



Appeal Decision

Site visit made on 7 February 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2023

Appeal Ref: APP/T0355/W/22/3309485

44 The Vinery, Burfield Road, Old Windsor, Windsor and Maidenhead, Windsor SL4 2LP

- 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 and Mrs Howe against the decision of the Royal Borough of Windsor and Maidenhead Council.
 - The application Ref 22/00521, dated 24 February 2022, was refused by notice dated 5 September 2022.
 - The development proposed is the demolition of existing garage and erection of a detached 4 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area, and whether a planning obligation is necessary to secure a carbon offset contribution.

Reasons

Character and appearance

3. The appeal site is located within a residential area that is predominantly characterised by large detached dwellings, of varying designs, that are set back from the road and have generous sized plots. The gaps between the properties provide an overall feeling of spaciousness and enable views of the mature trees beyond which contribute to the verdant character and appearance of the area.
4. The Council's Townscape Assessment (TA)¹ identifies that the appeal site forms part of the 'villas in a woodland setting' townscape and is also immediately adjacent to the 'leafy residential suburbs' townscape. The descriptions of the two townscapes are similar in many respects. In particular, the TA sets out that their character is partly defined by low density development, with dwellings that are set back from the road and occupy large footprints. Both townscape descriptions also refer to the presence of mature trees and hedgerows. I noted on my site visit that these descriptions broadly reflect the characteristics of the area in which the appeal site is located.
5. The proposed development would provide a single new dwelling within the current front garden of No. 44. Given the varied styles of properties in the

¹ Royal Borough of Windsor and Maidenhead Townscape Assessment, Volume 2: Windsor Group, June 2010

- area, the appearance of the proposed dwelling itself, by way of its mass, the materials used and its overall design, would not be at odds with its surrounds. However, while a sufficient gap to No. 42 would be maintained, the proposed dwelling would be constructed in extremely close proximity to the neighbouring property at No. 46. The hipped roof design of the proposed dwelling would marginally increase the distance between the two dwellings at roof level.
6. However, the small gap between the side elevations of the two properties would clearly appear out of keeping and incongruous with that of other properties nearby. Moreover, it would result in the immediate area feeling cramped and less spacious when viewed within the context of the open character of the surrounding area, while there would also be a reduction in the existing views of the trees beyond which would cause harm to the existing verdant character.
 7. The appellant has sought to draw my attention to No's. 48 and 50 nearby. These properties are attached and there is therefore no gap between them. While semi-detached houses are unusual in this area, the two dwellings are effectively one structure, and the gaps either side to No's 52 and 46 reflect the local character and rhythm of the built form. The proposed development would result in something quite different, with two distinct buildings separated by a very small distance.
 8. The existing dwelling at No. 44 is unusual in that it is set further back from the road than others nearby. However, that property still accords with local character given that it is a single dwelling set within a spacious plot. The proposed dwelling would be located in front of No. 44. The end result would, in effect, provide the appearance of backland development which isn't seen elsewhere in the immediate area. Indeed, when viewed from the street, the site would clearly be seen as two properties on the same plot. While there would be no obvious visual increase in hard standing as a result of the development, the additional built form on the site, and the subsequent reduction in garden space, would add to a reduced feeling of spaciousness and disrupt the existing rhythm and urban grain of dwellings along the street scene.
 9. As a result, I conclude that the proposed development would cause harm to the character and appearance of the area. This would be contrary to Policies QP1 and QP3 of the Borough Local Plan 2013-2033 and Policies OW4 and OW8 of the Old Windsor Neighbourhood Plan, which was 'made' in December 2019. Taken together, these policies seek to ensure that new development is well designed and contributes positively to the area.
 10. It would also be contrary to principles 6.5 and 7.1 of the Royal Borough of Windsor and Maidenhead Borough Wide Design Guide SPD, 25 June 2020 (Design Guide) and paragraphs 126 and 130 of the National Planning Policy Framework, which as a whole, require new development to respond positively to local character, including the layout, spacing and rhythm of existing dwellings.
 11. The proposed dwelling would be set back from the street, in a similar fashion to neighbouring properties. This would ensure that there would be adequate space to the front for parking. I am therefore satisfied that it would accord with principle 6.7 of the Design Guide which requires an adequate layout of parking spaces.

Planning obligation

12. The provisions of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended), and Paragraph 56 of the National Planning Policy Framework, states that planning obligations must only be sought where they meet all of the following tests:
 - a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
13. The Council has set out that a planning obligation is required to provide a financial contribution to offset any carbon emissions in the event that the new development does not reach carbon zero. This is reflected in the Position Statement on Sustainability and Energy Efficient Design, March 2021 (Position Statement) which identifies that a 'shortfall contribution' is required to address any gap between modelled and actual performance of a building. However, given the nature of this document which does not have the status of an adopted Supplementary Planning Document, I can only afford it very limited weight.
14. As part of their statement, the Council has also provided a copy of an appeal decision² where the Inspector concluded that a planning obligation of that nature was required. I don't have the precise details of that case in front of me. However, the Inspector concluded that, while they were satisfied that the development would incorporate measures to significantly reduce carbon emissions, a planning obligation was still necessary to achieve an overall net zero carbon outcome.
15. I have also had regard to the appeal decision put forward as part of the appellant's final comments³, of which the Council has had sight. In that case the Inspector concluded that an obligation to secure funds for a Carbon Offset Fund was not necessary, and that a condition would be appropriate to secure the relevant policy aims.
16. In this instance, the appellant's energy statement sets out how carbon neutrality would be achieved, and I note that the Council does not dispute its conclusions. Therefore, I do not consider that those appeal decisions are directly comparable due to the content and position of the Council in regard to the submitted energy statement accompanying this appeal.
17. As such, based on the evidence before me, I am satisfied that the proposed dwelling would achieve carbon zero if the measures identified within the energy statement are implemented. If I had been allowing the appeal, these measures could have been secured via an appropriately worded condition.
18. Given this, I cannot conclude that a planning obligation is necessary or reasonable, or would deliver an outcome that would make the scheme acceptable. This element of the proposal would therefore not conflict with Policy SP2 of the Borough Local Plan 2013-2033 or the overall aims of the Position Statement, which taken together, require developments to adapt to, and mitigate, climate change.

² APP/T0355/W/21/3288290

³ APP/T0355/W/21/3289134

Other Matters

19. I note that there are no objections from neighbours or the Parish Council. However, this in itself does not mean that the proposal would not result in harm.
20. Given that the proposal for one additional dwelling would only make a very small contribution to overall housing need in the area, and to the local economy, I have given this issue very limited weight. In addition, I note that the appellant has set out that the appeal site is in an accessible location, and that there is no disagreement between the main parties on issues such as parking provision, highway safety, living conditions, access, flooding and ecology. However, none of these factors, whether considered individually or in combination, overcome the harm identified elsewhere in my decision.
21. The appellant has also suggested that the existing front garden has little function or benefit, and that the garage is vulnerable to theft. While this might be the case, I have no substantive evidence to support these claims, and I do not afford these matters any weight in making my decision.

Conclusion

22. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR