



Appeal Decision

Site visit made on 16 January 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/T0355/W/23/3324640

Flat at 96 Dedworth Road, Windsor SL4 5AY

- 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 Altiora Investments Limited against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/02060, dated 21 July 2022, was refused by notice dated 22 December 2022.
 - The development proposed is described as an 'infill extension at first and second floor between 94 and 96 Dedworth Road. In extending the footprint, internal alterations are proposed to create 6 No. 1 bed apartments (current consent at 96 Dedworth Road is for 3 x 2 bed apartments)'.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. In accordance with application Ref: 17/01835/VAR ('the approved scheme'), the appeal site has planning permission for a first floor side extension and raised roof to provide three 2 bedroom apartments at first and second floor. The Council confirms that that development is substantially complete.
3. A revised National Planning Policy Framework was published on 19 December 2023 ('the Framework'). In the interests of fairness, I gave the principal parties an opportunity to comment on it. I am required to have regard to the Framework as a material consideration from the day of publication, rather than the now superceded version which was in place at the time of the Council's decision. That said, with reference to the main issues in this appeal, the Framework's policies do not significantly differ compared to the now superceded version.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host buildings and the area;
 - whether the scheme would provide acceptable living conditions for future occupants, having regard to internal living space and private outdoor space;

- whether the scheme would provide an appropriate mix of housing;
- whether the scheme would inconvenience highway users, with particular regard to the location of the proposed cycle parking;
- whether the scheme would include appropriate sustainability measures; and
- whether the scheme would suitably address biodiversity requirements.

Reasons

Character and appearance

5. No 96 Dedworth Road ('No 96') is prominently located on the corner with Vale Road. Its form and finish are similar to the neighbouring detached building at No 94. They are located in a mixed residential and commercial area. Nearby buildings on this side of Dedworth Road, which include some semi-detached houses, are mostly two storeys high, and well-proportioned with moderately sized footprints and a vertical emphasis.
6. Notwithstanding the buildings' varied appearance, their proportions and the gaps between them, particularly above ground floor level, contribute to the rhythm of the streetscene. Whilst larger than most nearby, the buildings at Nos 96 and 94 respect the general grain and pattern of development.
7. The proposed extension would link these two buildings at first and second floor, with an undercroft beneath. Its front face would be only slightly recessed, and it would not be set down from No 96 at roof level. Consequently, rather than two distinct buildings the scheme would create one long building with a sprawling mass and a bulky, horizontal form. Although matching materials are proposed, the resultant building would therefore be at odds with the prevailing grain and pattern of development in this part of the streetscene.
8. As illustrated by the appellant's photographic study, there are varied forms of development elsewhere along Dedworth Road, some of which is three storeys high, or comprises long blocks some with retail uses at ground floor. However, many are a significant distance from this site where the streetscene is different, or are on the opposite side of the road. Moreover, many date from a time when design standards and policies differ from now.
9. The recently approved scheme, which is under construction at 'Mahjacks', is close to this site, but on the opposite side of Dedworth Road. Its mass is broken up by its well-articulated façade, and its front face is considerably shorter compared to the resultant building here.
10. None of these examples therefore change my conclusions regarding the significant harm that this scheme would cause to the character and appearance of the host properties, and to this part of the streetscene.
11. The proposal would thus conflict with Policy QP 3 of the Windsor and Maidenhead Borough Local Plan 2013-2033 (2022) ('WMLP'). Amongst other things, this expects high quality design which respects and enhances local character, paying particular regard to matters such as urban grain, layout, rhythm, scale, bulk, massing and proportions. Additionally, it would conflict with the requirement at Section 12 of the Framework for high quality buildings which are sympathetic to local character and help to maintain a strong sense of place.

