mead House. Despite their large scale, the new houses would be in reasonable proportion with others on Lime Walk and some of the houses on Pinkneys Drive. They would not be particularly tall so would not loom over any neighbouring buildings.
11. This would be low density development with the houses sitting in extensive garden areas, in line with the identified characteristics of the LRS. The houses would be well separated from each other and would not crowd the boundaries, leaving space for new hedge and tree planting to soften views and to help maintain a suitably verdant setting for the conservation area and Mead House.

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<sup>1</sup> Also known as The Meads.

12. The upper parts of the new houses would no doubt be visible from neighbouring houses and gardens and from a few vantage points on Pinkneys Drive, but I do not consider that an absence of buildings here is necessary to the maintenance of the rural character of the conservation area or the setting of its buildings. No views from the conservation area towards Lime Walk are identified as important views in the CAA. The common land to the north is of considerably more importance to the rural character of the area, as indicated by the CAA.
13. The design of the proposed houses would align with the general design approach used for other houses in Lime Walk, including Charnwood - individually designed houses with traditional architectural features and elements. This approach would sit well in the setting of the nearby heritage assets.
14. Concerns have also been raised about the effect on the character of the Lime Walk roadway itself. The small amount of extra traffic from 2 new houses should not have any significant effect on this informally laid out rural lane, which should remain quiet and lightly trafficked once the works are completed.
15. I conclude that the proposal would preserve the setting of the conservation area, the setting of Mead House and the character and appearance of Lime Walk. It therefore accords with the aims of BLP Policy QP3 and the Framework, to secure high quality design that respects and enhances local and historic character, with great weight given to the conservation of heritage assets such as the settings of conservation areas and listed buildings.

#### *Other matters*

16. I have taken account of the other points raised by objectors, including the Maidenhead Civic Society. In particular, this would be backland, garden development. Although Framework paragraph 71 advises local planning authorities to consider the need for policies to resist inappropriate development of residential gardens, I have not been referred to any such local policies. In any case I consider this proposal to be an appropriate use of this land.
17. The new houses would be far enough away from neighbouring houses so that they would not unduly affect neighbours' living conditions in terms of light and outlook. 2 upper floor side windows would need to be obscure glazed to protect neighbours' privacy. Technical matters such as drainage, bats and bin storage could be dealt with by planning conditions as necessary and appropriate. Vehicles passing each other or turning in the lane plus local bin collections would continue as at present without significant increase.
18. In a letter regarding the adoption of the BLP, the Council suggests that the proposal conflicts with BLP Policy SP2 by failing to identify measures to maximise resistance and resilience to climate change and work towards achieving net-zero emissions. The Council does not, however, pursue this matter in its appeal statement or recommend a relevant condition.

#### *Conditions*

19. The Council and its consultees suggest a number of conditions which must be considered in line with the Framework and the Planning Practice Guidance. I impose a condition specifying the relevant plans to provide certainty.

Conditions requiring approval of construction management plans, biodiversity mitigation and tree protection are necessary before development commences in order to protect the local environment. The timing of other such pre-commencement conditions suggested by the Council is not adequately justified, however, so different trigger points are stated instead.

20. Details of external materials and hard and soft landscaping are needed to protect the settings of heritage assets and local character and appearance. Details of vehicle parking and turning, cycle parking and bin storage are required in the interest of highway safety and sustainable transport. Due to the use of the existing buildings by bats, which are light sensitive, further approval would be needed for any new external lighting. Obscure glazing of 2 first floor side windows is necessary to protect neighbours' privacy. Finally, the removal of normal permitted development rights for extensions to the new houses is justified in this case due to the scale of the new buildings and the proximity of heritage assets. This means that planning applications would be required for most new extensions and some alterations to the new houses.
21. I do not, however, see any clear justification for the suggested removal of normal permitted development rights for more minor alterations and the construction of new single storey outbuildings. The Council also suggests an additional condition about the need for a license from Natural England regarding disturbance of bats, but this is already a legal requirement. I have edited the suggested conditions in places in the interest of clarity. Both the Council and the appellant confirm that they have no comments on the draft conditions which are carried forward into this decision.

### **Planning balance and conclusion**

22. Both main parties agreed that, prior to the adoption of the BLP, the Council could not identify the required 5 year supply of deliverable housing sites, so that the 'tilted balance' stated at Framework paragraph 11(d) applied. The adoption of the new LP affects that situation, but no evidence or argument has been submitted to indicate that the tilted balance should not continue to apply.
23. The policies most important for determining the appeal are therefore considered to be out of date and the appeal should be allowed unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or (ii) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The phrase 'assets of particular importance' is defined by the Framework to include heritage assets.
24. The most important policy for this appeal is BLP Policy QP3, regarding the character and design of new development. That policy closely conforms with the Framework's own emphasis on the creation of high quality, beautiful and sustainable buildings and places.
25. I find that the proposal would bring economic and social benefits, and some minor environmental benefit, by making a modest contribution towards housing land supply and the efficient use of land in line with the Framework including paragraphs 60, 119 and 124. I furthermore find no identifiable harm to heritage assets or other significantly adverse impacts. The presumption in

favour of sustainable development set out in Framework paragraph 11 therefore indicates that permission should be granted.

26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Les Greenwood*

INSPECTOR

#### SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not 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: 20-376-001, 20-376-002, 20-376-003, 20-376-004, 20-376-005, 20-376-006, 20-376-007, 20-376-008, 20-376-009 and 20-376-010.
- 3) Prior to the commencement of any works or demolition as part of the development hereby permitted a Construction Management Plan (CMP) 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 CMP shall be implemented as approved and maintained for the duration of the works.
- 4) Prior to the commencement of any works or demolition as part of the development hereby permitted a combined method statement and Construction Environmental Management Plan (MS-CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The MS-CEMP shall detail the works to be carried out showing how the environment will be protected during development. They shall also include details of the following:
  - The timing of works;
  - Construction methods;
  - The measures to be used during the development in order to minimise environmental impact of the works;
  - Any necessary pollution protection methods; and
  - Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking.

The MS-CEMP shall be implemented as approved and maintained for the duration of the works.

- 5) Prior to the commencement of any works or demolition as part of the development hereby permitted details of biodiversity protections and enhancements, to include integral bird and bat boxes, tiles or bricks on the new buildings (in addition to those required by a bat licence) and gaps at the bases of any fences or other boundary features to allow hedgehogs to traverse through the gardens, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried out and

installed as approved and the new dwellings hereby permitted shall not be occupied until a letter report from a suitably qualified ecologist confirming that the biodiversity enhancements have been installed and including a simple plan showing their location and photographs of the boxes, bricks or tiles in situ, has been submitted to and approved in writing by the Local Planning Authority. The installed features shall be retained thereafter.

- 6) Prior to any equipment, machinery or materials being brought onto the site, details of the measures to protect the trees growing within and adjacent to the site during demolition and construction as part of the development hereby permitted 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 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.
- 7) No new development shall take place above slab level as part of the development hereby permitted until samples of the materials to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) No new development shall take place above slab level as part of the development hereby permitted until full details of both hard and soft landscaping works (including hard surfacing, enclosures, retained hedges and trees and new hedge and tree planting) have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved within the first planting season following substantial completion of the development and retained thereafter in accordance with the approved details. If within a period of five years from the date of planting 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.
- 9) The new dwellings hereby permitted shall not be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with a layout that has first been submitted to and approved in writing by the Local Planning Authority. The approved spaces shall be kept available for parking and turning in association with the development.
- 10) The new dwellings hereby permitted shall not be occupied until covered and secure cycle parking facilities have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be kept available for the parking of cycles in association with the new dwellings at all times.
- 11) The new dwellings hereby permitted shall not be occupied until refuse bin storage areas and recycling facilities have been provided in accordance with

details that have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall be kept available for use in association with the new dwellings at all times.

- 12) No new external lighting shall be installed on the site other than in accordance with a lighting report, including measures to protect wildlife, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the following:
- A layout plan with beam orientation;
  - A schedule of equipment;
  - Measures to avoid glare;
  - An isolux contour map showing light spillage to 1 lux both vertically and horizontally; and
  - Areas identified as being of importance for commuting and foraging bats, and locations of bat and bird boxes.
- 13) The first floor window in the western elevation of the approved new dwelling on plot 2 and the first floor window on the northern side elevation of the approved new dwelling on plot 1 shall be fitted with obscure glass and shall be of a permanently fixed, non-opening design, with the exception of any opening top light that is a minimum of 1.7m above the finished internal floor level of the room in which the window is situated. These windows shall be retained in such condition thereafter.
- 14) Irrespective of the provisions of Classes A and B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or any other alteration normally allowed under those Classes shall be carried out to the new houses hereby permitted without express planning permission having first been obtained.