



Appeal Decision

Site visit made on 10 April 2024

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 May 2024

Appeal Ref: APP/T0355/W/23/3322464

Land adjacent to 32 Windsor Road, Wraysbury, Staines TW19 5DH

- 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 Alice Hopkins against the decision of the Council for the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 22/03301/FULL.
 - The development proposed is the erection of a two-storey, 3-bed wheelchair accessible bungalow, namely, a chalet bungalow with a pitched roof design, a single dormer to the side elevation and two dormers to the rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address on the Council's Decision Notice in the banner heading above, as this more accurately sets out the location of the appeal site.
3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions. I will refer to the updated paragraph numbers where necessary in this appeal.

Main Issues

4. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the character of the street scene, including protected trees;
 - whether the site is an appropriate location for the proposal, with particular regard to local and national policy on flood risk;
 - the effect of the proposal on the living conditions of the occupants of No.32 Windsor Road, with particular regard to outlook and privacy;
 - the effect of the proposal on biodiversity, with particular regard to protected species; and
 - whether the proposal would meet sustainability and carbon reduction requirements.

Reasons

Inappropriate development

5. Policy QP5 of the Borough Local Plan 2013-2023 (2022) (Local Plan) states that limited infilling may not be inappropriate development in the Green Belt if it occurs within identified village settlement boundaries as designated on the Policies Map or outside these boundaries where it can be demonstrated that the site can be considered as falling within the village envelope as assessed on the ground. This approach is consistent with Paragraph 154 of the Framework.
6. Policy QP5 of the Local Plan goes on to set out 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 to the identified village settlement boundary.
7. The Council refer to the appeal site as not being within a recognised village settlement, and this is not disputed by the appellant. However, there is no substantive evidence before me that clarifies the location of the appeal site in relation to the nearest identified village settlement boundary. Nor has the Council provided anything to explain how village envelopes have been defined for the purposes of applying Policy QP5. In the absence of this information, I have therefore assessed whether the appeal site forms part of a village for the purposes of paragraph 154 of the Framework from the position on the ground. In the circumstances, this approach is supported by the case law referred to by the appellant^[1].
8. The appeal site is within a concentration of built form, comprising houses and local facilities and services, including a primary school and village hall. The built form extends to a large area and is known as Wraysbury. The area is well served by public transport. It is made up predominantly of two-storey buildings, most of which front the highway, set on moderate sized plots. The appeal site is a short distance from the local facilities and services on High Street. On the ground there is no clear distinction between the appeal site, where the proposed bungalow would be located, and other houses within the built-up area.
9. Opposite the appeal site, on the other side of Windsor Road, there is a reasonably large area of public open space, which includes community facilities such as a children's play area and tennis courts. It is mostly surrounded by buildings, which can be seen from across the open space and, although it is reasonably open, the built facilities and managed appearance of the space makes it feel part of the built-up area surrounding it, rather than a gap, boundary, or barrier.
10. On the side of Windsor Road where the appeal site is located, there is private open space that interrupts the built-up frontage. This area of open space is also managed and appears to be within the substantial plot belonging to 34 Windsor Road, a property known as Meadowview, which is set back quite a distance from the highway. While the gap in the built-up frontage allows for some medium distance views of an attractive group of trees, it does not physically or

^[1] Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWCA Civ 195

visually separate the properties on this side of Windsor Road from the facilities and services on High Street.

11. Overall, it may be that in plan the appeal site and the neighbouring houses appear to be surrounded by open space. Nonetheless, on the ground, they feel very much part of the surrounding built-up area. From the evidence before me and my observations on site, I am of the view that the appeal site is within the built-up area of Wraysbury, which in terms of the concentration, scale, massing, extent, and density of its built form, resembles a village. The appeal site should therefore be regarded as being in a village for the purposes of Paragraph 154 of the Framework.
12. The parties agree that limited infilling is, generally, considered to be the filling of a small gap in an otherwise developed or built-up frontage, and I share this view.
13. The proposal would be positioned between No. 32 Windsor Road, known as the Lodge, and the Gatehouse. The Lodge and the appeal site are set behind some existing trees and hedging. However, this landscaping does not fully screen them, and the Lodge is still apparent from Windsor Road. The built-up frontage therefore continues along this side of Windsor Road until the Gatehouse, where it is then interrupted by the gap comprising the plot for Meadowview as described above. While the Gatehouse may be the last dwelling in this section of built-up frontage, the proposal itself would fill a reasonably small existing gap between buildings and would reflect the existing pattern of development.
14. To the south of the appeal site is an access drive that serves the Lodge and other properties on this side Windsor Road. On the other side of the access drive are the garden spaces serving these existing dwellings, which include a variety of outbuildings and other domestic paraphernalia. There are also views of the tower of St Andrews Church. Thus, although this space is reasonably open, it is not free from built development and relates more to the surrounding built-up area than the open countryside.
15. The proposal is for a single chalet type bungalow, comprising one floor with rooms in the roof served by dormer windows. It would be relatively modest in size and have a low profile compared to some of the neighbouring properties. Although it would likely intensify the residential use of the site, given the modest scale of the property, this intensification would be very limited.
16. The Council has brought to my attention a previous appeal decision that relates to the appeal site, whereby the Inspector concluded that the site lies within an area which separates part of the built-up area, and that the site did not form part of a built-up frontage and would not constitute infill development. However, the appellant contends the relevance of this decision and, given that I have very limited details before me regarding the policy context that applied at the time of the decision and the scheme that was dismissed, I am only able to afford this very limited weight in my decision.
17. Accordingly, for the reasons set out above, for the purposes of paragraph 154 of the Framework, the proposal would constitute limited infilling in villages. It would, therefore, not be inappropriate development in the Green Belt and would accord with Policy QP5 of the Local Plan in this regard and the associated provisions of the Framework, which seek to protect the Green Belt from inappropriate development.

18. Given the proposal would not be inappropriate development, in this case, there is no need for me to consider its impact on openness.

Character and appearance

19. Windsor Road comprises a mixture of development, predominantly residential. The buildings vary in their form, features and materials. The appeal site is located within a group of properties, including the Grange, the Lodge and the Gatehouse. These buildings appear to be more historical than some of the other properties along Windsor Road and are positioned closer to the highway.
20. The Grange and the Lodge share some similar features and materials, including traditional pitched roofs with gable ends fronting the highway, chimneys, and white render with black timber detailing. The Gatehouse is a more modest building with a low profile and a black timber-clad finish.
21. The proposed chalet style bungalow would be set close to the highway, like the other houses in this group. While it would be partly screened by existing trees and bushes along the boundary, it would still be apparent from Windsor Road, similar to the Lodge. It would broadly reflect the Gatehouse in terms of its modest scale and low-profile and would have a simple form.
22. Nonetheless, given its low eaves, it would have an expansive roof profile, which would make it appear top heavy. This would be exacerbated by the proposed dormer windows, which would be positioned high in the roof slope, extending from the ridge of the main roof space. The front elevation would be asymmetrical and unbalanced by the traditional pitched roof at one end and the hipped join and dormer window on the other. It would also include an odd pattern of fenestration, with the ground and dormer windows not fully aligned nor fully centred or evenly spaced within their elevations. This would appear disjointed and unattractive.
23. The proposed bungalow would be finished in render to match its surroundings. However, the lack of detailing and any features in addition to the dormer windows, would make it appear incongruous in the group of historical buildings. While I appreciate that the Gatehouse also has a simple form with few features and little detailing, the timber finish of this building provides texture and a visual richness that would not be provided by the proposal.
24. The section of Windsor Road where the appeal site is located has an open and verdant character arising from the public open space opposite, as well as trees within this space and within the frontages of houses that line Windsor Road.
25. The proposed bungalow would be positioned close to two mature trees located adjacent to Windsor Road, one of which may be subject to a Tree Preservation Order that covers the neighbouring land. Both trees contribute positively to this character.
26. The appellant does not intend to remove either of these trees as part of the proposal. However, from the information before me and my observations on site, the development works may encroach into the Root Protection Areas (RPA) of these trees and may also require some pruning of the tree's canopies. No arboricultural information was submitted to support the application. It has therefore not been demonstrated that the proposal would sufficiently mitigate any impact on these trees. Furthermore, the proximity of the proposal to these

trees may also result in future pressure to regularly or extensively prune the trees or have them removed altogether.

27. Whether or not the trees are formally protected, their loss would result in some harm to the open and verdant character and appearance of the street scene and the visual amenity of the area. While this harm would be moderated to a degree by the presence of several tall mature trees nearby, the loss of the trees would also increase the prominence of the proposed bungalow and exacerbate the harm I have identified above arising from its appearance.
28. Accordingly, for the reasons above, the proposal would result in some significant localised harm to the character and appearance of the area. It would conflict with Policy QP3 of the Local Plan and Policies HOU1 and HOU2 of the Horton and Wraysbury Neighbourhood Plan 2018-2023. These policies seek to ensure that new development contributes to achieving sustainable high-quality design, which in turn contributes to the character and sense of place of Horton and Wraysbury by, among other things, responding to local distinctiveness and respecting and enhancing the local, natural, or historic character of the environment. It would also be contrary to the associated provisions of chapter 12 of the Framework.

Flood risk

29. The appeal site is located close to the River Thames within Flood Zone 3, an area with a high probability of fluvial flooding.
30. Policy NR1 of the Local Plan, supports development proposals within Flood Zones 2 and 3 only where an appropriate flood risk assessment has been carried out and it has been demonstrated that the development is located and designed to ensure that flood risk from all sources is acceptable in planning terms. It also requires all development in areas at risk of flooding, except for proposed developments on sites allocated in the Local Plan or in a made Neighbourhood Plan, to undertake the sequential test. The appeal scheme would not amount to any of the exceptions for not undertaking the sequential test as set out in the Framework and it is not allocated for development.
31. At application stage, a Flood Risk Assessment¹ (FRA) was submitted to support the proposal. However, while it recognises the overall aim of the sequential test, it does not consider it in any detail, nor does it sufficiently demonstrate that the proposal would pass it. As a result, I cannot be certain that it is necessary to locate the proposal within this area of high flood risk. Furthermore, the Council also have concerns regarding some of the modelling set out in the FRA.
32. The absence of this information is not disputed by the appellant, rather they have requested that, in the event the appeal is allowed, any additional information regarding flood risk and mitigation be required by condition. Nonetheless, this would not be appropriate as both the sequential and exception tests would need to be satisfied before planning permission could be granted.
33. Accordingly, in the absence of this information, I am not satisfied that it is necessary to locate the proposal within this area of high flood risk. The

¹ Flood Risk Assessment, The Grange, 30 Windsor Road, Wraysbury, Staines-Upon-Thames TW19 5DH, prepared by UK Flood Risk, Project Reference: QFRA 2248, Version 1.0, dated 02/11/2022.

proposal would conflict with Policy NR1 of the Local Plan and the associated provisions of chapter 14 of the Framework.

Living conditions

34. The proposed bungalow would be positioned close to its boundary with No. 32 Windsor Road, the Lodge. However, given its modest scale and that the Lodge is set back from the shared boundary with its garage positioned in between, the proposed bungalow would not be overbearing or imposing on the occupants of the Lodge, from either the house or its garden space.
35. The proposed bungalow would include three first floor windows. Two of these windows would front its boundary with the Lodge, which also has a first-floor window facing this boundary. The existing boundary comprises planting and a summerhouse, but some views can be taken over the existing boundary treatment and it is not clear from the plans before me whether this boundary would or could remain in its current form as part of the development.
36. Despite the Lodge being set back from the boundary, the proposed windows would be reasonably close to the existing first floor window serving the Lodge. Therefore, although views of or into this window from the proposed first floor windows would be oblique rather than direct, an appreciable degree of overlooking would be possible and would compromise the privacy of the occupants of the Lodge.
37. The appellant would be willing, in the event the appeal was allowed, to accept a condition requiring the proposed bedroom window to be obscure glazed. In my view this would be acceptable mitigation given the bedroom would be served by another window on the opposite elevation of the bungalow. However, this would not address the potential overlooking from the proposed study, which would only be served by the window fronting the boundary with the Lodge and thus, it would not be possible to mitigate the loss of privacy arising from this window in the same way. The unacceptable loss of privacy would be at odds with the Borough Wide Design Guide.
38. Accordingly, while the proposal would not be overbearing or imposing, it would result in limited harm to the living conditions of the occupants of No. 32 Windsor Road with regard to privacy. It would therefore conflict with Policy QP3 in this regard, which seeks to protect the amenity enjoyed by the occupants of adjoining properties, including privacy, from unacceptable effects.

Protected species

39. The Council and appellant agree that the proposal is unlikely to have an adverse impact on Great Crested Newts and I have no reason to disagree. However, the Council consider there to be insufficient ecological information to demonstrate that the proposal would not have an adverse impact on other protected species. Although much of the appeal site comprises hardstanding, given the extent of planting around its boundaries, including the two mature trees referred to above, there may be suitable habitat within the site for protected species, such as bats. A further assessment is therefore required to ascertain whether protected species may be present and affected by the proposal. The appellant does not dispute this, rather they have suggested that any additional ecological information is required through a condition in the event the scheme was otherwise acceptable.

40. Nevertheless, Circular 06/2005² advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted so that the effect on biodiversity is identified as a material consideration. It goes on to advise that the need to ensure that ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. I am not aware of any such circumstances in this case.
41. Given the above, I find that insufficient information has been provided to demonstrate that the proposal would not have an unacceptable adverse effect on biodiversity, including protected species. The proposal would therefore conflict with Policy NR2 of the Local Plan and the associated provisions of the Framework, which seek to conserve and enhance biodiversity. For the same reasons it would also fail to meet the statutory duty I have set out above.

Sustainability

42. Policy SP2 of the Local Plan requires all development to demonstrate how it have been designed to incorporate measures to adapt to and mitigate climate change. It also sets out a number of measures that should be incorporated into the development, where possible, to achieve this and the need to build in adaptation measures. It lists three documents that applicants should refer to for guidance, including the Council's Environment and Climate Strategy. However, it does not refer to the Council's Position Statement on Sustainability and Energy Efficient Design – March 2021 (Position Statement).
43. The Position Statement sets out further requirements which will be sought on new developments in order to deliver the requirements set out in the Framework, national and local commitments and the Council's Environment and Climate Strategy. It requires, among other things, most developments to be net-zero carbon, unless this would not be feasible, and to demonstrate how this would be met through a detailed energy assessment and a completed Carbon Reporting Spreadsheet.
44. From the evidence before me, the status of the Position Statement is unclear. In its presented form, it does not appear to be an adopted supplementary planning document or part of the development plan and therefore it is unlikely that it would have been subject to examination or a formal consultation. Given this, I can only afford it limited weight in my decision. Furthermore, it would appear that the requirements of the Position Statement may go beyond those set out in Policy SP2 of the Local Plan.
45. Although brief, the appellant's statement explains how the proposal would seek to incorporate measures to adapt to and mitigate climate change. This information does not include a detailed energy assessment or completed Carbon Reporting Spreadsheet and there is no substantive evidence to demonstrate how these measures would be implemented and what carbon savings they would achieve. The appellant does not dispute that the information is limited, rather they have requested that, in the event the appeal is allowed, any additional information be required by condition. In this case, based on the information provided, I am satisfied that any additional

² Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, dated 16 August 2005.

information required to demonstrate compliance with Policy SP2 of the Local Plan, could be addressed by a condition requiring these details to be submitted to and approved by the Council before the development commences.

46. I recognise that it is unlikely that the requirements of the Position Statement could be addressed in the same way. This is because they include, among other things, the appellant to enter into a legal agreement to ensure that any shortfall in carbon savings is mitigated through a financial contribution towards the Council's Carbon Offset Fund. The appellant would be willing to enter into a Unilateral Undertaking. However, there is no such deed before me.
47. Notwithstanding this, I have concerns regarding the requirements of the Position Statement, the Council's Carbon Offset Fund and whether the obligation would meet the tests set out at paragraph 57 of the Framework. Given this, had I been allowing the appeal, I would have gone back to the parties for additional information on these points. Nonetheless, given I am dismissing the appeal for other reasons, I have not considered this further.
48. Accordingly, based on the evidence before me, I am of the view that, subject to appropriate condition(s), the proposal would accord with Policy SP2 of the Local Plan.

Other Matters

49. In terms of benefits the proposal would provide a purpose-built wheelchair accessible dwelling in an accessible location, close to local facilities and services. This type of development is supported by the Framework and would contribute to the Borough's housing supply. However, given the proposal is for a single dwelling, its contribution would be modest. There would also be modest economic benefits arising from its construction.
50. The appellant also refers to benefits arising from landscaping the site with native species and providing new habitats to encourage biodiversity. Nonetheless, no further details of the proposed landscaping and habitat creation on the appeal site have been provided, I can therefore only afford these benefits limited weight.
51. The evidence before me explains that the appellant requires wheelchair accessible accommodation. These are personal circumstances to which I attribute weight in favour of the appeal.
52. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 (the Act). The Act sets out the relevant protected characteristics which includes disability. Since there is potential for my decision to affect a person with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
53. I am mindful of the advice contained in the Planning Practice Guidance that, in general, planning is concerned with land use in the public interest. In this case, there is no evidence or even a suggestion that there is no alternative wheelchair accessible housing available in the wider area. However, I note the appellant's desire to carry on residing within the boundary of the current family home adjacent to other family members, and I recognise that she has an important support network in this location, which would be less effective or even lost if she was to move away from the immediate area.

54. Notwithstanding this, while I understand that the appellant's existing accommodation is not suitable for adapting to wheelchair use, there is no substantive evidence before me that the proposal is the only means of meeting the appellant's needs on the appeal site or that it would be the minimum necessary to solely meet the needs of the appellant. As such, I give moderate weight to the need for the proposal to provide wheelchair accessible accommodation due to the personal circumstances of the appellant.

Conclusion

55. Overall, I have found that the proposal would not be inappropriate development within the Green Belt and, subject to appropriate conditions, would incorporate measures to adapt to and mitigate climate change in line with Policy SP2 of the Local Plan.
56. Nevertheless, this absence of harm neither outweighs nor addresses the harm I have identified to the character and appearance of the area, the living conditions of the occupants of No. 32 Windsor Road, and in the absence of sufficient information to the contrary, the potential significant harm arising from locating the proposal within an area of high flood risk, and to biodiversity, including protected species. The proposal would therefore conflict with the development plan read as a whole.
57. The benefits of the proposal, including the moderate benefit of it providing wheelchair accessible accommodation for the appellant, would not outweigh the significant harm that I have identified above.
58. Accordingly, having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR