



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: 6 September 2024

Appeal Ref: APP/T0355/W/23/3333583

Land at Larch Lane & Silwood Road, Sunninghill, Ascot, Berkshire SL5 0QB

- 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 The Grad Family against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 22/03269/FULL.
 - The development proposed is the erection of 2 no detached (self-build) family dwelling houses utilising existing access point with detached garaging access & associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no detached (self-build) family dwelling houses utilising existing access point with detached garaging access & associated works at land at Larch Lane & Silwood Road, Sunninghill, Ascot, Berkshire, SL5 0QB in accordance with the terms of the application, Ref 22/03269/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Also on 30 July, the Secretary of State made a written ministerial statement (WMS) entitled "Building the homes we need". During the appeal, the parties were invited to consider whether the proposed reforms to the Framework and WMS are of relevance to the appeal proposal. I have had regard to the parties' written responses in my decision.
3. Paragraph 55 of the Framework requires decision-makers consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The appellant has supplied revised arboricultural information relating to the Group TPO affecting the site. The Council accepts the TPO group has been properly considered and, subject to a suggested condition relating to tree protection during the course of the development, is no longer pursuing the third reason for refusal set out on the Decision Notice.
4. A Biodiversity Net Gain (BNG) calculation demonstrating a gain in habitat units has been provided. Subject to a suggested condition relating to biodiversity net gain, the Council considers the fourth reason for refusal would be overcome.
5. The Local Highway Authority maintains their concerns relating to adequate visibility splays, the construction of the vehicular access and gates, and swept path analysis. However, the Council indicates these matters could be suitably

resolved through a planning condition and, subject to the imposition of suggested conditions, is no longer pursuing the fifth reason for refusal.

6. Since the Council is no longer pursuing reasons for refusal three, four and five, I do not consider matters of tree protection, BNG, and highway safety to comprise main issues in this appeal.

Main Issues

7. Having regard to the above, the main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on climate change; and
 - The effect of the proposal on the integrity of European sites, with particular regard to the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Whether inappropriate development

8. The application site comprises an undeveloped parcel of land at the junction of Larch Avenue and Silwood Road. The site is within the Green Belt.
9. Paragraph 142 of the Framework states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 154 of the Framework regards the construction of new buildings in the Green Belt as inappropriate.
10. At paragraph 152, the Framework indicates inappropriate development is, by definition, harmful to the Green Belt. Policy QP5 of the Borough Local Plan 2022 (BLP) protects the Green Belt against inappropriate development unless very special circumstances exist.
11. However, the Framework identifies certain exceptions including, at paragraph 154(e), limited infilling in villages. Policy QP5 expands on paragraph 154(e), supporting limited infilling outside identified village settlement boundaries where it can be demonstrated that the site can be considered as falling within the village envelope as assessed on the ground, giving consideration 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.
12. The site lies outside, and distant from any designated village settlement boundary defined by Policy QP5. However, there are large, detached dwellings within generous plots on either side of the site, and there is a nursery school beyond the site's rear boundary. Opposite the site at Silwood Road are dwellings and a parade comprising a convenience store, cafe, restaurant, and other amenities, leading to a cluster of commercial uses at the junction of Silwood Road and London Road known as Crossways Village. These buildings are typically two-storey and of mixed appearance, with a generally compact

- siting, close to the pavement. Through its appearance and mix of uses, this area has the characteristics of a village high street.
13. On the opposite side of Larch Avenue, a retirement village is presently under construction and comprises large apartment blocks and a prominent gatehouse at its frontage, set within spacious, landscaped grounds.
 14. The site is surrounded by existing development with built form of differing concentration, scale, massing, extent, and density. Whilst outside any settlement boundary defined by the BLP, the site has a clear physical relationship to the built area. For the purposes of Policy QP5, the site can be considered as falling within the village envelope, as assessed on the ground.
 15. Paragraph 6.18.9 of the BLP explains 'limited infilling' is considered to be the development of a small gap in an otherwise continuous frontage, or small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development, where appropriate to the scale of the locality and where there would be no adverse impact on character.
 16. The site sits between dwellings 'Fox Hollow' and 'The Pavilion'. Fox Hollow is separated from the row of dwellings along Larch Avenue by an area of paddock and The Pavilion fronts onto London Road, thus turning its back to the site. The site does not therefore comprise a small gap in an otherwise continuous frontage, nor would the proposal involve redevelopment of existing properties within such a frontage.
 17. However, as explained at BLP paragraph 6.18.9, limited infilling also includes small gaps within built development. Policy QP5 and its supporting text do not define the size of a "small gap" or quantum of development to be accommodated within it. However, the area west of Silwood Road and along Larch Avenue is characterised by large, detached dwellings with large gardens. Since the supporting text advises development be appropriate to the scale of the locality, it is logical to conclude the extent of any "small gap" will be influenced by the scale and character of surrounding development.
 18. The proposal would provide two dwellings, thus providing a development of relatively modest scale. Within the context of the spacious, low-density character of development at the Larch Avenue and west of Silwood Road, the proposed development would appear as the infilling of a small gap within built development, appropriate to the scale and locality. The two-storey detached form of the proposed dwellings, sited with large gardens would reflect the pattern and form of surrounding development and its character.
 19. The proposed development would therefore comply with the criteria for limited infilling within a village, as set out at BLP Policy QP5. The proposal would satisfy the exception provided by paragraph 154(e) of the Framework, and therefore would not be inappropriate development in the Green Belt.

Character and appearance

20. The site is an undeveloped area comprising mown grassland and is understood to be garden land formerly associated with a dwelling to the north. As discussed above, the built form at Larch Road is defined by large, detached houses in spacious plots. The dwellings and shopping parade at Silwood Road are of higher density and sit close to the pavement edge. The new

development at Sunningdale Park is a landscaped site comprised of apartment blocks. The area therefore comprises a variety of architectural styles.

21. Aside from its existing access positioned at the southwest corner, the site is enclosed by fencing and tall, mature trees along its boundaries. The tree belt at the site's boundaries with Larch Avenue and Silwood Road is deep and dense, obscuring views into the site from the public highway. The site therefore has a high degree of visual containment, with views into the site experienced as glimpses via the access by passing traffic and pedestrians. The site's open character is screened from view by its vegetated boundaries which contribute positively to verdant character of the area.
22. The proposed dwellings would be four-bedroom, detached dwellings, with double garages. The dwellings would have a traditional, two-storey, pitched roof form. Whilst substantial, the proposal dwellings would be comparatively modest within the context of the grand houses at Larch Avenue and apartment blocks at Sunningdale Park. The massing, height, and scale of the proposed dwellings would not appear excessive not out of keeping with the dwellings and commercial buildings surrounding the junction and along Silwood Road.
23. The proposed dwellings would be set back from the highway, reflecting the spacious setting, layout and building line of dwellings at Larch Avenue, and minimising the visual prominence of the dwellings in the street scene.
24. The dwellings would sit behind landscaped front gardens, parking areas, shared driveway and the existing tree belt. The dwellings would be set in from the side boundaries and would have large rear gardens. The proposed dwellings would have a spacious curtilage and would not be over-scaled relative to the size of the plot and would not have a cramped or squeezed appearance.
25. The proposed development will result in the introduction of built form and hard and soft landscaping in the form of private drives and hard standing for parking and patios. However, the Landscape Impact Assessment concludes the proposal would add new features or elements of limited characterising influence, with a low magnitude of change on the landscape receptors.
26. Both proposed dwellings would be served by the existing site access. The existing tree belt at the site's frontage would be retained. Additional tree and hedge planting would subdivide the plots and provide further screening between buildings beyond the northern boundary. Soft landscaping in front of the proposed dwellings would serve to screen views of the dwellings from the access. Therefore, the perceived change from the public vantage points would be minimal and confined to the views into the site via the access.
27. Therefore, whilst the proposed development would alter the open character of the site, due to its established, screened boundaries, the proposed development would not have a significant effect upon the character of the area. Development of the dwellings would not therefore compromise the established open character and appearance of the site and its wider setting. Since the vegetated boundaries to Larch Avenue and Silwood Road would be retained, the proposal would maintain the character and appearance of the street scene.
28. For these reasons, the proposed development would not harm the character and appearance of the area.

29. The proposal would therefore comply with BLP Policy QP3 which requires development respect and enhances the local character of the environment, paying particular regard to urban grain, layouts, rhythm, density, height, skylines, scale, bulk, massing, proportions, trees, biodiversity, water features, enclosure and materials.
30. In addition, the proposal would satisfy Ascot, Sunninghill & Sunningdale Neighbourhood Plan 2014 Policies NP/DG1, NP/DG2, and NP/DG3 which together require development proposals respond positively to the local townscape, respect the character and appearance of the surrounding area and be similar to surrounding buildings in terms of density, footprint, separation, scale and bulk, respect established building lines, and integrating with local surroundings, landscape context and built environment.

Climate Change

31. The Council's Interim Sustainability Position Statement 2021 expects development proposals contribute to the Council's Carbon Offset Fund for the purpose of delivering carbon reduction projects.
32. The Position Statement indicates the dwelling contribution rate is calculated from the building's projected emissions and takes into account lifestyle impacts of future occupants. Therefore, I am satisfied the obligation would comply with the tests at paragraph 57 of the Framework.
33. The appellant has submitted a completed Unilateral Undertaking (UU) containing planning obligations to secure contributions toward the carbon offset fund on or before the commencement of development. The proposal would fulfil the requirements of the Position Statement and would adequately offset the carbon emissions associated with the development. Consequently, the proposal would not have an adverse impact on climate change.
34. The proposal would comply with BLP Policy SP2 which requires development proposals incorporate measures to adapt to and mitigate climate change. In addition, the proposal would satisfy paragraph 162 of the Framework which expects new development comply with any development plan policies and local requirements for decentralised energy supply.

Integrity of European sites

35. The site is within five kilometres of, and is in the zone of influence (ZOI) of the Thames Basin Heaths SPA, a European site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (Habitat Regulations).
36. The qualifying features of the Thames Basin Heaths SPA are its breeding populations of European nightjar, woodlark, and Dartford warbler. The conservation objectives are to ensure that the integrity of the site is maintained or restored, and ensure the site contributes to achieving the aims of the Wild Birds Directive.
37. The Thames Basin Heaths Special Protection Area Supplementary Planning Document (Thames Basin Heaths SPD) identifies the SPA is sensitive to increased recreational impacts from visitors and the effects of urbanisation.

38. The proposal would provide additional residential development resulting in an increase in local population within the SPA's ZOI. The SPD identifies that all new residential development within the ZOI could have a significant effect on the integrity of the SPA alone or in combination with other development.
39. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of European Sites. The Thames Basin Heaths SPD sets out an agreed approach to mitigation which includes the provision of Suitable Alternative Natural Greenspace (SANG) and financial contributions toward strategic access management and monitoring (SAMM). The provision of SANG is intended to draw visitors away from and reduce the impact of additional residents on the Thames Basin Heaths SPA. The Council has confirmed the effects of the proposed development can be mitigated by the Sunningdale Park SANG.
40. The UU contains planning obligations to secure the allocation and provision of SANG capacity to mitigate the adverse effects of the development, and to secure payment to the Council of the SAMM contribution. I therefore consider that appropriate mitigation has been secured and the financial contribution is necessary to make the development acceptable in planning terms.
41. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, the evidence before me indicates that as a responsible public body it will transfer the funds to the organisation responsible for administering the mitigation strategy. Therefore, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
42. The proposal would not therefore have significant effects on the Thames Basin Heaths SPA. The proposal would comply with BLP Policy NR4 which requires new residential development demonstrate that adequate mitigation measures are put in place to avoid any potential adverse effects. In addition, the proposal would satisfy paragraph 185 of the Framework which seek to protect biodiversity and maintain the hierarchy of designated sites.

Other Matters

43. Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, I have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
44. To the south of the site lies Sunningdale Park, a Grade II listed Registered Park and Garden. Within the park is Grade II Listed Building Northcote House Civil Service College. Sunningdale Park is a 19th century park, garden, and pleasure ground, with origins in the late 18th century and further developments in the 1890s and early 20th century. Northcote House is a large country house, constructed in 1930, with painted render and a rectangular plan. The building is ornate with giant columns supporting the entablature and pediment, and moulded cornice to the parapet. The symmetrical frontage comprises two-storeys with 11 sash windows with glazing bars with floating cornices on ground floor and moulded architraves on first floor, and panelled double entrance doors. The significance of the park and house therefore arise from their architectural design and historic interest.

45. Larch Avenue provides separation between the site and the heritage assets, and a retirement village complex is under construction in and around the park. The proposed development would not obstruct views of the heritage assets from publicly accessible vantage points, such as the public highway. As discussed above, the proposed development would utilise the site's existing access, the tree belt at the frontage would be retained, and the development would have a low magnitude of visual change within the street scene. I have been presented no evidence to suggest the proposed development would affect the park, listed building or their settings, and I have identified no harm. I am therefore satisfied the proposed development would preserve the heritage assets and their settings, and thus comply with the Act.
46. The proposal seeks to provide two self-build dwellings. The appellant has submitted a completed UU containing a planning obligation requiring the dwellings satisfy the definition of self-build and custom housebuilding, as defined in The Self Build and Custom Housebuilding Regulations 2016 (as amended). I am satisfied the planning obligation would be effective in securing the development of self-build dwellings and is necessary to ensure the development reflects the description in the decision header.
47. As discussed above, the main parties provided written comments on the relevance to the appeal of the recent WMS and government consultation on the proposed reforms to the Framework. Since I have found the proposal would comply with the development plan, the WMS and proposed reforms to the Framework are afforded only limited weight in my decision.

Conditions

48. The Council has provided a list of suggested conditions which I have considered against the advice in the Framework. The appellant has confirmed their agreement to all pre-commencement conditions. In addition to the standard time limit of the planning permission granted, in the interests of certainty I have attached a condition specifying the approved plans.
49. To maintain the character and appearance of the area, I have attached a condition requiring submission and written approval of details of external materials. For the same reason, I have attached a condition requiring submission and approval of details of hard and soft landscape works. To protect trees of amenity value, I have included a condition requiring submission of an Arboricultural Method Statement and Tree Protection Plan.
50. To assist in mitigating climate change, I have attached a condition requiring the development be constructed in accordance with the Sustainability & Energy Statement. To reduce risk of flooding onsite or elsewhere, I have included a condition requiring submission of a Sustainable Drainage Strategy.
51. To ensure that impacts on protected species and biodiversity are minimised, I have included conditions requiring submission and approval of a construction environmental management plan; submission of a badger sett survey; restricting clearance of vegetation during bird breeding seasons; submission of details of biodiversity enhancement measures; and submission of a report detailing the external lighting scheme.
52. In the interests of highway safety, I have included conditions requiring details of the vehicular access and requiring all vehicle parking and turning spaces be

provided prior to occupation of the development. To encourage use of sustainable modes of transport, I have included a condition requiring details of secure cycle storage and provision of electric vehicle charging points.

53. To provide a suitable standard of living conditions, I have attached a condition requiring submission of details of refuse and recycling storage.

54. I have not imposed the suggested condition which seeks to remove permitted development rights. Such conditions would not be necessary to make the appeal proposal acceptable in planning terms and therefore would not comply with the Framework. Furthermore, paragraph 54 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Conclusion

55. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SB22-001-050 *Site Location Plan*; SB22-001-055 *Site Layout*; SB22-001-100 *Plot 1 Proposed Floor Plans & Elevations*; SB22-001-105 *Plot 2 Proposed Floor Plans & Elevations*; 110 *Plot 2 Garage Proposed Floor Plans & Elevations*; 115 *Proposed Street Scenes*; LAS435-01-A *Tree Survey and Constraints Plan*; 1673-L90-200 *Landscape Strategy*.
- 3) The construction of the external surfaces of the development hereby permitted shall not be commenced until details of the materials to be used have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- 4) The development shall be carried out and maintained in accordance with the approved details and in accordance with the details set out in the Sustainability & Energy Statement by Bluesky Unlimited, dated 14/11/22.
- 5) No development shall commence on site until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
 - a. a timetable for its implementation, and
 - b. a management and annual maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 6) Prior to the commencement of the development hereby permitted above ground floor slab level, details of both hard and soft landscape works, shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
- 7) No development shall commence on site (including demolition or preparatory works) until an Arboricultural Method Statement and Tree Protection Plan in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice for all existing trees that are not shown as being removed on the approved drawings, both within and adjacent to the site, has been submitted to and been approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

- 8) Prior to the commencement of the development hereby permitted (including demolition, ground works and vegetation clearance), a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
- a. Risk assessment of potentially damaging construction activities
 - b. Identification of "biodiversity protection zones"
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on the adjacent habitats and protected and priority species during construction (may be provided as a set of method statements)
 - d. The location and timing of sensitive works to avoid harm to biodiversity features
 - e. The times during construction when specialist ecologists need to be present on site to oversee works
 - f. Responsible persons and lines of communication
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
 - h. Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 9) No development hereby permitted, including any vegetation clearance shall commence until a badger sett survey of the development site and immediately adjacent areas has been undertaken. This survey shall be undertaken within 28 days of the start of works on site and a brief letter report detailing the results of the surveys is to be submitted to and approved in writing by the council. If surveys show that a licence to disturb a badger sett is required a copy of a valid licence is to be submitted to the planning authority prior to the commencement of works.
- 10) All trees, hedges and shrubs or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.
- 11) Prior to commencement of development above slab level, details of the biodiversity enhancements to include the planting of native trees and shrubs, use of appropriate SUDS, enhancement of lawns using wildflower mixes, installation of bird and bat boxes, creation of log piles and hibernacula and gaps at the bases of fences to allow hedgehogs to traverse through the site, shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall thereafter be installed as approved and a brief letter report confirming that the enhancements have been installed, including a simple plan showing their location and photographs of the enhancements in situ shall be submitted to and approved in writing by the Local Planning Authority.

- 12) Prior to occupation of the development hereby permitted, a report detailing the external lighting scheme (if to be installed) shall be submitted to and approved in writing by the Local Planning Authority. The report shall include the following figures and appendices:
 - a. A layout plan with beam orientation
 - b. A schedule of equipment
 - c. Measures to avoid glare
 - d. An isolux contour map showing light spillage to 1 lux both vertically and horizontally and areas identified as being of ecological importance for commuting and foraging bats and location of bird and bat boxes
 - e. Hours of operation of any external lighting The approved external lighting scheme shall thereafter be implemented as agreed.

- 13) Prior to the commencement of the development above slab level, details of the biodiversity net gain which will be delivered as part of this development (including a clear demonstration through the use of an appropriate biodiversity calculator such as the Defra Metric 3.0 that a net gain will be achieved) shall be submitted to and approved in writing by the Local Planning Authority. The agreed net gain measures will thereafter be implemented/installed in full as agreed.

- 14) No development shall commence on site until full details of the vehicle access serving the development has been submitted to and approved in writing by the Local Planning Authority. The vehicle access shall thereafter be constructed in accordance with the approved details prior to first occupation.

- 15) No part of the development shall be occupied until all vehicle parking and turning spaces have been provided in accordance with the plans hereby approved. The space approved shall be kept available for parking and turning in association with the development.

- 16) No part of the development shall be occupied until a plan showing how covered and secure cycle parking facilities can be satisfactorily provided on site has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be kept available for the parking of cycles in association with the development at all times.

- 17) Notwithstanding the approved drawings, the development hereby permitted shall not be occupied until details of refuse and recycling storage sufficient for the intended development has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented before first occupation and the areas of land so provided shall not be used for any purposes other than the storage (prior to disposal) or the collection of refuse and recycling and shall be thereafter retained and maintained as such.

- 18) No part of the development shall be occupied until one active and one passive electric vehicle charging point has been provided for each dwelling. These facilities shall thereafter be retained and kept available in association with the development at all times.

END OF SCHEDULE