



Appeal Decision

Site visit made on 31 January 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/T0355/W/23/3322145

2, 4 & 4A Boyn Valley Road, Maidenhead SL6 4ED

- 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 Fiaz Hussain against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/02419, dated 1 September 2022, was refused by notice dated 13 December 2022.
 - The development proposed is the demolition of existing buildings to provide 10 maisonette style units in two structures.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above site address is taken from the Council's decision notice, in the interests of clarity.
3. Since the appeal was lodged the Government published the revised National Planning Policy Framework (2023) (the Framework) in December 2023. The parties have had the opportunity to comment upon the implications of this for their cases.
4. The Council refer to 6 and 6B in relation to the adjacent properties. The appellant refers to 6 and 6A. From what I observed on site, 6 and 6A is more accurate, and as such I have referred to these neighbours in this way. I consider this a typo which does not prevent my full consideration of the proposal.

Main Issues

5. The main issues in this case are:
 - the effect of the development on the character and appearance of the surrounding area;
 - the effect of the development on the living conditions of the occupants of Nos 6 and 6A Boyn Valley Road, with respect to outlook and privacy;
 - whether the proposal provides adequate living conditions for future occupiers, with respect to the outlook and the provision of outdoor space;
 - The effect of the development on highway safety; and

- whether the proposal would meet sustainability and carbon reduction requirements.

Reasons

Character and appearance

6. The appeal site is prominently sited on Boyn Valley Road, adjacent to a railway line and a row of garages and opposite an open grassed area. Whilst some properties may have accommodation in the roof, the immediate surroundings are characterised by two storey dwellings, like the appeal building, of varying character and appearance. However, the consistent two storey dwellings provide a coherent, suburban character to the surroundings.
7. Whilst the third floor is set partly within the roofscape, three storeys are clearly evident and therefore the proposed replacement buildings would have the appearance of three storeys with a four storey element at its corner. Even with a slight increase in height of land to the north, and, as set out by the appellant, limited increased eaves height compared to the immediate neighbour, it would therefore appear clearly taller than the immediately surrounding built form of consistent two storey properties.
8. The depth of the building is similar to that of the neighbouring property and terrace, however, due to this height, which extends for its substantial width, its siting in close proximity to the front boundary and its prominent position, it would dominate the surrounding street scene. Given its scale, this visible height would not be mitigated by the elements of design, such as the gable ends and use of matching materials. The proposed planting at the building frontage would also not soften the scale of the built form sufficiently to conceal its height. The incongruous height of the development would therefore harm the existing consistent 2 storey character of the immediate surroundings.
9. There are examples nearby of larger taller blocks of apartments nearby, such as Dunwood Court, a substantial 3-4 storey flat roofed apartment building and more modern apartment building at Nos 157 and 159 Boyn Valley Road. However, Dunwood Court is only visible in glimpses from the appeal site and given its considerable set back from the highway and obscuring roadside trees, this building is not comparable in terms of visual impact. Given the distance to Nos 157 and 159, this building does not form part of the immediate setting of the appeal site.
10. Pre-application advice¹ was given by the Council which suggested that it would *'be positive to have a feature that defines this corner of the site'*, however it does not follow that a four storey element as proposed would be supported, particularly given the advice the development *'needs to be of an appropriate scale, and have regard to the scale of other buildings in the area.'* Whilst the existing building may be untidy in its appearance and poorly maintained, it also does not follow that the proposed scheme is necessary to improve matters in this respect.
11. I therefore conclude that the proposal would harm the character and appearance of the area. There is therefore conflict with Policies QP1 and QP3 of the Borough Local Plan (LP), and the advice set out in Principles 6.5 and 7.6 of the Supplementary Planning Document Borough Wide Design Guide (2020)

¹ Dated 7 April 2021

(SPD), which collectively require development to positively contribute to the places in which they are located, achieve high quality design which respects local character, including with regards to height. These policies are in broad conformity with the Framework.

Living conditions – neighbours

12. The proposed development would sit closer to the side elevation of No 6/6A than the existing building. The side elevation fenestration would sit in close proximity to the boundary between the properties.
13. The first floor windows are high level, and therefore provide limited opportunity for overlooking, and the bathroom window can be conditioned as obscure glazed. Similarly, a second floor window serves a storage area, and can also be conditioned as obscure glazed. However, the sole window serving a kitchen also sits on the second floor level and would provide opportunity for direct overlooking of the side elevation fenestration of No 6/6A. Therefore, compared to the existing situation, this would allow for greater overlooking of these neighbouring windows, and the rooms that they serve would experience a loss of privacy.
14. The garden area of No 6/6A also sits at its rear adjacent to the side boundary. This second floor kitchen window would also allow for direct overlooking of this space. Moreover, the rear facing balcony of unit 9 would offer opportunity to overlook this garden space, albeit on an oblique angle.
15. Given the proximity and height of the balcony and window, the users of the garden space would experience a higher level of overlooking than currently, which would again, result in a loss of privacy and consequent harm to the living conditions of the occupiers. Due to the width of the balcony area, screening to limit any overlooking would not be appropriate given its limited effectiveness and possible visual implications.
16. The existing outlook from the side elevation windows of these neighbours is mostly of the appeal building. Whilst, as set out above, built form would be brought nearer, and its scale and massing would be increased, the view of built form, with open sky either side would be broadly similar to the existing outlook. As such, I am satisfied that the outlook from the side elevation fenestration of No 6/6A would not be unduly harmed.
17. Nevertheless, the proposal would harm the living conditions of the occupants of Nos 6 and 6A Boyn Valley Road, with respect to privacy. As such, there would be conflict with the protection of neighbouring amenity goals of LP Policy QP3 and Principle 8.2 of the SPD and the Framework.

Living conditions – future occupiers of the development

18. Paragraph 135 of the Framework requires a high standard of amenity for existing and future users. The kitchens to units 3 and 7 are solely served by rooflights. As such, these habitable rooms would have no outlook. Similarly, whilst the kitchen to unit 6 is served by a window, it directly faces the brick side of the other proposed apartment building at a distance measured by the Council at less than 1m.

19. The resultant effect would be to create an unacceptable and oppressive sense of enclosure for users of these rooms, causing significant harm to their living conditions though poor outlook.
20. Principle 8.5 of the SPD sets out that '*flatted developments will be expected to provide high quality private outdoor amenity space for each unit*'. The units set partly over the ground floor would be served by private external amenity space. Whilst these are limited in scale, they are sufficient to not appear cramped, and would provide a small area for seating and clothes drying area.
21. Whilst the other upper floor units are served by balconies, the submitted floorplans show that Flat 2 is not. This unit does not have any private outdoor amenity space. As such, it does not meet this requirement, and its occupiers would not be provided with a high standard of amenity.
22. In light of the above, the proposal would not provide adequate living conditions for future occupiers, with respect to the outlook and the provision of outdoor space. The proposal would therefore conflict with the high-quality design requirements of LP Policy QP3, and the advice set out in the SPD. There is also conflict with the high standard of amenity requirements of the Framework.

Highway Safety

23. Given the extended footprint of the development, the space for parking at the front would be reduced compared to the existing parking area. It is evident the manoeuvring in the 4 parking spaces proposed would be difficult, particularly if some of the spaces were already in use. There is no space for turning, and there is a high probability that drivers may need to reverse over the pavement onto Boyn Valley Road. This could cause conflict with drivers and pedestrians, especially given the location of these spaces adjacent to the junction with Welbeck Road and limited visibility in either direction. As such, whilst the access point is existing, its increased use would lead to an increased possibility of conflict.
24. Parking spaces are also proposed to the side of the development, near the junction of the access lane and Boyn Valley Road. These spaces also have limited space, and again, it is evident that manoeuvring would be difficult, given the orientation of the spaces. This would particularly be the case if a space was occupied, and the exit and entrance to the remaining space would require a number of movements and reversing into the lane area. Given the limited width of the lane, there is no space to turn around and ensure that vehicles approach the entrance with the highway in a forward gear. Again therefore, these parking spaces area would not provide safe and accessible parking.
25. The rear lane is similarly currently used for parking spaces in the same location, and there are also similar parking spaces along the lane for neighbouring dwellings along this Boyn Valley Road. Therefore, the provision of similar spaces to the existing, reduced from the existing amount of parking space, would not lead in this instance to an increased potential for conflict with other users of the lane.
26. Nevertheless, the front and side parking areas would have a detrimental impact upon highway safety. There is therefore conflict with the highway safety goals of LP Policies QP3 and IF2.

Climate Change

27. LP Policy SP2, regarding climate change, requires that adaptation measures need to be built into all new developments to ensure the sustainable development of housing. The Council's Interim Sustainability Position Statement (ISPS) (2021) sets out that new dwellings should achieve a net-zero carbon rating, and that this should be demonstrated through the submission of a suitable Energy Statement.
28. No such details have been submitted, and whilst the design of the proposal may reduce availability for the use of photovoltaic panels or green roofs, and left over materials could be reused etc, insufficient information is before me to illustrate that the proposal would comply with the requirements of the above policy.
29. The appellants have indicated willingness to provide a planning obligation to make a financial contribution toward what they consider to be appropriate mitigation, however, no such formal legal agreement or mechanism has been submitted nor any details of what would be an appropriate level of mitigation.
30. As such, I conclude that proposal would not therefore meet the sustainability and carbon reduction requirements of LP Policy SP2.

Other Matters

31. The Design and Access Statement indicates that 30% of the units would be affordable, which includes one accessible unit. This would meet the requirements of policy H03 of the Borough Local Plan. Whilst the appellants have indicated willingness to provide a legal agreement to secure this, if necessary, none is provided. As such, I have no mechanism before me to secure the affordable units.
32. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision. I note that letters of support have been received relating to issues such as design and outlook, however these do not lead to me to different conclusion on the main issues.
33. The proposal would result in 10 additional units of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities, as supported by Framework. I also acknowledge that the development would make efficient use of the site and would be of an appropriate density, as supported by the Framework. However, the suggestion that the units would be suitable for older people is not substantiated and I have no mechanism before me to secure the units for retirement housing.
34. The proposal would result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, I give this matter limited weight in favour of the scheme.

Conclusion

35. The identified harm means the proposal would not accord with the development plan policies when read as a whole. The benefits and other considerations are of insufficient weight to justify granting planning permission contrary to the development plan.

36. For the reasons given above, the appeal is dismissed.

B Phillips

INSPECTOR