

Appeal Decision

Site visit made on 9 January 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/T0355/W/22/3299837

Land to south of Braywick Roundabout, Ascot Road, Maidenhead SL6 2HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Yeoman Homes against Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/02723 is dated 27 August 2021.
 - The development proposed is development of vacant land to provide four new private dwellings.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appeal is against the Council's failure to give notice of its decision within the prescribed period. The Council's case and its putative reasons for refusal are set out in the officer report.

Main Issues

3. The main issues are the effect of the development proposed on the character and appearance of the area; and the effect of the proposal on biodiversity.

Reasons

Character and appearance

4. The appeal site relates to land off Ascot Road to the south of Braywick Roundabout and adjacent to a spur road which provides access to a small number of dwellings. It consists of an area of trees which are subject to a Tree Preservation Order (TPO), together with various shrubs and undergrowth and low fencing on the site boundaries.
5. The surrounding area is of mixed character with residential properties to the east and open land to the west, which is designated as a strategic employment site. Dwellings on Ascot Road, though of varied size and style, are predominantly generally large detached properties set within spacious, well vegetated plots. The existing properties tend to address the road though are generally set back behind boundary walls or fences and planting. This gives the area a spacious feel which results in a distinctive pattern of development. Notwithstanding that the site has been released from the Green Belt as part of the Green Belt Boundary Alterations and is located adjacent to a busy highway network, the trees and

shrubs on the site provide a pleasant verdant and sylvan character which positively contributes to the area.

6. The appeal proposal is for a small cul-de-sac of four houses, which would consist of a semi-detached pair to the north and two detached properties to the south of a shared access. The arrangement of the dwellings in a relatively confined cul-de-sac with a lack of space between them and car dominated frontages would not reflect the spacious linear road-fronting development to the east. The dwellings would be located on relatively small plots with limited external space surrounding them which would result in a cramped appearance at odds with the existing large plots in the area. In addition, the narrow, vertical proportions of the proposed dwellings would be in marked contrast to the wide frontages of the properties to the east. Consequently, the proposal would not reflect the local characteristics of the surrounding area or the pattern of development and erode its spacious character.
7. Although the category C and U trees to be removed are low quality specimens, as a group they make a positive contribution to the verdant character of the area, as is indicated by their protection under a TPO. Although some trees would be retained on the site edges, the removal of such a large number of trees and scrub would detract from the verdant character of the area and open up views of the site on this prominent corner plot, which would make the development readily apparent when viewed from public vantage points, particularly Ascot Road to the west.
8. The appellant contends that the ash trees are suffering from ash die-back and that, unmanaged and undeveloped, the site will become more unkempt. However, the site did not have a particularly unkempt appearance at the time of my site visit. The Council's view is that the land is likely to remain continually wooded through natural regeneration. However, even if the trees do decline rapidly and are not replaced, it would not alter my view that the scale, layout and design of the scheme would not integrate successfully with its surroundings.
9. The addition of a high acoustic fence along the western site boundary would be a stark, urban feature at odds with the natural appearance of the site. The remaining verge between the fence and road would appear to be of insufficient width for any new substantial soft landscaping to provide adequate screening of the fence. New tree planting within the site could be secured through a landscaping condition were planning permission to be granted. However, there would be limited space within the site for replacement tree planting to take place and it would take some time to mature. Given the limited size of the gardens and proximity of the trees I consider it likely that there would be pressure from future occupiers of the dwellings to remove or significantly lop the trees. Consequently, such replacement planting would not sufficiently mitigate the adverse impacts on the character and appearance of the area.
10. For the above reasons, I conclude that the proposed development would be significantly harmful to the character and appearance of the area. Therefore, the proposal would be contrary to Policies QP1, QP3 and IF4 of the Borough Local Plan 2013-2033 (the BLP) and the Borough Wide Design Guide (2020), which, amongst other things, seek to ensure that all new development positively contributes to the places in which they are located. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework)

which, amongst other things, seeks to ensure that development that is sympathetic to local character.

Biodiversity

11. The appellant's Preliminary Ecological Appraisal includes a Phase 1 Habitat Survey which identifies the site as an area of secondary woodland. The survey refers to the presence of self-set trees, the majority of which are early mature specimens with a small number of mature ash present and various shrub species. It states that the woodland is showing early signs of ash dieback and has a limited life expectancy. A number of trees would need to be removed to facilitate the development, though the better quality specimens would be retained, and replacement tree planting is proposed.
12. The Council says that the area is a priority habitat and that a number of protected bird species have been recorded in the locality of the site. However, there is no substantive evidence before me to counter the findings of the appellant's Ecological Appraisal, which identified no protected species on the site itself, though it is said to support suitable habitat for foraging bats. The site has limited connectivity to other areas of semi-natural habitat due to its isolated position between roads.
13. Several biodiversity enhancements are recommended in the Ecological Appraisal, including new bird and bat boxes, and new planting. However, there is uncertainty whether some of the enhancements could be delivered or secured in the long term. The Noise Assessment recommends a solid barrier or fence within the site to provide acoustic screening with no gaps underneath or around, which would appear to undermine the Ecological Appraisal's recommendation for 'hedgehog highways'. The provision of wildflower lawns within the site would be unlikely to be maintained as such in the future as these would be within the private gardens of the dwellings. There is limited space within the site for new tree planting to replace those lost.
14. Given these factors, and the extent of tree loss on the site and provision of new hard surfaces, it has not been demonstrated that the proposal would deliver a measurable net gain for biodiversity in accordance with paragraph 179(b) of the Framework. I am not satisfied that it would be reasonable to address this matter by way of a condition as it is unclear whether such a condition could be complied with given the above factors.
15. For the above reasons, I conclude that the appellant has failed to demonstrate that the proposal would have an acceptable effect on biodiversity. It would conflict with BLP Policy NR2 which requires proposals to demonstrate how they would maintain, protect, and enhance the biodiversity of application sites, including demonstrating a net gain in biodiversity by quantifiable methods. It would also conflict with Framework paragraphs 174(d) and 179(b), which require proposals to minimise impacts on and provide net gains for biodiversity.

Other Matters

16. The Council's third putative reason for refusal relates to insufficient detailed information about the sustainability measures for the proposed dwellings in terms of energy efficiency, use of water and other natural resources. During the course of the appeal the appellant submitted a completed unilateral obligation under Section 106 of the Town and Country Planning Act 1990, which seeks to

secure a financial contribution towards offsetting carbon emissions and would also include a lifestyle contribution. The officer report also identifies that some of the bedrooms and storage areas of the proposed dwellings would fall short of the minimum internal space standards set out in the Technical housing standards – nationally described space standard. As I am dismissing the appeal for other reasons, there is no need for me to consider these matters further.

17. Interested parties raise other concerns with the proposal, including the effect on the living conditions of neighbours and highway safety. The Council have not raised objections to the proposal on these grounds and I see no reason to disagree with that assessment based on the evidence before me and my observations on site. However, the absence of harm in relation to these matters is neutral rather than weighing positively in the proposal's favour.
18. The acoustic fence would potentially benefit the occupants of the existing houses on Ascot Road, though I have no substantive evidence before me to indicate that traffic noise is a significant source of nuisance to the existing occupiers.
19. The appellant asserts that the allocation of land to the west of the site as a strategic employment site will have a significant effect on the area's character. Notwithstanding this, the positive contribution that the appeal site makes to the character and appearance of the area would be unaffected by that nearby site.
20. The appellant suggests that the proposal should be seen in light of Government policy to maximise the use of urban brownfield land. Previously developed land is defined in Annex 2 of the Framework. There is no substantive evidence before me to indicate that the site constitutes previously developed land. The appellant contends that the proposal is line both with Framework policy to promote the effective use of land in meeting the need for homes and the Council's aims for smaller more affordable homes and provision of housing on windfall sites. However, in this case that would be at the expense of the character and appearance of the area and biodiversity. There is no evidence before me to demonstrate that the proposed dwellings would meet a locally identified need for affordable housing as it is defined in the Framework.
21. There is no dispute between the parties that the Council can demonstrate a five year supply of deliverable housing land. Accordingly, Framework paragraph 11(d) is not engaged. Nevertheless, as the amount of new housing to be provided in the plan period is expressed as a minimum the contribution that the proposal would make towards the Borough's housing needs and the housing mix in the area, weighs positively in the proposal's favour and aligns with the objective of significantly boosting the supply of homes, as set out in the Framework. The proposal would also create employment during the construction phase of the development and future residents would support the local economy through spending in the area. Given the modest scale of the development, the weight attributable to these matters is limited and would be outweighed by my findings as to the harm that would be caused.

Conclusion

22. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

M Ollerenshaw - INSPECTOR