



Appeal Decision

Site visit made on 2 March 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal Ref: APP/T0355/W/22/3308381

6 - 8 Florence Avenue, Maidenhead, Berkshire SL6 8SJ

- 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 P Gill against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/03365, dated 22 October 2021, was refused by notice dated 30 May 2022.
 - The development proposed is change of use from garage to 1 bedroom studio flat.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's first reason for refusal cites conflict with Section 16 of the National Planning Policy Framework 2021 (the Framework) and Policy HE1 of the Borough Local Plan 2013-2023 (Local Plan). However, during the appeal process, the Council have confirmed that these were cited in error and that the proposal does not impact on either a designated or non-designated heritage asset. I have determined the appeal on this basis.

Main Issues

3. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
 - whether the proposed development would minimise CO2 emissions or achieve net-zero carbon; and
 - the effect of the proposed development on highway safety, with specific regard to highway users and their safety, including future occupants of the building.

Reasons

Character and Appearance

4. The appeal site currently consists of a detached double garage, situated to the rear of 6-8 Florence Avenue. Florence Avenue runs to the east of the appeal

- site and also to the south of Nos 6-8. Owing to its corner position, the existing double garage is accessed via an existing dropped kerb from the section of Florence Avenue which runs to the east.
5. Whilst there is a variation in housing styles and materials in the surrounding dwellings, the immediate area predominately consists of 2 storey dwellings. The properties along Florence Avenue also have a degree of consistency in their plot size.
 6. The conversion of the garage to form a studio flat would result in a contrived conversion of the existing building. The resulting design and single storey nature would appear as an incongruous addition in the street scene, harming the established character and appearance of the area. Furthermore, the plot size of the development would be uncharacteristically small for the area. The proposal would result in a cramped development, at a much higher density than the local context.
 7. The 4 storey building of Evenlode is situated nearby. As part of this development, it is acknowledged that former garages were converted. However, these garage conversions are not considered as a precedent as the proposal would be seen in the immediate context of the surrounding 2 storey dwellings, rather than with the Evenlode development. Furthermore, the circumstances in each proposal are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm to the character and appearance of the area for the reasons set out above.
 8. The appeal scheme would therefore cause harm to the character and appearance of the area. It would conflict with the overriding objective of Policy QP3 of the Local Plan, which is to achieve high quality design, including respecting the local character of the environment paying particular regard to, amongst others, urban grain, layout, density, height and scale.
 9. It would also conflict with Principle 6.5 of the Borough Wide Design Guide (June 2020) (the SPD) which requires all development to respond to the size, shape and rhythm of surrounding plot layouts. Plot layouts that are out of context with the surrounding character, will be resisted. The proposals would also be contrary to the principles within Chapter 12 of the Framework, which seek good design sympathetic to the local area.

Flooding

10. The Environment Agency (EA) Flood Map for Planning confirms that the appeal site is situated entirely within Flood Zone 3. Planning Practice Guidance (PPG) and the Framework aim to steer development to areas with the lowest probability of flooding through a sequential test. Policy NR1 of the Local Plan reflects this. Consequently, planning applications, such as the appeal proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding.
11. A Flood Risk Assessment (FRA), prepared by AA Environmental Limited, was submitted with the application. This states that the site is offered protection from the Maidenhead, Windsor and Eton flood Alleviation Scheme. However, as

the defence information from the EA states, included as Appendix A of the appellant's FRA, although the site is given some protection from defences, it is still considered to be in Flood Zone 3.

12. I note the appellant's confirmation that the future occupants would be signed up to the EA's catchment flood alerts and that the development would have a Flood Evacuation/Emergency Plan in place. Furthermore, measures are proposed to mitigate the effects and risk of flooding such as raising proposed floor levels, raised electrical sockets and permeable paving. I also note that the FRA states that the proposed development would be 'within detailed modelled Flood Zone 2' and that the site therefore does not require the sequential test. However, none of these factors alter the requirement for a sequential test. The scheme has failed to demonstrate that there are no other sequentially preferable alternative sites for the proposed development. Therefore, the proposal does not pass the sequential test.
13. I note the appellant has drawn my attention to an application at 20 Florence Avenue, albeit limited information regarding this development has been provided. They state that this application detailed an escape route along Florence Avenue towards Atkins Alley. Whilst this is acknowledged, this would not overcome the requirement for a sequential test for the appeal proposal.
14. Consequently, the proposal would not comply with local or national planning policy which seeks to steer new development away from areas at the highest risk of flooding. The proposal would be contrary to Policy NR1 of the Local Plan which states that a sequential test is required for all development in areas at risk of flooding, except for proposed developments on sites allocated in this Plan or in a made Neighbourhood Plan. It also states that the sequential approach should be followed by developers for all development so that the most vulnerable development is located in the lowest risk flood areas within a site, taking account of all sources of flood risk.
15. In addition, it would fail to accord with paragraph 162 of the Framework where it states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

CO2 emissions or net-zero carbon

16. Policy SP2 of the Local Plan requires all developments to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. It states that proposals involving both new and existing buildings shall demonstrate how they have been designed to maximise resistance and resilience to climate change, for example by including measures such as solar shading, thermal mass, heating and ventilation of the building and appropriately coloured materials in areas exposed to direct sunlight, green and brown roofs, green walls, etc.
17. No information has been submitted by the appellant in regard to how the development has been designed to incorporate measures to adapt to and mitigate climate change. Whilst it is acknowledged that the site is already developed and may only require minimal works in relation to meeting the latest building standards, based on the little information before me, I am not convinced that this could have been secured by way of planning condition.

18. Consequently, the proposal has failed to demonstrate that it has been designed to incorporate measures to minimise CO2 emissions or achieve net-zero carbon, and as such would be contrary to Policy SP2 of the Local Plan. It would also be contrary to principle 7.4 of the SPD which requires all new residential development to make optimal use of natural light and warmth so as to minimise the use of energy for lighting and heating. Proposals that fail to incorporate passive solar design will be resisted unless there is strong justification for not integrating it into a building or site. It would also be contrary to the principles set out in Chapter 14 of the Framework in regard to meeting the challenge of climate change.

Highway Safety

19. The lawful use of the appeal site is a double garage, with a dropped kerb to the highway. Florence Avenue is a relatively quiet residential street and is subject to speed bumps to keep vehicle speeds down. There are a number of existing dwellings along Florence Avenue which have single driveways off the highway, with no space on site for turning. Given that most houses in the immediate area benefit from an off-street parking space, this limits the number of cars parking on the street, maximising the visibility sightlines from the site.
20. The proposal would provide a single parking space, positioned to the south of the existing garage. Vehicles already enter and exit the appeal site, resulting in up to 2 vehicles reversing onto or off the highway into the double garage. Therefore, the 'propensity' of the proposal to result in vehicles reversing on to or off the site would be the same as the existing situation. It would not result in a significant increase for the potential for conflict between road users and would not harm highway safety.
21. Whilst visibility splays have not been provided, and it is appreciated that the parking space would be situated slightly to the south of the existing garage, it would be logical to conclude that the proposal would achieve similar visibility sightlines to that of the existing double garage. I have not been provided with any evidence that the existing arrangement is problematic to highway safety. Consequently, the visibility sightlines achievable would be acceptable.
22. The proposed plan does not explicitly show a 1.2m wide footpath from the public highway to either the front door or side access gate. However, it is clear from the proposed plan that future occupants would be able to access the front door directly from the highway, without any obstruction. Whilst accessing the side access gate may be more of a challenge, there would be space to the south of the parking space, adjacent to the boundary with No 6, to walk around the parking space, and not across it, in order to reach the side access gate.
24. Consequently, the proposal would not harm highway safety, with specific regard to highway users and their safety, including future occupants of the building. The proposal would be in accordance with Policy IF2 of the Local Plan which requires development proposals to create a safe and comfortable environment for pedestrians and cyclists. The proposal would also accord with paragraph 111 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Other Matters

25. The appellant alleges that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. I have found that the proposal would not comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Therefore, this is a situation in terms of paragraph 11 (d) (i) of the Framework, where the presumption in favour of sustainable development is not engaged because the application of the policies in the Framework that protect areas at risk of flooding¹ provides a clear reason for refusing the development proposed. Therefore, even if I were to find that the Council has no five-year housing land supply, the appeal scheme would not benefit from the presumption in favour of sustainable development.

Conclusion

26. Overall, although the proposal would be acceptable in regard to highway safety, I have found that there would be conflict with the development plan as a whole, as the proposal would harm the character and appearance of the area, would fail to steer new development away from areas at the highest risk of flooding, and would fail to minimise CO2 emissions or achieve net-zero carbon. Considered in total, the material considerations referred to above do not outweigh the conflict with the development plan. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR

¹ Framework paragraph 11 d), footnote 7