Living conditions

12. The Council's second reason for refusal also refers to WMLP Policy QP 3. At part I) it states that sufficient high quality private and public amenity space should be provided, but it makes no reference to any internal space standards.
13. The Council also references the DCLG Technical Housing Standards – nationally described space standard 2015 ('NDSS'). The principal parties disagree whether the gross internal floor areas of the proposed apartments would comply with the NDSS. This disagreement appears to revolve around whether these one bedroom apartments would be for one, or two, persons.
14. Based on drawings 96DR_03 and 96DR_04 Rev A, and applying a discount to areas with restricted headroom which would provide storage, the units would range in size from 37sqm to 59sqm. However, having regard to paragraph 10 and Table 1 of the NDSS, and without all the bedrooms' dimensions, I cannot reach a firm conclusion on this matter.
15. In any event, the NDSS is not mandatory. The Planning Practice Guidance advises at ID: 56-018-20150327 that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the NDSS. The Written Ministerial Statement Planning Update March 2015 sets out that decision takers should only require compliance with the national technical standards where there is a relevant current Local Plan policy.
16. Principle 7.8 of the Council's Borough Wide Design Guide Supplementary Planning Document (2020) ('SPD') states that new housing development will be expected to comply with the NDSS. However, that is guidance, not development plan policy and there does not appear to be a relevant development plan policy in place.
17. I cannot be certain, from the conflicting and incomplete evidence before me, whether the internal areas would comply with the NDSS and the SPD. However, each proposed apartment would have a separate bedroom and bathroom, and a reasonably proportioned open plan living space/kitchen, and they would provide sufficient space for the occupiers to relax, sleep and cook, with extra space for storage. Their internal areas would be acceptable.
18. However, none of the proposed apartments would have a private or communal outdoor area. Whilst that was also the case in the approved scheme, this proposal includes an apartment in a proposed extension. Although the appellant has indicated that a balcony could be provided, that is not depicted on the drawings.
19. Since the decision on the approved scheme, the WMLP has been adopted, and the SPD has been published. This constitutes a significant material change in circumstances. Principle 8.5 of the SPD states that upper floor flats should include individual high quality private outdoor amenity spaces, which are, amongst other things, over 2 metres deep and have at least 5 sqm area.
20. I am not persuaded that a balcony in the proposed extension would be significantly out of keeping with the remainder of the building's design, and there is no cogent justification for why the occupants of that apartment should not have a private outdoor space where they could relax, or hang their washing.

21. Consequently, I conclude that the scheme would not provide appropriate living conditions. However, given the site's planning history and the fallback of the approved scheme, I attach only limited weight to the harm that would be caused as a result of the conflict with WMLP Policy QP 3, SPD Principle 8.5, and with Framework paragraph 135 f) which requires a high standard of amenity.

Housing mix

22. WMLP Policy HO 2 sets out that new homes should contribute to current and projected households' needs by providing an appropriate mix of dwelling types and sizes which reflects the most up to date evidence. According to the Berkshire Strategic Housing Market Assessment 2016 ('SHMA') there is a need for 5% to 10% of market dwellings to be 1 bed units, 25% to 30% to be 2 bed units, and 60% to 70% to be 3 or 4 bed units.
23. Although the approved scheme, and the development at No 94, comprise only two bedroom apartments, according to the SHMA there is a greater need for that size unit compared to the one bedroom apartments now proposed.
24. Other than the SHMA, and the appellant's assertion that the surrounding area consists of family housing and larger flats, I have limited evidence before me regarding what the specific housing needs are in this local area, at this time. Neither has the appellant provided evidence of local circumstances or market conditions to demonstrate why a mix of unit sizes would be inappropriate.
25. Consequently, I find that the scheme would not provide an appropriate mix of housing, and that it would thus be contrary to WMLP Policy HO 2. However, given the paucity of cogent evidence one way or the other, I attach only limited weight to this harm in my overall planning balance.

The convenience of highway users

26. WMLP Policy IF 2 sets out that, as a guide, cycle and vehicle parking should be provided in accordance with its Parking Strategy 2004 ('the PS'). Principle 9.2 of the SPD states that cycle storage should be accessible and integrated into the design and should be provided in accordance with its current standards.
27. The Council confirms that the car parking requirement for this proposal is the same as for the approved scheme. Having regard to the site's accessible location, close to facilities and bus services, it considers that the car parking provision would be acceptable. I agree.
28. Turning to the proposed bike store, whilst the Council considers that its six spaces would be sufficient, it is concerned that the doors would open outwards towards the pavement, and possibly beyond the site boundary; and that riders would need to manoeuvre cycles on the pavement to the inconvenience of pedestrians. The appellant asserts that there is no reason why the cycle parking would not function well.
29. For my part, I note that the proposed bike store, as depicted on drawing no. 96DR_02 is in the same location, and appears to be of about the same dimensions, as in the approved scheme. From the evidence before me, I am unable to conclude whether the cycle store doors would open over the pavement of Vale Road, as alleged.

30. However, as the PS was in place at the time that the approved scheme was considered, and as the bike store appears to be similar to that previously approved, it would be unreasonable to find that it is now unacceptable. Additionally, given the accessibility of the site on foot and by public transport to services and amenities, and the small scale of the proposal, movements to and from the bike store are likely to be fairly limited. Consequently, even if cyclists would, on occasion, manoeuvre over or temporarily block, the footway, that would not cause significant inconvenience to other highway users. On this issue the proposal would not conflict with WMLP Policy IF 2, the PS, or the SPD.

Sustainability measures

31. The Council's Position Statement on Sustainability and Energy Efficient Design (March 2021) states that new dwellings should achieve a net zero carbon rating, and that any shortfall should be mitigated by a financial contribution to a carbon offset fund. It continues that new dwellings should make provision for electric vehicle charging, and high-speed internet to facilitate home working. However, whilst that statement sets out that it is a material consideration, it does not form part of the development plan, and neither is it a supplementary planning document.
32. WMLP Policy SP 2 requires all development to demonstrate how it has been designed to incorporate measures to adapt to and mitigate climate change, having regard to matters such as building orientation, heating, ventilation, solar shading, appropriate facing materials, and landscaping.
33. In a written ministerial statement on local energy efficiency standards on 13 December 2023 the Government set out that it does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations, as the proliferation of multiple, local standards can add further costs to building new homes by adding complexity and undermining economies of scale.
34. This scheme predominantly involves the reconfiguration of accommodation in an existing recently constructed building, whose orientation and siting are already established. The amount of new built development proposed is modest. In that context, I have sympathy with the appellant that retro-fitting sustainability measures into it would be unduly onerous; and that it could result in significant cost and the imprudent use of resources as a result of the removal of recently installed products and materials.
35. However, the provision of some sustainability measures, such as those detailed in the appellant's email dated 21 October 2022, could be addressed by a condition should the appeal be allowed.
36. In that context, notwithstanding the limited conflict with WMLP Policy SP 2, I am not persuaded that the absence of a sustainability or energy statement warrants dismissal of the appeal; nor that the scheme would conflict with the broad thrust of the Framework, including its environmental objective at paragraph 8 and its Section 14.

Biodiversity

37. Amongst other things, WMLP Policy NR 2 requires development proposals to identify areas where there is opportunity for biodiversity to be improved. The

Framework also requires planning decisions to minimise impacts on, and provide net gains for, biodiversity.

38. I have no information before me regarding the site's existing biodiversity value, nor evidence to show whether there would be a net gain. However, given that the scheme predominantly involves the internal reconfiguration of an existing building, with only a modest extension, and no significant outdoor space other than hardstanding, the scope for biodiversity enhancements is limited.
39. In that context, I am satisfied that this matter could be dealt with by an appropriately worded condition, should the appeal be allowed. This matter is therefore non-determinative in my decision.

Other matters

40. The appellant expresses concern regarding the Council's handling of the application, including contrary indications from officers about the acceptability of its design, and its compliance with policies and guidance. I also note the appellant's case that this, and continued requests for additional evidence, have caused delays and affected the viability of the project. However, I have considered the scheme before me on its planning merits, and against the provisions of S38(6) of the Planning and Compulsory Purchase Act 2004.
41. In its favour, the scheme would generate temporary economic activity and employment during construction, and there would also be support for local facilities and services from its occupation. The scheme would also contribute to the supply of housing, in accordance with development plan and Framework policies. However, as the net gain in housing would be modest, this attracts limited weight in its favour.

Planning Balance and Conclusion

42. I have found that biodiversity and sustainability requirements could be dealt with by means of appropriately worded planning conditions should the appeal be allowed; and that the scheme would not significantly inconvenience highway users.
43. However, it would significantly harm the character and appearance of the host buildings and the area. Additionally, I have attached limited weight to the harm that would be caused as a result of the failure to provide an appropriate mix of housing, and due to the absence of outdoor amenity space to the detriment of future occupiers' living conditions.
44. The scheme's limited benefits would not outweigh the totality of the harm that it would cause, and it would conflict with the development plan when considered as a whole. Consequently, and having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR