



Appeal Decision

Site visit made on 23 July 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2024

Appeal Ref: APP/T0355/W/23/3331754

60 Lower Village Road, Ascot, Windsor and Maidenhead SL5 7AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs S Williams on behalf of Shenry Consulting against Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/01879/FULL.
 - The development proposed is one new dwelling house of exceptional quality and design, garage, landscape enhancements and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. Whilst national policies relating to Green Belt and housing land supply are proposed to change as part of this consultation, these changes can only be given limited weight at this stage. Even if the proposed changes were to be accepted, it would not materially affect the outcome of my decision since I have identified conflict with the development plan in respect of other main issues. Therefore, in this instance it has not been necessary to consult the parties on these changes.

Main Issues

3. The Council has confirmed that if they had been in a position to determine the proposal, they would have recommended refusal. In light of the putative reasons for refusal set out in the Council's statement, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on biodiversity;
 - The effect of the proposal on flood risk;
 - The effect of the proposal on highway safety;
 - Whether the proposal would adequately off-set carbon emissions;

- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The site comprises an area of undeveloped woodland adjacent to a railway embankment and accessed from Lower Village Road, which serves a residential area. The site is in the Green Belt.
5. Policy QP5 of the Borough Local Plan 2022 (BLP) protects the Green Belt from inappropriate development, unless very special circumstances are demonstrated. Paragraph 142 of the National Planning Policy Framework (the Framework) identifies the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, noting the essential characteristics of Green Belts are their openness and their permanence. Paragraph 154 of the Framework regards the construction of new buildings as inappropriate in the Green Belt.
6. Policy QP5, along with paragraphs 154 and 155 of the Framework, identify certain forms of development that are not inappropriate in the Green Belt. However, I have no evidence before me to suggest the proposal would comply with any such exceptions.
7. The proposal involves the construction of new buildings in the Green Belt and therefore constitutes inappropriate development which is harmful to the Green Belt and should not be approved except in very special circumstances.

Green Belt openness

8. The site is presently undeveloped. The development would introduce built form to the site, comprising a substantial two-storey, five-bedroom dwelling with a contemporary flat-roofed design. The proposal would add significant areas of hardstanding including a long driveway, parking area, paths and patio area. The spatial impacts of the proposal would be the loss of Green Belt openness commensurate in scale with the area and volume of the development.
9. The dwelling would generally be screened from view from public vantage points by surrounding trees. However, the vehicular access would be cleared of trees and vegetation, allowing views down the proposed driveway. From the public highway, the long driveway comprised of hardstanding and flanked by boundary treatments would be clearly visible within the street scene with distant, glimpsed views of the dwelling. The proposed development would therefore have a harmful, urbanising effect on the Green Belt.
10. The proposed development would therefore have adverse spatial and visual impacts on Green Belt openness.

Character and appearance

11. The appeal site is a dense area of woodland set back from the highway by a long access route which is presently densely vegetated. A watercourse forms the site's rear boundary. The site is adjacent to a railway embankment and abuts a local wildlife site.

