



Appeal Decision

Site visit made on 30 April 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2024

Appeal Ref: APP/T0355/W/23/3330536

5 Marbeck Close, Windsor, Berkshire SL4 5RB

- 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 Noctor against the decision of The Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 22/01643.
 - The development proposed is described as 'New detached dwelling following the demolition of the existing garage and outbuilding'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the living conditions of the occupants of 6 Marbeck Close, 19 Pierson Road, and 21 Pierson Road, with particular regard to outlook;
 - whether the development would provide an adequate standard of accommodation for future occupiers, with particular regard to outlook; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions

3. 6 Marbeck Close is orientated such that it would face the side elevation of the proposed dwelling. However, the front elevation of No 6 is set well back from the appeal site boundary behind a front garden and driveway. Therefore, sufficient space would be retained between No 6 and the proposed dwelling to ensure it would not be overly dominant in views from the internal living space. Moreover, the existing conifer trees on the boundary between the appeal site and No 6 would be removed as part of the development. Given their height, this would have a beneficial effect on the outlook from No 6 by opening up views to the wider street scene. Furthermore, even if the outlook from the front garden of No 6 would be compromised to some degree, compensatory amenity space would be provided in the rear garden. Therefore, no undue harm would arise with regard to the outlook from No 6.

4. However, due to the shallow depth of the proposed rear garden, the rear elevation of the proposed dwelling would sit unduly close to the rear boundary with Nos 19 and 21 Pierson Road. Consequently, the back-to-back distances between the dwellings would be significantly less than the 20-metre guidance set out in the Borough Wide Design Guide (2020) (Design Guide).
5. At two-storeys high and due to the proximity of the proposed dwelling to Nos 19 and 21, the development would partially obstruct open views that can currently be gained from those properties towards Marbeck Close. Instead, views from Nos 19 and 21 would be towards the rear brick wall of the proposed dwelling which, other than one small window, would be a largely blank facade. Consequently, due to its height and proximity, the proposed dwelling would cause unacceptable visual disturbance when observed from the rear windows and gardens of Nos 19 and 21. In that regard, the proposed development would fail to adhere to the Design Guide insofar as it advises that residents should be able to enjoy a good quality outlook without adjacent buildings being overbearing or visually intrusive.
6. Notwithstanding this, there would be no loss of privacy given there would be only one window in the first-floor rear elevation of the proposed dwelling, which would be obscured glazed. Moreover, the Council has not identified any harm would arise due to loss of daylight or sunlight to the properties to the rear. I have no reason to form a different view.
7. Although I have not identified harm in respect of the living conditions of the occupants of 6 Marbeck Close, the proposed development would cause harm to the living conditions of the occupants of 19 and 21 Pierson Road, with particular regard to outlook. Therefore, with regard to this main issue, there would be conflict with Policy QP3 of the Borough Local Plan 2013-2033 Version for Adoption (LP), and the Framework, insofar as they expect development to contribute towards achieving high-quality design that, amongst other things, protects the amenities enjoyed by the occupants of adjoining properties. There would also be conflict with Policy DES.01 of the Windsor Neighbourhood Plan 2019-2034 Referendum Version (NP), which expects proposals to demonstrate how they have taken account of design guidance.

Standard of Accommodation

8. The proposed dwelling would have three bedrooms on the first floor. Two would have principal windows on the front elevation, ensuring a satisfactory outlook would be provided for future occupants.
9. However, the rear bedroom would have only one window, which would face the side elevation of No 5 at close proximity. Given the orientation of the proposed dwelling with No 5 and the limited separation distance between them, views towards the rear garden and Marbeck Close would be severely restricted and at an oblique angle. Consequently, the outlook from the proposed rear bedroom window would be dominated by the close brick wall of the adjacent property and an obscured glazed window. The development would therefore fail to accord with the Design Guide insofar as it expects all habitable rooms in new residential development to maintain at least one window with an adequate outlook to external spaces.
10. Whilst the rooflights would enable sunlight to penetrate the room and would allow views of the sky, they would not compensate for the poor outlook from

the principal window. Therefore, the bedroom would be an oppressive and unpleasant environment for future occupants.

11. The proposed development would thus fail to provide an adequate standard of accommodation for future occupiers, with particular regard to outlook. Therefore, in respect of this main issue, there would be conflict with Policy QP3 of the LP insofar as it expects development to achieve high-quality design. There would also be conflict with the Framework insofar as it requires development to achieve a high standard of amenity for future users.

Character and Appearance

12. Marbeck Close comprises mainly detached dwellings with garages, set back from the road behind gardens and driveways. The existing properties display a mix of styles but generally share a simple form and appearance. The buildings are well-spaced and the views between the dwellings contribute positively to the spacious character of the street. In that regard, the pattern of development is aligned with the general character of the Laing Estate as described in the NP. The appeal site occupies part of a side garden and a double garage and driveway at the head of Marbeck Close. The absence of a dwelling on the site allows for views towards properties on Pierson Close to the rear.
13. The proposed development would replace the existing garage with a two-storey dwelling. Whilst it would not mirror the form and architectural details of the adjacent property, 5 Marbeck Close, it would have a similar design and appearance to other dwellings in the street, including through its materials. In particular, its width would be broadly reflective of 4 Marbeck Close, and its gable end frontage would be of a similar design to No 6. Consequently, and given the variety in the style of existing buildings on the street, the proposed development would be a sympathetic addition to the street scene.
14. Although the proposed dwelling would be sited close to the boundary with No 6, a good degree of space would be retained between the buildings due to the intervening position of No 6's driveway and front garden. Moreover, whilst the side space to No 5 would be narrow in places, it would exceed 3 metres on the street frontage. Therefore, the proximity of the proposed building to the dwellings either side would not detract from the spacious urban grain that is a notable feature of the area. Consequently, the proposed development would accord with the guidance for layouts and the spatial separation of buildings as set out in the Design Guide and Appendix 2 of the NP.
15. The proposed parking arrangement would not comply with the guidance for on-plot parking contained in the Design Guide. However, whilst many existing properties in the street have retained front gardens, some have been paved over to provide driveways. Moreover, if the appeal were to be allowed, it would be reasonable to secure additional landscaping through condition, which could soften the appearance of the parking area. Therefore, the absence of a front garden and the provision of hardstanding for car parking would not be an incongruent feature in the street scene.
16. The proposed rear garden would be smaller than others in the area. However, it would exceed the minimum requirements for external amenity space set out in the Design Guide. Moreover, there would be no publicly accessible views of it. Therefore, it would not have an unduly deleterious effect on local character.

17. None of the examples of other new dwellings cited in the evidence are on Marbeck Close, and therefore are not directly comparable in terms of their context. Whilst I have found no harm would arise in respect of local character, these other examples have not been determinative to my conclusion.
18. The proposed development would not cause harm to the character and appearance of the area. Therefore, in respect of this main issue, there would be no conflict with Policies QP1 and QP3 of the LP, Policies RES.01 and PAR.01 of the NP, and the Framework, insofar as they expect developments to respect local character, including in terms of external amenity space, and to positively contribute to the places in which they are located. There would also be no conflict with Policy DES.01 of the NP insofar as it expects proposals to demonstrate how they have taken account of design guidance.

Other Matters

19. I have been provided with a completed planning obligation from the appellant which seeks to provide contributions towards the Council's Carbon Offset Fund. However, as I am dismissing the appeal for other reasons it is not necessary for me to consider it further.
20. The appellant appears to have received some conflicting advice from the Council during their determination of the application. It is also clear that the proposal was amended to address some concerns raised by the Council and third parties. However, matters relating to the relationship and communication between the parties fall outside the scope of this appeal, which I have considered on its own planning merits.

Planning Balance

21. The Council cannot demonstrate the housing supply as required by the Framework. They currently have a modest shortfall of 4.83 years. In these circumstances, paragraph 11(d)(ii) of the Framework is engaged and the most important policies are deemed to be out of date.
22. The lack of harm I have found to the character and appearance of the area and the living conditions of the occupants of 6 Marbeck Close are neutral factors in my consideration of the appeal scheme. However, the proposed development would cause harm to the living conditions of the occupants of 19 and 21 Pierson Road and would fail to provide an adequate standard of accommodation for future occupiers of the development. These harms would be long lasting and as such I ascribe them substantial weight.
23. The most important policies for the appeal scheme are Policies QP1 and QP3 of the LP, and Policies DES.01, PAR.01, and RES.01 of the NP. Amongst other things, these policies seek to secure high-quality design that takes account of local context and protects the living conditions of existing residents. They are broadly consistent with the Framework which, amongst other things, expects development to deliver high quality design that offers a high standard of amenity for existing and future users. Therefore, I see no reason to reduce the weight given to the conflict with them.
24. There would be some social and economic benefits arising from the proposal in its construction and subsequent occupation, including the delivery of an additional dwelling that would contribute towards housing supply. Given its size, the dwelling could be marketed at a more affordable price than other,

larger dwellings in the area, However, the contribution to overall supply that would be made by a single dwelling would be modest, as would its associated benefits. In addition, the unit is not secured legally as an affordable one. I therefore attach moderate weight to these benefits.

25. Consequently, and with regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The presumption in favour of sustainable development does not therefore apply.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate a decision should be made otherwise than in accordance with it. Therefore, for the reasons given above, I conclude the appeal should be dismissed.

E Catchside

INSPECTOR