



Appeal Decision

Site visit made on 21 May 2025

by **Mark Philpott BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025.

Appeal Ref: APP/T0355/W/24/3355780

Land at Brook House, Paley Street, Maidenhead, Berkshire SL6 3JS

- 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 Hunter against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/02871.
 - The development proposed is erection of a pair of semi-detached dwellings on land at 'Brook House' with associated parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (Framework) and the 2023 Housing Delivery Test results were published after the planning application was determined. Additionally, the Council's Sustainability Supplementary Planning Document (SPD) was adopted after the decision was made, which replaces the Interim Sustainability Position Statement specified on the notice. However, the Council refers to the Framework and the SPD in its appeal statement and so the appellant had an opportunity to comment on these at the 'final comments' stage of the appeal. In addition, the 2023 test results do not have a consequence for decision-making, and this was also the case for the previous results. Accordingly, I have not sought further views from the main parties regarding these matters.
3. The floorplans and elevations of the proposed dwellings are shown as illustrative on drawing ref PD647. It also omits details of the rear elevations of the dwellings. Furthermore, the appellant's final comments indicate that the location of and access to the dwellings have not been finalised and could be altered if required. However, as planning permission is sought in full and no specific alternatives have been presented, I have decided the appeal on the basis that permission is sought for the development shown on the drawing. I consider the implications regarding the lack of rear elevation details in main issue (vi) below.

Main Issues

4. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;
 - (ii) if the proposal would be inappropriate development, the effect of the proposal on the openness and purposes of the Green Belt;

- (iii) the effect of the proposal on ecology;
- (iv) whether the proposal would include a suitable vehicular access;
- (v) whether the proposal would incorporate satisfactory measures to adapt to and mitigate climate change;
- (vi) the effect of the proposal on the character and appearance of the area; and
- (vii) if the proposal would be inappropriate development, whether the 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 development.

Reasons

Whether inappropriate development

5. The site is to the rear of the dwelling named Brook House. The appellant puts forward that the proposed dwellings would constitute infilling of garden land between two residential plots within the 'identified settlement area' of Paley Street. However, it has not been argued that the site is previously developed land, with the Council characterising it as open and undeveloped. It should also be noted that the site is outside the identified settlement boundaries on the Policies Map to the Borough Local Plan 2013-2033 (LP).
6. Paragraph 153 of the Framework explains that inappropriate development in the Green Belt should not be approved except in very special circumstances. Paragraphs 154 and 155 of the Framework set out exceptions to inappropriate development. LP policy QP5 echoes the Framework's approach.
7. Based on the appellant's case, the only obviously potentially relevant exception is for 'limited infilling in villages' at paragraph 154(e) of the Framework. However, the Council considers that the site constitutes Grey Belt and therefore assessed the proposal against the requirements of Framework paragraph 155. I have therefore limited my assessment to these two potential exceptions.
8. The Framework does not define the terms in the paragraph 154(e) exception. However, paragraph 6.18.9 of the LP states that 'limited infilling' is considered to be 'the development of a small gap in an otherwise continuous frontage, or the small scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. It should be appropriate to the scale of the locality and not have an adverse impact on the character of the locality.' In the absence of any claims to the contrary, I have considered the exception in these terms.
9. The proposed dwellings would face and be accessed from Paley Street, which features sporadic development generally comprising a mix of spacious individual properties and small residential clusters with intervening open spaces. Brook House and Corner Cottage on one side of the site are located close to the B3024. The distance between those dwellings and Michaelmas Cottage, which is the nearest dwelling on the other side of the site, is substantial. For these reasons, the site is not a small gap nor within a continuous frontage and the proposal would not constitute limited infilling. Consequently, the Framework paragraph 154(e) exception is not applicable, irrespective of whether or not the site is in a village.

