
Appeal Decision

Site visit made on 22 May 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/T0355/W/24/3336833

The Tower, Ray Mead Road, Maidenhead SL6 8NJ

- 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 Mrs Maria Smith against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/01025.
 - The development proposed is part change of use of ground floor and front garden from residential to tea shop/café use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development contained on the application form contained additional details which related to matters which are not acts of development. I have removed these and used the description of development contained on the decision notice which provides a more succinct description of the proposed development. That said, I have taken the points raised into account where appropriate.

Main Issues

3. The main issues are;
 - Whether the proposed development would preserve or enhance the character and appearance of the Maidenhead Riverside Conservation Area;
 - whether adequate information has been provided to demonstrate whether effective flood management arrangements would be implemented;
 - whether the proposed development would provide acceptable living conditions for the existing occupants of the appeal property, with regard to noise and disturbance and whether the shared use of parts of the appeal property would unacceptably diminish the existing residential use of the dwelling; and
 - whether adequate and suitable parking provision would be provided.

Reasons

Character and appearance

4. The appeal site is located within the Maidenhead Riverside Conservation Area (MRCA). MRCA forms a long narrow stretch of land lining the River Thames defined by low density, detached housing and large green open spaces. Although later development and some commercial uses have been introduced, I agree with the Maidenhead Riverside Conservation Area Appraisal, June 2010 (MRCAA). that the built form predominantly comprises large, detached and often elaborately detailed late Victorian and Edwardian dwellings lining the River Thames and set back from the road on large plots with mature planting.
5. From my own observations and having taken account of the MRCAA the significance of the conservation area derives from the enduring historic pattern of development set along the river with period houses featuring ornate facades with elaborate cupolas and towers and other architectural features including full height bays. This creates interest in the built form, which provide both aesthetic and historical value.
6. The appeal property is typical of the type of property that makes such an important contribution to the character and appearance of the area. It has decorative features reflective of the arts and crafts style and a picture of the appeal property is included in MRCAA to illustrate the special architectural features found within the MRCA. Moreover, like other residential properties in the vicinity, the appeal property is set back on its plot with an attractive front garden enclosed by mature planting. This creates a green, verdant open area in front of the particularly attractive front façade of the appeal property which creates an important sense of spaciousness that makes a significant contribution to the character and appearance of the conservation area.
7. The proposal would involve the change of use of the front garden and part of the house from residential use to a "pop up" tea shop/café use. I accept that the proposed use would comprise foldable tables and chairs in the garden which could be put away at night and the appellant indicates that opening hours would be 1000 to 1700 and they would not want to be obliged to open every day. I also note that there are other commercial uses in the area.
8. However, the introduction of tables and chairs onto the front lawn would harmfully diminish the spacious appearance of the appeal property which is so important in helping to define the character and appearance of the host property and the conservation area. Although public views of the front lawn area would be limited due to the existing mature vegetation along the front boundary, nevertheless, views would be possible from the front facing windows of the residential development on the opposite side of the road. In any event, the lack of public views would not justify harmful development at the appeal property.
9. Consequently, the proposal would neither preserve or conserve the character or appearance of the MRCA. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their

conservation. Given the nature of the proposal, I consider the degree of harm to the significance of the conservation area in this case would be less than substantial.

10. I therefore conclude that the proposal would result in less than substantial harm to this designated heritage asset. As a result, the proposal would conflict with Policy HE1 of the Royal Borough of Windsor & Maidenhead Borough Local Plan 2013-2033 (BLP) which among other things seeks to ensure the historic environment will be conserved and enhanced in a manner appropriate to its significance. Further, the proposal would also be at odds with the Framework which as set out above requires that great weight should be given to the conservation of a designated heritage asset.
11. The Framework also sets out that where development would result in less than substantial harm to a heritage asset this must be balanced against public benefits which I will undertake later in the decision.

Flood Management

12. The appeal site is located within flood risk zone 3 where the relevant Planning Practice Guidance on flood risk and coastal change sets out that there is a high probability of a risk of flooding. Policy NR1 of the BLP advises that in such an area any development proposal will only be supported where an appropriate flood risk assessment has been carried out and that it has been demonstrated that the proposed development is acceptable and that a sequential test should be applied so that the most vulnerable development is located in the lowest risk flood areas. Such an assessment should also ensure that there is a site evacuation plan in the event of potential flooding.
13. Although there would not be any building works, the proposal would result in more people being at the appeal property at certain times of the day. Although the appellant highlights that they were not requested to provide a flood risk assessment, that does not justify allowing this appeal where the proposed development would be located in flood risk zone 3 and there has been no flood risk assessment undertaken. It follows that insufficient information has been provided to satisfy me that the risk associated with an increase in people at the appeal property would be acceptable and that appropriate flood management arrangements would be in place, including a site evacuation plan.
14. I therefore conclude that insufficient information has been provided to demonstrate that effective flood management arrangements would be implemented. As a result, the proposal conflicts with Policy NR1 of the BLP which seeks to manage flood risk.

Living conditions

15. I observed at the site visit, that there is an existing bedroom window that directly overlooks the proposed sitting area for the tearoom/café. This would clearly have the potential to cause noise and disturbance to the existing residents of the property. Similarly, the dual use of the appeal property where the lounge area would be used during cold and wet weather and the use of the downstairs toilet would clearly have the potential to diminish the existing residential use of the property.
16. However, I note that the appellant considers that such activity would be acceptable to her and her teenage children. If the proposal caused her or her

family an unacceptable level of noise, disturbance or inconvenience or harmfully diminished the use of the property, the appellant could simply stop the use. Planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. However, in this case, if in all other respects the proposal had been acceptable an exception could have been made to limit the benefit of the planning permission to the appellant as the reasons for refusal have only identified that it would be existing residents of the appeal property whose living conditions could be harmed. As a result, an appropriately worded condition could have been imposed to address this issue.

17. I therefore conclude that the proposal would have provided acceptable living conditions for the existing occupants of the appeal property, with regard to noise and disturbance. Moreover, the shared use of parts of the appeal property would not have unacceptably diminished the existing residential use of the dwelling. It follows that the proposed development does not conflict with Policies HO5 and QP3 of the BLP which among other things seek to ensure that development proposals that result in the partial loss of residential accommodation would not cause an unsatisfactory standard of living space and residential amenity.

Parking

18. No parking has been included to serve future customers of the proposed tearoom/café. Although public car parks are located some distance away from the proposal, I observed that there is some unrestricted on street parking is available in surrounding roads and other restrictions apply for only part of the day. Also, most customers would be passing trade and would already be in the area enjoying a walk by the Thames. As a result, the fact that no parking would be provided would not result in either highway safety concerns, an unacceptable impact on the road network or result in unacceptable overspill parking in the local area.
19. Although the proposal would not meet the parking standards set out in the Council's Parking Strategy, May 2004, I note that these are maximum figures. As a result, the fact that the proposal would not meet these standards is not fatal to the scheme. Moreover, the Framework makes it clear that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Neither of these apply in this case.
20. I therefore conclude that it is not necessary to provide any parking and it follows that the proposal would not be at odds with Policy IF2 of the BLP which seeks to promote sustainable transport.

Other Matters

21. I note that the appellant has expressed their disappointment about the fact that the Council did not undertake a site visit and there has been a lack of communication from the relevant officers. I also note that there has been public support for the proposal. However, I am required to determine this appeal on its individual merits. The actions of the Council nor public support justifies harmful development at the appeal site.

Planning Balance

22. I have given great weight to the fact that the proposal would cause less than substantial harm to the significance of Maidenhead River Conservation Area which is a designated heritage asset. I have considered the public benefits associated with the proposal which include the fact that it would provide the opportunity for people to appreciate and enjoy a beautiful and unique riverside house and it would provide a pleasant tearoom/café, especially when other establishments have stopped trading. However, these matters are insufficient to outweigh the great weight that I have afforded to the fact that the proposal would cause less than substantial harm to the relevant heritage asset.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

S Rawle

INSPECTOR