



Appeal Decision

Site visit made on 18 March 2025

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/T0355/W/24/3353963

157 Grenfell Road, Maidenhead, Windsor and Maidenhead SL6 1EZ

- 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 Satalan Develoments against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/01828.
 - The development proposed is demolition of existing bungalow and garage and construction of 4 dwellinghouses (2 x 4 bedroom and 2 x 5 bedroom) (Use Class C3) together with associated parking, landscaping, refuse storage and private amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal documents include an additional drawing which was not before the Council when it determined the application. The drawing does not amend the appeal scheme but rather shows detailed extracts for the proposed driveway in response to the Council's concerns about the effect of the proposal on trees. The Council has had the opportunity to review and comment on the drawing as part of the appeal process. Therefore, there is no procedural unfairness in me taking the drawing into account in my consideration of the appeal.
3. In its appeal statement, the Council has stated that its concerns regarding biodiversity net gain could be addressed through a suitably worded condition. Based on the evidence, I see no reason to conclude otherwise. I have therefore proceeded to determine this appeal on the basis that the second reason for refusal, and any associated conflict with Policy NR2 of the Borough Local Plan 2013-2033 (LP) has been addressed.
4. The National Planning Policy Framework (the Framework) was revised in December 2024. I have had regard to the revised Framework, and the comments made by the parties in respect of it, in my decision.
5. At the time of my site visit, the site was significantly overgrown and some of the trees were inaccessible. However, I was able to observe the trees from accessible parts of the site as well as from the road and surrounding area. I have based my assessment on my observations as well as the submitted evidence.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to its effect on trees.

Reasons

7. The appeal site, which comprises a bungalow and some outbuildings, lies on the prominent corner of Grenfell Road and Kings Grove. The site and immediate area contain many trees, some of which are protected by Tree Preservation Order 010/2018 (TPO). Due to the combined height and extent of the tree foliage, the site has a verdant character, which contributes positively to the distinctive leafy appearance of this part of Maidenhead.
8. The Tree Survey and Arboricultural Impact Assessment (AIA) identifies that 4 small, low-quality trees would be removed to facilitate the development. However, the proposal would extend across most of the width of the site, thus also bringing built form close to the retained trees. The AIA shows that, collectively, the footprint of the buildings, along with the driveway and other hard landscaping structures, would encroach onto the root protection areas (RPAs) of several trees, including protected trees, near to all four corners of the proposed built form.
9. Tree T4 is a high-quality Pine tree with a life expectancy of over 40 years. Given its height, wide crown spread, and proximity to Grenfell Road, the tree is a prominent structure that has high amenity value. Tree T16 has been topped in the past, and some localised decay is noted in the AIA. However, it remains a healthy tree that is likely to grow and endure in the longer term as a key feature in the street scene. Whilst the Oak tree T7 is set back further within the site, it is a commanding specimen due to its height and broad foliage. Even at its young age, it can readily be observed from the road. Collectively, these trees make a significant and valuable contribution to local character and the visual amenity of the area, and they are of particular importance due to their protected status.
10. The extent of encroachment into the individual RPAs would not be proportionally large. However, some of the protected trees have good potential for future growth and, as a key constraint on this site, they should be given sufficient room to develop and thrive. The fact that RPA incursion would occur to multiple trees on different parts of the site, indicates that the proposal would unduly crowd these natural features, limiting the space available within which they could flourish. Moreover, given there are limited opportunities for drainage and utility connections to be provided within the site without further encroaching onto RPAs, it would not be appropriate to leave this matter to be dealt with via a condition. Any encroachment into the RPAs would be contrary to the BS 5837:2012 Trees in relation to design, demolition and construction, which states that any development within RPAs should only be undertaken where it is unavoidable or where there is an over-riding justification. This guidance is an important consideration in this appeal, particularly given it is cross-referenced in Policy NR2 of the LP.
11. Whilst tree protection measures and specialist no-dig and trenchless construction techniques could reduce the risk of harm to the trees, this could not be guaranteed. Therefore, the health and longevity of the trees could be harmed through root damage by the buildings and areas of hardstanding, and there is no enforceable mechanism before me through which compensatory root growth areas on third party land could be secured. Moreover, I cannot be certain that the trees

could be protected by fencing and other measures during the construction works without unduly compromising the space required for building activity and to provide safe access and circulation routes around the site.

12. Whilst there is evidence that some of the affected trees would be subject to future pruning, the pressure to prune or fell the trees would undoubtedly be exacerbated given the new dwellings would be taller and deeper than the existing bungalow, and closer to the trees. Even if the trees would not cause shading problems, they would be likely to cause other nuisances such as from leaves and conkers dropping onto access and circulation areas around the buildings, which would worsen as the trees grow. Whilst the Council would have some control over future works to the protected trees, proposals would be difficult to resist where there are implications for property damage and safety. Consequently, the trees could come to further harm in the longer term, leading to a deterioration in their amenity value.
13. Notwithstanding the above, there is no substantive evidence to indicate there would be harm caused to the two street trees along the site frontage. Moreover, whilst the loss or deterioration of the two G14 Horse Chestnut trees should be avoided wherever possible, these trees do not have the same status as the protected trees, and there would be sufficient space within the garden areas for compensatory planting with small trees and other plants. This could be secured through condition if the appeal were to be allowed. However, this planting would not compensate for the harm that would be caused to the protected trees. Moreover, whilst works within RPAs could have been permitted on other sites, I have not been directed to any directly comparable planning or appeal decisions in this regard, and I have necessarily considered the appeal based on the evidence before me and with consideration to the protected status of some trees.
14. Overall, and given the width, depth, and height of the built form proposed, and its proximity to the trees, the development does not have the character of one that would achieve a harmonious and sustainable relationship with the existing trees. Furthermore, whilst recognising the appeal scheme has evolved from previous iterations of the development, I am not convinced it is necessary to encroach unduly close to the protected trees in order to deliver development on this site.
15. Overall, I conclude that the proposal would cause harm to the trees and to the character and appearance of the area. It follows that there would be conflict with Policies QP3 and NR3 of the LP which seek to protect and retain trees and to respect and enhance local character.

Planning Balance

16. The proposal would conflict with the aforementioned policies, which brings it into conflict with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise. However, the Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites as is required by the Framework. Therefore, paragraph 11 d) of the Framework is engaged.
17. The site does not lie within an area or asset that would trigger paragraph 11 d) i. of the Framework. Therefore, it falls to be considered under the test set out in paragraph 11 d) ii.

18. The information available to me indicates the housing land supply position is 4.69 years. Whilst this is a modest shortfall, it nonetheless demonstrates that there is a need for further housing in the area. On this basis, I attach substantial weight to the delivery of four family-sized homes on this site within an existing settlement that contains some brownfield land. As a small site, the development could be built out reasonably quickly such that it would make a quick and meaningful contribution to local and national housing needs. This carries support from the Framework.
19. The proposal would offer economic benefits through the creation of construction jobs, as well as increased spending in the local community by future occupants of the dwellings. There would also be environmental benefits, including through the delivery of biodiversity net gain and carbon reduction measures. Given the poor condition of the bungalow and the extent of overgrowth on the site, there would be some environmental benefits in bringing the plot back into an active use. Due to the small-scale of the proposal, these benefits carry moderate positive weight.
20. The site is well-located, within walking distance to public transport services and a wide range of amenities and facilities, and therefore there is no reason to conclude the site is not suitable for housing development as a matter of principle. No harm has been identified by the Council in respect of the design of the dwellings, the living conditions of neighbours, highway matters, or protected species and habitats and the evidence does not lead me to form a different view. These are neutral factors that weigh neither for nor against the proposal.
21. However, in the specific circumstances of this case, I ascribe substantial and over-riding weight to the adverse effects on local character that would be caused through the unnecessary harm to protected trees with high amenity value. This harm would be contrary to the Framework and is a key determining factor in this appeal. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole, having particular regard to the key policies listed in footnote 9 in combination. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

22. 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. Therefore, for the reasons given above, the appeal should be dismissed.

E Catchside

INSPECTOR