10. Among other things, the Framework paragraph 155 exception requires the development to be in a sustainable location, having particular reference to associated paragraphs 110 and 115. The site and its surroundings are clearly in a rural location far from the LP's defined settlements. The Council's stance that bus services in the vicinity are limited and cannot be accessed via continuous footpaths is uncontested and I have no compelling reasons to disagree. In addition, while I saw a restaurant nearby on the B3024, this would not address many day-to-day needs of the occupiers of the proposed dwellings. I have not been otherwise referred to specific local amenities, and certainly none are accessible via continuous footpaths.
11. Resultantly, the site fails to offer a genuine choice of transport modes and the occupiers of the proposed dwellings would likely be highly dependent on travel by private motor vehicles to satisfy their requirements for daily living. Even when taking into account that opportunities to maximise sustainable transport solutions vary between urban and rural areas, the site would not be a sustainable location and the Framework paragraph 155 exception does not apply.
12. Therefore, the proposal would constitute inappropriate development in the Green Belt. Very special circumstances must therefore exist to justify the scheme. I return to this matter later in this letter.

Openness and purposes

13. The site is currently mostly mown grass such that its openness of the Green Belt would clearly be adversely affected in spatial terms from the footprint, height and volume of the two storey dwellings. Furthermore, the dwellings would be visible from Paley Street behind vegetation that runs alongside it and from the proposed access onto it, foreshortening views across the site. For these reasons, the harm to the openness of the Green Belt spatially and visually would be substantial.
14. The Council also alleges that the development would undermine the purpose of the Green Belt to assist in safeguarding the countryside from encroachment, which is specified by paragraph 143 of the Framework. However, on the basis that the sporadic nature of development along Paley Street would be largely maintained and the area would remain overwhelmingly rural, the harm arising from this would be negligible.

Ecology

15. The site and nearby land, including the vegetation along Paley Street and a pond and fields in the vicinity, have the potential to support protected species. Furthermore, the Council reports that the site is in an 'Amber Impact Risk Zone' for great crested newts, meaning they are likely to be present in the locality. Additionally, vegetation along the site's boundary would need to be removed to provide the access.
16. No ecological surveying has been undertaken to support the scheme. Although the appellant has agreed to provide any environmental reports required, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before permission is granted. On that basis, it would be inappropriate to condition the undertaking of surveying.

17. I must therefore conclude that it has not been demonstrated that the proposal would not have an unacceptable adverse effect on wildlife. In this way the proposal conflicts with LP policy NR2 and paragraph 187 of the Framework, which expect proposals to demonstrate how they will protect and enhance biodiversity.
18. The application preceded statutory requirements relating to the provision of biodiversity net gain for minor development. Even so, LP policy NR2 and Framework paragraph 187 require the proposal to achieve biodiversity net gain. Despite the loss of vegetation to create the access, there would likely be sufficient space within the site to provide at least some level of biodiversity net gain. This could be secured by a condition. Nevertheless, conflict with the above policies would remain due to the lack of surveying.

Access

19. Paley Street is a narrow lane that curves to either side of the proposed access. Although it is a no-through road, it serves several properties including a farm and is subject to a 40 miles per hour speed limit. The drawings do not suggest that the vegetation along Paley Street would be removed or cut back to create visibility splays. Intervisibility of vehicles at the access and highway users approaching from the B3024 would be restricted by the vegetation.
20. The orientation of the access would be such that there would be clearer sightlines in the other direction. Additionally, I note that vehicles could turn within the site and thus enter and exit in a forward gear and that the Council's Streetworks Officer has no objection to the scheme. However, having regard to the characteristics of Paley Street as set out above, the arrangement would have an unacceptable adverse impact on highway safety for the reason identified.
21. I do not have sufficient certainty that a condition to require the provision of visibility splays could achieve a satisfactory outcome. This is because it would potentially necessitate works to vegetation on land at Corner Cottage, which is seemingly not within the control of the appellant, and as the extent of any ecological impacts of works to the vegetation are unknown due to the absence of surveys as discussed.
22. The proposal would not be served by a suitable vehicular access. The proposal conflicts with LP policies QP3 and IF2, which require development to provide safe means of access. Paragraph 116 of the Framework also indicates against the scheme, which sets out that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Climate change

23. LP policies EP1 and SP2 set out that development should not have an unacceptable effect on environmental quality and demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. The SPD provides specific guidance as to how this may be achieved. Notably, paragraph 48 of the SPD states that to comply with LP policies EP1 and SP2, development should be 'net zero' in terms of carbon emissions. Additionally, paragraph 50 of the SPD specifies that applications for new dwellings should be supported by a Sustainability and Energy Statement as per the Council's Local Validation Checklist.

24. The scheme is not supported by a Sustainability and Energy Statement or any alternate form of substantive evidence to suggest that the proposed dwellings would achieve net zero carbon emissions or would otherwise adapt to and mitigate climate change. Without any detail as to the specific impacts of the development in this respect, I do not have sufficient certainty that an acceptable scheme could be secured by conditions.
25. I therefore find that the proposal would not incorporate satisfactory measures to adapt to and mitigate climate change. In this way it conflicts with LP policies EP1 and SP2 and the SPD.

Character and appearance

26. The Council's concerns with the proposed dwellings in respect of this issue relate to the lack of rear elevations drawings. However, it is sufficiently clear from the evidence that the rear elevations would include similar materials and fenestration and have comparable effects to the other elevations. Setting aside the impacts on the openness of the Green Belt, the Council has no concerns with the scale or design of the dwellings in broad terms. In that context, it would be appropriate to impose a condition to require details of the rear elevations to be submitted for approval prior to development commencing. This would ensure that the final design would be compatible with the character and appearance of the area.
27. The Council also has concerns that trees with amenity value may be harmed if visibility splays are provided for the access. However, given that no such works have been specified in the application and a condition to require the provision of splays would be inappropriate for the reasons already given, I have no reason to conclude that harm to trees would arise.
28. Subject to the aforementioned condition, the proposal would not harm the character and appearance of the area. In this respect, it accords with LP policies QP3 and NR3, which require development to respect and enhance local character and protect and retain trees.

Other considerations

29. Paragraph 153 of the Framework explains that the very special circumstances required to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. The Council can reportedly only demonstrate 4.47 years of deliverable housing sites. The presumption in favour of sustainable development, as set out at paragraph 11(d) of the Framework, is applicable as a consequence. In that context, the proposed dwellings would make a small but meaningful contribution to addressing the Council's housing supply deficiency. This weighs moderately in favour of the scheme. The proposal would also bring about modest benefits associated with the construction process, from the occupiers of the proposed dwellings spending money and engaging with services and facilities in the area, and from the provision of biodiversity net gain.
31. It has been put forward that residential development in the Green Belt has been permitted in the vicinity. The exact circumstances of those cases are not before me but, in any case, I must determine the appeal based on the proposal's own

merits and the evidence before me. Accordingly, this matter does not alter my findings or indicate in favour of the scheme.

32. The appellant has explained that the proposed dwellings are intended to be used by relatives of the occupiers of Brook House and that there are strong familial ties to the area. It is also put forward that there is a lack of affordable housing for the appellant's relatives, who would offer care and support for the occupiers of Brook House. I have no reason to doubt these points. However, it is undisputed that the appellant possesses other properties in the vicinity and clear reasons have not been given to explain why these might be unsuitable for the relatives. Moreover, there is nothing before me to suggest that there is an exceptional need for relatives to live in such close proximity, particularly across two new households instead of one. Nonetheless, I have given these matters careful attention.
33. I consider that the other considerations identified above weigh moderately in favour of the development when aggregated. However, paragraph 153 of the Framework explains that any harm to the Green Belt attracts substantial weight. The proposal would be inappropriate development in the Green Belt, which is harmful by definition. There would also be substantial harm to the openness of the Green Belt. Additionally, the proposal would have an unacceptable impact on highway safety and fails to suitably adapt to and mitigate climate change. There would also potentially be harm to protected species.
34. Overall, the other considerations raised do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify development in the Green Belt do not exist. Moreover, the policies in the Framework that protect the Green Belt provide a strong reason for refusing the development. Hence, the proposal does not benefit from the presumption in favour of sustainable development.
35. The proposal conflicts with LP policy QP5 given that very special circumstances to justify development in the Green Belt have not been demonstrated. Taking this together with the various other identified conflicts with LP policies, I conclude that the proposal is contrary to the development plan as a whole. Material considerations do not outweigh the conflicts with the development plan.

Conclusion

36. For the reasons given above the appeal should be dismissed.

Mark Philpott

INSPECTOR