



Appeal Decision

Site visit made on 22 February 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/T0355/W/23/3327911

Hunters Moon, Jubilee Road, Littlewick Green, Maidenhead SL6 3QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Michael and Jane Vogel and Durgan against the decision of the Royal Borough of Windsor and Maidenhead Council.
 - The application Ref is 22/02414/OUT.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr and Mrs Michael and Jane Vogel and Durgan against the Royal Borough of Windsor and Maidenhead Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The appeal relates to an application for outline planning permission with appearance, landscaping and layout identified as reserved matters. As such, where the proposed site plans show any information relating to those matters, I have treated this as illustrative for the purposes of making my decision.

Main Issues

4. The Council's appeal statement sets out that one of their reasons for refusal, the absence of a suitable ecological appraisal, has been suitably addressed by the appellant through the preparation of a bat survey. As such, this is no longer an issue in dispute.
5. The remaining main issues are therefore whether the proposed development would: (i) represent inappropriate development in the Green Belt; (ii) preserve or enhance the character or appearance of the Littlewick Green Conservation Area, having particular regard to trees, and the effect of the proposal on the setting of non-designated heritage assets; and (iii) adapt to and mitigate climate change.

Reasons

Green Belt

6. Policy QP5 of the Borough Local Plan 2013 – 2033 (LP) sets out the approach to development in the Green Belt. I am satisfied that this policy is in broad

conformity with the National Planning Policy Framework (the Framework). Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, it would involve the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

7. The Council has suggested that the replacement dwelling would be materially larger than the existing home on the basis that the floorspace would be significantly greater. I note that the appellant disputes this, including by setting out that the loft area should have been included in any such calculation. However, given that the first floor of the proposed dwelling would be located within the roof space, I do not consider in this instance that floorspace is a helpful guide to assessing the impact of the proposal on the Green Belt. Indeed, in my view, it is the overall scale of the building, including its footprint, height and overall mass which is of most relevance.
8. The approved plans provide a comparison between the existing dwelling and the proposed replacement. In terms of all of its dimensions, the proposed building would only be slightly larger than existing. With this in mind, I am satisfied that the proposal cannot be considered to be materially larger than the current home. It would therefore not be inappropriate development within the Green Belt, and as such, there would be no conflict with LP Policy QP5.

Heritage Assets

9. The site is located within the Littlewick Green Conservation Area. The significance of the area is largely derived from the layout of dwellings situated around a 'V' shaped village green, and their varied appearance which reflects the organic growth of the settlement from medieval times to the present day.
10. Hunters Moon faces onto the village green and is therefore in a prominent position. However, in comparison to many of the other buildings nearby, it is a bungalow of more modern construction and contributes little to the significance of the Conservation Area. Given that this is an outline application, with appearance and layout as reserved matters, it is not possible at this stage to reach any conclusions about how the replacement dwelling itself would impact on the character and appearance of the area. However, given the varied sizes and styles of dwellings that currently exist, I am confident that a suitably designed scheme could be submitted as part of reserved matters that would preserve, and possibly enhance, the Conservation Area.
11. For the same reasons, there is no reason for me to conclude at this stage that the proposed dwelling would negatively affect the setting of non-designated heritage assets nearby, notably Shepherds Cottage and Corner Cottage, which are located behind the appeal site.
12. However, there are a number of trees on or near the site which are all protected by the provisions in Section 211 of the Town and Country Planning Act 1990. Indeed, I noted on my site visit that these trees do have a positive impact on the character and appearance of the area, particularly those that front onto Gilchrist Way which are particularly visible. The appellant has submitted an Arboricultural Report and Method Statement (ARMS) which was

produced by Pike, Smith, Kent Rural. However, the Council's arboricultural officer has raised several concerns with the document.

13. I am of the view that there are key deficiencies with the ARMS that mean that it is not possible for me to determine the impact of the proposed development on the existing trees with any degree of certainty. In particular, the study does not provide any information with regards to crown spreads. Furthermore, British Standard 5837 (2012) sets out that root protection areas (RPAs) should be plotted by taking account of existing site conditions, such as the presence of roads. While the ARMS does provide circular RPAs for the existing trees, there appears to be no consideration of the impact of adjacent roads on root spread, particularly in relation to the larger trees identified as 'T1' and 'T9'.
14. These significant deficiencies mean that I cannot be certain that the proposal would not impact these trees, either during the construction phase or afterwards. If any of the more visible trees were lost, then this would have a harmful impact on the character and appearance of the Conservation Area, contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In this instance, the loss of any trees on or near the site would lead to 'less than substantial harm'. In these circumstances, the Framework requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification. The proposal is for a replacement dwelling and so would not provide a net increase in housing stock. While there is potential for the replacement dwelling to enhance the Conservation Area, this is uncertain at this stage and so I afford very little weight to this prospect. Furthermore, the appellant has also not put forward any other public benefits that may arise from the scheme.
15. As such, I therefore conclude that the public benefits do not outweigh the possible less than substantial harm I have identified. The proposed development would therefore fail to preserve or enhance the character or appearance of the Conservation Area which would result in harm to its significance. In these circumstances, it would conflict with LP Policy NR3 which seeks to protect and retain trees, as well as the relevant aspects of the Framework that relate to the preservation of designated heritage assets.

Climate Change

16. The Council refused the original application, partly on the basis that there was no sustainability statement to identify any climate change impacts and the potential need for financial contributions towards carbon offsetting.
17. The appellant has prepared a draft planning obligation which provides a commitment to producing an energy statement and making any required contributions prior to the commencement of development. I note that the Council has not confirmed whether or not they find this planning obligation to be acceptable. Nevertheless, given that this is an outline application, I am satisfied that this issue could be successfully addressed through the imposition of a suitably worded condition which would require similar outcomes to the draft planning obligation.
18. As such, I do not find that the proposed development would be in conflict with LP Policy SP2 which seeks to ensure that new development adapts to and mitigates climate change.

Conclusion

19. I have found harm in relation to the character and appearance of the Conservation Area. Consequently, the proposal would conflict with the development plan taken as a whole, notwithstanding that I have not found harm in relation to Green Belt or climate change. 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