



Appeal Decision

Site visit made on 7 March 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/T0355/W/23/3323660

Land between 1 and 5 The Fieldings, Moneyrow Green, Holyport, Maidenhead

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Torrance (Wooldridge Group) against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 22/02793.
 - The development proposed is one family dwelling, access, car parking, gardens and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for one family dwelling, access, car parking, gardens and landscaping at Land between 1 and 5 The Fieldings, Moneyrow Green, Holyport, Maidenhead in accordance with the terms of the application, Ref 22/02793, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Daniel Torrance against the Council of the Royal Borough of Windsor and Maidenhead. The application for costs is the subject of a separate decision.

Preliminary Matters

3. The description of the development is taken from the application form insofar as it describes development.
4. I have been provided with a signed and dated unilateral undertaking (UU), which seeks to address the Council's third reason for refusal. The Council has confirmed it has no comments to make on the submitted UU. I will address the UU and its implications for the appeal later in my decision.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

6. The main issues are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies,

- (b) the effect of the development on the character and appearance of the area, and
- (c) whether the proposal complies with relevant development plan policies in respect of climate change.

Reasons

Whether inappropriate development

7. The appeal site lies within the Metropolitan Green Belt. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework also states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policies SP1 and QP5 of the Borough Local Plan 2013-2033 (adopted 2022) (LP) are consistent with national policy in that they state that the Green Belt will be protected from inappropriate development in line with the Framework or Government policy.
8. Paragraph 154 of the Framework sets out that the construction of new buildings should be regarded as inappropriate in the Green Belt, other than in a few exceptions, including (e) limited infilling in villages.
9. The Framework does not define 'village' or 'limited infilling'. However, Policy QP5 of the LP sets out the circumstances in which limited infilling may be acceptable in the development plan area. These circumstances include limited infilling outside of identified settlement boundaries where it can be demonstrated that the site can be considered as falling within the village envelope as assessed on the ground. Policy QP5 of the LP also states that in assessing the village envelope, consideration will be given to the concentration, scale, massing, extent and density of built form on either side of the identified village settlement boundary and the physical proximity of the proposal site to the identified village settlement boundary.
10. It is common ground between the parties that the site lies within the village envelope of Holyport. On my site visit, I observed that the site lies immediately adjacent to the boundary of Holyport village and close to existing built form within the village. Therefore, I see no reason to take a different view on this matter.
11. In the absence of a formal definition, it is ultimately a matter of planning judgement as to whether or not the development would represent 'limited infilling'. However, some local guidance is provided in the supporting text to Policy QP5 of the LP, which states that limited infilling is considered to be the development of a small gap in an otherwise continuous frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. The supporting text also states that limited infilling should be appropriate to the scale of the locality and not have an adverse impact on the character of the locality.
12. The appeal site is situated at the head of a cul-de-sac in a gap between 1 and 5 The Fieldings, and adjacent to the rear elevation of 7 The Dairy. The site has an irregular shape but is no deeper than the adjacent plots at 1-4 The Fieldings, and it is not significantly wider than the neighbouring plot at 7 The Dairy. It is therefore similar in size to neighbouring residential properties. Moreover, although the proposed dwelling would be set back from the street

frontage and would be positioned to the side of the site, it would be orientated towards the street and its gardens and driveway would fill the width of the plot. The development would therefore occupy the whole of the gap between existing dwellings, and it would have a direct relationship with the street frontage. It would, therefore, comprise limited infilling.

13. I have had regard to two previous appeal decisions for development on land including the appeal site¹, in which the respective Inspectors concluded that the developments did not represent limited infilling. However, from the evidence, both previous proposals involved larger developments than the appeal scheme and were set back further from the road on land to the rear of the existing dwellings. Consequently, the appeal scheme is materially different to the previous appeal schemes at the site and is not directly comparable.
14. I conclude that the development would represent limited infilling in a village and, therefore, would fall within the exception listed under paragraph 154(e) of the Framework, and would not be inappropriate development in the Green Belt. Therefore, there would be no conflict with Policies SP1 and QP5 of the LP, or the Framework, insofar as they seek to protect the Green Belt from inappropriate development.
15. Given that the proposal is not inappropriate development in the Green Belt, it is not necessary for me to consider its effect on the openness of the Green Belt. It is also not necessary for very special circumstances to be present to outweigh harm to the Green Belt by way of inappropriateness.

Character and appearance

16. The appeal site currently comprises an area of hardstanding and part of a paddock. It takes access from The Fieldings which, in turn, contains dwellings of mixed types and styles, set back from the street behind driveways and front gardens. Variety exists in the form, scale and materials of the existing dwellings, as well as in their architectural details and building lines. The rear elevation of 7 The Dairy, which is a large dwelling with rear dormer windows, lies adjacent to the appeal site and forms part of the street scene on The Fieldings.
17. The proposed dwelling would occupy space that currently allows for open views across the paddock and towards the open countryside. However, the dwelling would be positioned towards the edge of the site, allowing for some views to be retained between the proposed building and No 1. Therefore, although there would be some loss of open views, the effect would not be so significant as to cause harm to the character of the area. Moreover, the addition of a new dwelling to a residential street would not be inconsistent with local character.
18. The proposed building would be slightly setback behind the building line of No 1. However, given that the existing dwellings on The Fieldings are set back behind driveways and gardens of mixed sizes and shapes, the proposed building line would not be out of character. Furthermore, whilst the proposed development would be deeper and taller than some nearby properties, it would be of a similar height and scale to 7 The Dairy, which is prominent in views from The Fieldings. Consequently, the proposed dwelling would not appear incongruent or over-dominant by way of its scale or siting.

¹ APP/T0355/W/22/3299558, dated 24 November 2022 & APP/T0355/W/22/3307484, dated 07 June 2023.

19. I conclude that the proposal would not cause harm to the character and appearance of the area. Therefore, there would be no conflict with Policies QP1 and QP3 of the LP, and the Framework which, taken together and amongst other things, expect development to be of high-quality design that contributes positively towards local character.

Climate change

20. Policy SP2 of the LP expects development proposals to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. However, it does not set specific environmental standards that developments are expected to achieve. The appeal proposal would incorporate a mix of design measures that would reduce the carbon emissions associated with the proposed development, and the Council has not raised any concerns in relation to the on-site measures proposed. On the basis of the evidence before me, I have no reason to take a different view. Therefore, the proposal would meet the requirements of Policy SP2 of the LP.
21. The submitted UU also provides for financial contributions towards the Councils Carbon Offset Fund, including the offsetting of emissions arising from the use of the proposed dwelling as well as the activities undertaken by its future occupants. A contribution is also provided for in the event of a shortfall arising between the modelled and actual carbon dioxide emissions of the development following a performance review.
22. Regulation 122 of the Community Infrastructure Regulations 2010 (as amended), and the Framework, state that a planning obligation may only constitute a reason for granting permission if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly related in scale and kind to the development.
23. I have been provided with a Position Statement on Sustainability and Energy Efficient Design (March 2021) (PSSEED) which, amongst other things, requires new dwellings to achieve net-zero carbon emissions, unless it can be demonstrated this would not be feasible. Where the net-zero carbon outcome cannot be fully achieved on-site, the PSSEED states that any shortfall may be provided through a cash in lieu contribution to the Borough's Carbon Offset Fund, which is ring fenced to secure delivery of greenhouse gas reductions elsewhere in the Borough. However, whilst the PSSEED provides guidance as to the sustainability requirements of development, it does not carry the same weight as adopted development plan policy.
24. The Planning Practice Guidance (PPG) states that policies for planning obligations should be set out in plans and examined in public. Moreover, the PPG also states that local requirements for a building's sustainability should form part of a Local Plan following engagement with appropriate partners and will need to be based on robust and credible evidence and pay careful attention to viability. From the evidence before me, the PSSEED, which pre-dates the LP, does not meet these requirements. Furthermore, the PSEED is not cross-referenced in Policy SP2 of the LP or the associated supporting text. Consequently, the carbon emissions target set out in the PSSEED carries limited weight.
25. On this basis, I am not satisfied that it has been demonstrated that any of the obligations are necessary to make the development acceptable in planning

terms, and they would therefore fail to meet the tests contained within Regulation 122, and the Framework, outlined above. Consequently, I have not taken the obligations into account in my decision.

26. I conclude that the proposal would comply with relevant development plan policies in respect of climate change. Consequently, there would be no conflict with Policy SP2 of the LP, or the Framework, insofar as they expect development to incorporate measures to adapt to and mitigate climate change.

Other Matters

27. Concerns have been raised about the impact of the development on the living conditions of the occupants of 7 Dairy Court, including through overlooking and loss of outlook. The side elevation of the proposed dwelling would be sited close to the boundary with No 7. However, it would be offset from No 7's nearest elevation, and the facing upper floor window in the proposed dwelling would be obscure glazed. This would prevent any direct views into No 7's internal living space and would obscure views over the adjacent garden.
28. Whilst the proposed dwelling would be visible from No 7, views of other dwellings is a common feature in the area. Moreover, there would be sufficient distance between the dwellings to protect from undue harm to outlook, and views of the sky over and around the proposed building, as well as towards the open countryside from No 7 would be retained. Overall, there would be no unacceptable harm caused to the living conditions of the occupants of No 7 through loss of privacy or outlook.
29. I acknowledge concerns raised about the appearance of and glare from the proposed photovoltaic panels, which would be sited on the roof slope facing No 7. However, there is no compelling evidence before me to indicate that the solar panels would cause harm to the living conditions of neighbours. Details of the solar panels could be secured through condition to ensure they are of an appropriate design to the locality.
30. The appeal proposal was reviewed by the Council's flooding and ecology specialists and the evidence indicates that supplementary documents were submitted during the lifetime of the planning application to address concerns raised regarding flooding and biodiversity. Consequently, the evidence indicates that no objections were raised by the Council's officers on these matters, subject to conditions. Conditions could secure the implementation of the proposed landscaping, biodiversity enhancements, and sustainable drainage systems. Therefore, the development would not cause harm through flooding or loss of biodiversity.
31. The proposed development would provide space for multiple vehicles to park on-site, which could be secured through condition. Consequently, no harm would arise through parking pressure on The Fieldings or nearby streets. Moreover, domestic noise, including from moving vehicles, would be characteristic of the existing residential area and, therefore, would not cause harm to the living conditions of neighbours.
32. Third parties have expressed concern that the proposal would set a precedent for further development on land to the rear of the appeal site. There are also concerns that additional hardstanding would be required to facilitate access to the paddock. However, any such proposals do not form part of the appeal

scheme and, therefore, fall beyond the scope of this appeal. Any potential future developments would be considered by the Council on their own merits and with regard to national and local policy, and legislation.

33. There is no evidence before me to suggest that the Council has a housing land supply shortfall. However, the Framework seeks to support the Government's objective to significantly boost the supply of homes. Therefore, the absence of a housing shortfall is not justification for the refusal of planning permission for an additional dwelling.

Conditions

34. The Council has provided a list of suggested conditions, which I have considered against the tests set out in paragraph 56 of the Framework and the PPG. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability. The parties have been provided with the opportunity to comment on the attached schedule of conditions and I have taken the comments received into account in my decision.
35. In addition to the standard time limit condition, I have attached a condition to define the permitted drawings to provide certainty.
36. I have included a condition requiring the submission of a surface water drainage scheme. This is required to ensure the development incorporates sustainable drainage systems. The Council suggested this condition should be a pre-commencement condition. However, it is not necessary to delay the commencement of the development whilst the details of the drainage are secured. I have therefore amended the trigger to require the drainage scheme to be implemented prior to the occupation of the development.
37. I have imposed conditions requiring the submission of a schedule of external materials, refuse and recycling facilities, and hard and soft landscaping. These conditions are necessary to protect the character and appearance of the area. A condition is also included requiring the submission of details of biodiversity enhancements. This is required to secure enhancements to biodiversity.
38. I note that the Council's Ecology Officer also suggested a condition requiring the submission of a biodiversity net gain plan and habitat management plan. However, this was not carried through to the Council's list of suggested conditions. The evidence indicates that the proposed development would deliver a significant biodiversity net gain following the implementation of the proposed illustrative landscaping and biodiversity enhancements. These measures will be secured and maintained through the aforementioned landscaping and biodiversity enhancement conditions. Therefore, I do not find it necessary to also include a condition requiring the submission of a biodiversity net gain plan and habitat management plan.
39. To prevent parking pressure on local roads and to encourage travel by sustainable modes, conditions are included to require the delivery of the proposed car parking spaces and bicycle parking facilities prior to the occupation of the development.
40. I have included a condition prohibiting the erection of external lighting until details have been approved by the local planning authority. This condition is required to ensure there is no harm to commuting and foraging bats.

41. To secure the delivery of the proposed carbon reduction measures, and to protect the living conditions of neighbours, conditions are imposed requiring the submission of details and the implementation of the proposed air source heat pump and solar photovoltaic panels.
42. However, whilst the Council suggested a condition requiring the installation of electric vehicle (EV) charging points, this is now covered by separate legislation and a planning condition is therefore not necessary.
43. A condition has been included to ensure the first and second floor windows in the side elevation of the dwelling are principally obscure glazed, permanently fixed, and non-opening to protect the living conditions of the occupants of neighbouring properties from overlooking.

Conclusion

44. The proposed development is in accordance with the development plan when read as a whole. Therefore, for the reasons given, I conclude that the appeal should be allowed.

E Catchside

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP Rev B, 300 Rev D, 301 Rev D, and 302 Rev B.
- 3) No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 4) No development shall take place above slab level until a fully detailed hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall thereafter be implemented within the first planting season (October to March) following the occupation of the dwelling or the completion of the development, whichever is sooner. Any trees or plants which, within a period of five years from the implementation of the landscaping scheme die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall take place above slab level until details of biodiversity enhancements have been submitted to and approved in writing by the local planning authority. The submitted details shall include the locations and specifications of two bird boxes to be installed on retained trees, and native and wildlife friendly landscaping. The biodiversity enhancements shall be implemented in accordance with the approved details prior to the first occupation of the development and retained thereafter.
- 6) The development shall not be occupied until a surface water drainage scheme, based on sustainable drainage principles, has been implemented at the site in accordance with details that have first been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - i. Full details of all components of the surface water drainage scheme, including dimensions, locations, gradients, invert levels, cover levels, and construction details,
 - ii. Supporting calculations, demonstrating compliance with DEFRA's Sustainable Drainage Systems: Non-Technical Standards for Sustainable Drainage Systems (March 2015) (or any subsequent version), and
 - iii. A management and maintenance regime for the surface water drainage scheme, including details of who has responsibility for implementing the management and maintenance regime.

The approved surface water drainage scheme shall be retained, managed and maintained in accordance with the approved details thereafter.

- 7) The development shall not be occupied until vehicle parking spaces have been provided in accordance with the details shown on approved plan no. 301 Rev D. The vehicle parking spaces shall thereafter be retained for vehicle parking.
- 8) The development shall not be occupied until covered and secure bicycle parking facilities have been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. The bicycle parking facilities shall thereafter be retained for the parking of bicycles.
- 9) The development shall not be occupied until a refuse and recycling bin storage area or areas have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling bin storage area(s) shall thereafter be retained for the storage of refuse and recycling bins in accordance with the approved details.
- 10) The development shall not be occupied until an air source heat pump has been installed on the site in accordance with details that have first been submitted to and approved in writing by the local planning authority. The submitted details shall include the location and specifications of the air source heat pump. The air source heat pump shall be retained thereafter.
- 11) The development shall not be occupied until solar photovoltaic panels have been installed at the site in accordance with details that have first been submitted to and approved in writing by the local planning authority. The submitted details shall include the location and specifications of the solar photovoltaic panels. The solar photovoltaic panels shall be retained thereafter.
- 12) No external lighting shall be erected at the site until details of the external lighting have been submitted to and approved in writing by the local planning authority. The submitted details shall include:
 - i. A lighting layout plan with beam orientation.
 - ii. A schedule of lighting equipment.
 - iii. Measures proposed to reduce glare.
 - iv. An isolux contour map showing light spillage to 1 lux both vertically and horizontally, along with details of ecologically sensitive areas.
 - v. Hours of operation of external lighting.External lighting shall thereafter only be implemented in accordance with the approved details.
- 13) The first and second floor windows in the side elevations of the dwelling, as shown on approved drawing 302 Rev B, shall be obscured glazed, permanently fixed, and non-opening other than a top light in each window which is permitted to be obscured glazed and openable provided it is a minimum of 1.7 metres above the finished internal floor level. No further windows shall be installed on the first or second floor levels in the side elevations of the dwelling.