12. The site has an existing gated access to Lower Village Road, which has a narrow carriageway with no pedestrian footway and serves a mix of dwellings of traditional form and appearance. The woodland's tall, dense, trees and vegetation are prominent above the gates and provide a natural, verdant appearance within the street scene. The appeal site therefore contributes positively to the character of the area.
13. The Council has supplied a map and details confirming the woodland, including the appeal site, is the subject of a Tree Preservation Order (TPO). The TPO's purpose is to protect trees and woodlands of amenity value, and therefore the TPO designation provides further evidence of the woodland's contribution to the area's character.
14. As discussed above, the dwelling would be set back in the site, with views experienced as fleeting glimpses from the rail line and down the long driveway. However, the loss of vegetation at the frontage and formation of the new access and driveway would appear visually prominent within the street scene.
15. The proposed development would introduce significant built form to the site, including a large, detached dwelling with double garage, long driveway, boundary treatments, and areas of hardstanding. The proposed development would require removal of at least 30 trees and would encroach into the root protection area of others. Habitation of the dwelling would place pressure on the woodland such as through removing or pruning trees to reduce shading.
16. Through the loss of trees and shrubs, and introduction of built form the proposal would erode the natural character and appearance of the woodland.
17. The proposed development would be sited within a 'gap between villages' identified by the Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2014 (NP). NP Policy NP/EN1 requires development within such gaps complement landscape characteristics through locating structures where they will be viewed against existing built form, retaining the proportion and scale of built structures and the space between them, and reference the built vernacular of the Neighbourhood Area.
18. The dwelling would be outside the built area of the village and would not be viewed against the built form, would be significantly greater in scale and spacing than the form and layout of existing development at Lower Village Road, and the contemporary design would differ significantly from the local vernacular. The proposed development would not satisfy the criteria for development in identified gaps between villages, and through the introduction of built form would erode the separation between villages provided by the gap.
19. For the reasons set out above, the proposal would harm the character and appearance of the area. The proposal would conflict with BLP Policies QP3 and NR3 which require development respect and enhance local character and consider the individual and cumulative impacts on existing trees, woodlands and hedgerows, including those that make a particular contribution to the appearance of the streetscape and local character and distinctiveness.
20. In addition, the proposal would not comply with NP Policies NP/DG1.6 and NP/DG3.1 which require proposals demonstrate how they will respect and enhance the character of the local area and would conflict with NP Policy

NP/EN1 which requires development be located and designed to maintain the separation of villages.

Biodiversity

21. The proposed development would be sited within an existing area of wet woodland. The majority of the site comprises broadleaved woodland, identified as a habitat of principal importance for the purpose of conserving or enhancing biodiversity by section 41 of the Natural Environment and Rural Communities Act 2006 (as amended).
22. As discussed above, the proposed development would require removal of a large number of trees and threaten others through development in root protection areas and future pruning and tree removal. Furthermore, changes to the site's hydrology as a result of the development has the potential to threaten the integrity of the wider woodland.
23. It is proposed that the loss of habitat of principal importance will be offset by the requirement to obtain a biodiversity net gain as part of the proposed development. However, BLP Policy NR2 requires proposals avoid the loss of biodiversity and fragmentation of existing habitats.
24. The appellant asserts the trees proposed for removal are low quality. However, the proposal would nonetheless result in significant clearance of an area of broadleaved woodland habitat. The proposal fails to demonstrate why the harm cannot be avoided, such as through locating the development on an alternative site with less harmful impacts, and therefore the harm to the habitat is not justified. The proposed development would result in the loss and fragmentation of a habitat of principal importance and would therefore have a significant, harmful effect on biodiversity.
25. The site lies adjacent to a Local Wildlife Site (LWS) and near a number of other LWS's. The Ecology Report indicates further tree removal may be required along the rail embankment which serves as a secondary green corridor. The Ecology Report recommends protective fencing and safeguards to avoid impacts on LWSs during construction. However, it is unclear whether such mitigation would avoid harm to the connectivity of habitats and indirect impacts such as pollution, throughout the lifetime of the development.
26. The proposed development would introduce artificial lighting to the site, which can adversely affect bats and other wildlife. The Council's Ecology Officer requested a lighting report to demonstrate that interior and exterior lighting will not adversely affect wildlife. However, the report was not provided and the proposal fails to demonstrate it would not harm protected species.
27. It is asserted that the proposal adopts a 'conservation first' principle. However, the Ecology Report calculates the proposed development would result in a net loss of habitat units equivalent to a 21.51% reduction. Rather, the proposal seeks to offset the loss of biodiversity through offsite measures. The Ecology Report recommends enhancement of woodland habitat adjacent to the site, secured through a management plan for a 30-year period.
28. However, it is unclear whether surrounding land is within the control of the appellant and available for the purpose of biodiversity enhancement. Details of the specific enhancement measures have not been provided and the scale of biodiversity net gain estimated by the Ecology Report would not achieve the

minimum requirement of the Environment Act 2021. Therefore, the proposal fails to demonstrate it would achieve a net gain in biodiversity.

29. As set out above, the proposed development would result in a loss of habitat of principal importance and fails to demonstrate it would not harm protected species and nearby LWSs. In addition, there is insufficient certainty that it would achieve a net gain in biodiversity. I therefore consider the proposal would harm biodiversity.
30. The proposal would conflict with BLP Policies NR2 and QP2 which require development avoid the loss of biodiversity and fragmentation of habitats; recognise the importance of green corridors, networks and open space including woodland; and secure biodiversity benefits.
31. In addition, the proposal would not comply with NP Policies NP/EN4 and NP/EN5 which require development proposals enhance biodiversity wherever possible, supporting development likely to have impact on local biodiversity only where it is demonstrated there are no alternatives, or that appropriate mitigation or compensation measures can be provided to achieve a net enhancement to the site's biodiversity.

Flood risk

32. BLP Policy NR1 requires development not impede the flow of flood water; not reduce the capacity of the floodplain to store water; not place people, property, or infrastructure at increased risk of flooding; and not cause new, or exacerbate existing flooding problems, either on the proposal site or elsewhere.
33. In addition, Policy NR1 requires proposals include assessment of the impact of climate change using appropriate allowances over the lifetime of the development so that future flood risk is taken into account.
34. The proposal includes a Flood Risk Assessment, SuDs Layout plan and Surface water storage requirements for sites estimations and the appellant is of the view that the proposal contains sufficient information.
35. However, the Lead Local Flood Authority (LLFA) indicates that during times of wet weather, surface water flows from the elevated sections of rail track, and Lower Village Road discharge overland through the site. The submitted information fails to demonstrate the proposed development will not inhibit the flow route such that detriment could occur to upstream areas.
36. In addition, the LLFA requested additional information on the site's infiltration rate, the effects of groundwater on the soakaway's performance, available capacity of the rainwater harvesting system during a significant rainfall event, and additional information to demonstrate the return period of the infiltration system would accommodate a 1 in 100 year plus 40% climate change event. However, this additional information has not been provided.
37. The proposal fails to demonstrate it would not reduce the area's water storage capacity and fails to take into account future flood risk. The does not provide sufficient certainty the proposed drainage and water storage measures would, in principle, suitably manage surface water without increasing flood risk on the site or elsewhere.

38. The proposal therefore fails to comply with BLP Policy NR1 in terms of the level of detail provided, and through failure to demonstrate the proposal would not increase the risk of flooding in the area from surface water sources.

Highway safety

39. Dense vegetation prevents access to the site by vehicles and the existing gated access is not in frequent use. The proposed development would therefore significantly intensify use of the site access.
40. Since there is no pedestrian footway, the carriageway is likely to be used by a mix of road users, including pedestrians. Whilst the parish council has consulted on a reduction to the speed limit, at present the highway is subject to a 30mph speed limit. A rail bridge and on-street parking further reduce the narrow width of Lower Village Road's carriageway and traffic generally appears relatively low in speed and volume.
41. Standards provided by government's Manual for Streets guidance and the Council's Highway Design Guide require visibility splays of 2.4m x 43m. Whilst the access would be opened up, the visibility splay drawing indicates that, when looking right from the site access, third party land and the rail bridge would obstruct views along the highway.
42. The visibility distance would be less than 20m. Even acknowledging the typically low frequency and speed of approaching traffic, the available visibility splays would fall significantly short of the required standard and would provide insufficient visibility of road users.
43. The proposed access arrangement would provide inadequate visibility along the highway and would increase the risk of conflict between road users. The proposal would therefore have an adverse impact on highway safety.
44. The proposal would conflict with BLP Policies QP3 and IF2 which together require development proposals deliver safe, convenient access and movement for pedestrians, cyclists, cars and service vehicles.

Carbon emissions

45. The Council has declared a climate emergency and seeks to ensure net-zero carbon emissions are achieved by no later than 2050. The Interim Sustainability Position Statement 2021 expects development proposals off-set the carbon emissions associated with the proposed building and lifestyle factors of future occupants through contributing to the Council's Carbon Offset Fund to support the delivery of carbon reduction projects.
46. The design of the proposed dwelling aims to achieve high levels of insulation and airtightness, with high performance triple glazed windows and mechanical ventilation heat recovery systems and would incorporate solar renewable energy generate and on-site battery storage. However, the scheme would not achieve a net zero carbon standard and carbon off-setting is proposed.
47. Paragraph 18.2.2.1. of the Procedural Guide: Planning appeals – England requires the appellant provide an executed and certified copy of the planning obligation at the time of making the appeal. The submitted unilateral undertaking (UU) includes a planning obligation relating to a financial

contribution to the carbon offset fund. However, since the UU is in draft form and incomplete, I am unable to afford weight to it in my decision.

48. The proposal therefore fails to demonstrate that the carbon emissions associated with the building and lifestyle of future occupants would be offset in accordance with the Position Statement.
49. The proposal would not comply with BLP Policy SP2 which requires proposals incorporate measures to adapt to and mitigate climate change.

Other considerations

50. The appellant asserts the proposed development would provide a sustainable house of outstanding quality of design, thus contributing to national objectives to enhance design standards and meet the challenge of climate change.
51. In addition, the construction and occupation of a dwelling would provide small social and local economic benefits.

Whether very special circumstances exist

52. As set out above, the proposal would be inappropriate development in the Green Belt and would harm openness. At paragraph 153, the Framework requires substantial weight be given to any harm to the Green Belt.
53. Paragraph 152 of the Framework states inappropriate development should not be approved except in very special circumstances. Paragraph 153 indicates that very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
54. The appellant considers the proposal is justified by paragraph 84(e) of the Framework which supports the development of isolated homes in the countryside where the design is of exceptional quality.
55. To achieve exceptional design quality, 84(e) requires proposals significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. As set out above, I have found the proposal would harm the character and appearance of the area, which I consider would amount to harm to the site's immediate setting and the local area's defining characteristics. Therefore, the proposed design would not be of exceptional quality. Moreover, since I have found the proposed design would conflict with the development plan, the design does not weigh in the scheme's favour.
56. The appellant refers to other decisions where the criteria for exceptional quality were deemed to have been met. In the appeal decisions¹, both Inspectors concluded the proposals would not harm the immediate setting and local characteristics of the area. The appellant also refers to planning permissions granted by local planning authorities in Gloucestershire at Flight Farm, Leckhampton Hill and Headlands, Mill Lane, Prestbury. The summary of the schemes indicates the developments would not be prominent and would be well integrated within the landscape. Therefore, those decisions materially differ from the appeal proposal insofar as no harm to setting and local character was identified by the decision-makers.

¹ APP/R3650/W/15/3140645 & APP/X2220/W/16/3158585

57. The contribution of a single dwelling would make a small contribution to the area's shortfall in housing land supply and carries modest weight in favour of the development. I also attach limited weight to the other social and economic benefits associated with the proposal.
58. However, such other considerations do not clearly outweigh the substantial harm to Green Belt openness and other harms in respect of character and appearance, biodiversity, flood risk, highway safety, and carbon emissions.
59. Accordingly, the harm to the Green Belt, and other harms, are not clearly outweighed by other considerations and therefore the very special circumstances necessary to justify the development do not exist. For these reasons, the proposal would conflict with BLP Policy QP5 which protects the Green Belt against inappropriate development.

Other Matters

60. The site is within the zone of influence of the Thames Basin Heaths SPA, a European site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (Habitat Regulations). The Thames Basin Heaths SPA Supplementary Planning Document identifies the SPA is particularly sensitive to increased recreational impacts from visitors.
61. Where a proposal is likely to have significant effects on European Sites, Regulation 63 of the Habitats Regulations requires the competent authority carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to identified harms in respect of Green Belt openness, character and appearance, biodiversity, flood risk, highway safety, and carbon emissions, AA is not necessary.

Conclusion

62. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR