



Appeal Decision

Site visit made on 12 May 2025

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/T0355/W/25/3358426

19 Russell Street, Windsor SL4 1HQ

- 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 Lewis Berkeley Property Limited against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 24/02284.
 - The development proposed is the demolition of an existing building and the erection of two houses.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2025 ('the Guide') states that if an applicant thinks that amending their application will overcome the Council's reasons for refusal, they should normally make a new planning application. It continues that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector is essentially the same scheme that was considered by the Council and by interested parties at application stage.
3. As part of the appeal, amended block plan (drawing no. RUS-LBY-ZZ-00-DR-Z-11000 Rev B), amended ground floor plan (drawing no. RUS-LBY-ZZ-00-DR-Z-1101 Rev B) and amended elevations (drawing no. RUS-LBY-ZZ-TY-DR-Z-2501 Rev A) were submitted.
4. The amendment depicted on those drawings is very modest, essentially comprising the annotation of 2.7 metre wide existing and proposed dropped kerbs to serve the proposed garages, with no alterations to the elevations or layout of the proposed building. Having regard to the Guide, the changes are not substantive. I have therefore based my decision upon those amended drawings, and I am satisfied that my doing so does not introduce procedural unfairness.
5. Appendix A of the appeal statement includes an Architect's Statement and illustrations. The Council contends that for me to accept these would also run contrary to the Guide.
6. However, the Architect's Statement provides contextual analysis which responds to the Council's first reason for refusal, and the accompanying illustrations are simply a visual aid. Whilst the Council maintains that the illustrations differ from the

drawings which were before it at application stage, compared to them the realignment of the windows in those illustrations is barely perceptible. In any event, whilst I have had regard to the illustrations, I have based my decision upon the drawings.

7. I am therefore satisfied that the appellant has not attempted to use the appeal process to evolve the scheme, and that the proposal before me is essentially the same as that considered by the Council and by interested parties at application stage.
8. Finally, prior approval was granted to change the use of the property on the appeal site from offices to two residential flats, comprising a three bedroom unit and a two bedroom unit (Ref: 23/02218) ('the PA scheme'). I refer to that planning history in my decision.

Main Issues

9. The main issues are:

- the effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Inner Windsor Conservation Area, and its effect on the setting of Alexandra Court;
- whether the scheme would provide appropriate living conditions for the occupants of the proposed houses, with particular regard to the availability of outdoor amenity space, and accessibility to the proposed refuse and cycle storage areas;
- the effect of the proposal on the safety and convenience of highway users; and
- whether the proposal would include appropriate sustainability and carbon off-set measures.

Reasons

Character and appearance

10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in respect of development affecting conservation areas, special attention shall be paid to the desirability of preserving or enhancing their character or appearance. The National Planning Policy Framework 2024 ('Framework') sets out that great weight shall be given to the conservation of designated heritage assets, such as conservation areas, and that harm to their significance requires clear and convincing justification.
11. It continues at paragraph 216 that the effect of an application on the significance of a non-designated heritage asset should be taken into account, and that a balanced judgment will be required having regard to the scale of any harm or loss, and the significance of the asset.
12. The site is within the Inner Windsor Conservation Area ('IWCA') and adjacent to the Windsor Town Centre Conservation Area. As described in the Inner Windsor Conservation Area Appraisal 2015 it falls within the 'minor streets' character area, which typically comprises narrow roads with an enclosed feeling, and modestly scaled, two storey, terraced buildings, with sloping roofs and dividing parapets, and fine detailing.

13. I observed that the buildings on Russell Street broadly fit the above characterisation although, as pointed out in the officer delegated report, it does not possess the same uniformity as some other 'minor streets' due to buildings with differing fenestration, materials and heights, some of which are set back further from the highway than others.
14. To the rear of the site, Alexandra Court is a row of apartments converted from a former school. I understand that the building dates from circa 1871 and that it has links to the Free School Movement. It has a one-and-a half storey form with dormer windows to the front, and a principally gabled, steeply pitched, slate roof. Its brick elevations include ornate detailing and string courses. Given its style and character, and its association with the area's mixed use, Victorian era growth, I consider that it is a non-designated heritage asset.
15. The scheme would entail the replacement of the existing 'L' shaped brick building on the site, which I understand was constructed in the late twentieth century, and which has a predominantly pitched roof, behind parapet walls. Part of the building abuts the pavement, whilst the remainder is recessed behind a parking forecourt. The main parties describe it as utilitarian, and I consider that, whilst it does not stand out as anomalous, it does not make a positive contribution to the character or appearance of the IWCA.
16. The whole front face of the proposed building would abut the pavement, thereby aligning with the buildings at 17 and 21 Russell Street ('No 17' and 'No 21'). As demonstrated on drawing No. RUS-LBY-ZZ-TY-DR-Z-2501 Rev A it would be broadly the same overall height as the existing building on the site. However, its siting wholly adjacent to the pavement, and the proposed mansard roof with dormers, which would be fairly large and similar in scale to the windows in the floor beneath, would give it a top-heavy appearance. It would therefore have a substantially greater bulk and mass in Russell Street than the building it would replace, and compared to Nos 17 and 21. As a result, it would dominate this part of the streetscene, and it would be at odds with this part of the IWCA's predominantly two storey form and buildings with plain sloping roofs.
17. Whilst I observed dormers in a mansard roof further down Russell Street at Ralston Court, as that building is set back from the road, it has a more limited bulk in the streetscene compared to this proposal, and it also falls outside of the IWCA. Lammas Court, which is cited in the Architect's Statement, falls within the 'modern inner Windsor' character area of the IWCA, where the context is significantly different to here.
18. The appellant states that the materials used in the proposed roller shutter garage doors could be dealt with by means of a planning condition. However, those large features, which would be very prominently positioned at ground floor level next to the pavement, would have a very bland and functional appearance, which would dominate the building's front face.
19. They would jar with the attractive facades and well-proportioned fenestration, which typify other buildings in the IWCA and in this part of the streetscene. The garage doors at 20 Russell Street are also functional, but they are not typical of the area, and that property, which is further to the west and on the opposite side of the road, falls outside of the IWCA.

20. The two storey rear section of the existing building on the appeal site aligns with, and abuts, Alexandra Court, whereas the proposal would be set slightly away from it, thus revealing its gable. However, unlike the existing building, this part of the proposal would have a large area of flat roof at first floor level. Although it would be concealed behind a parapet, it would give that part of the scheme a very rectilinear form. Given its height, and that it would project beyond the western end wall of Alexandra Court, it would be prominent viewed from the access and parking area to the rear of the site. Its form and bulk would jar with the form, style, proportions and detailing of that non-designated heritage asset, thereby harming its significance.
21. It is unclear which flat roof terraces in Russell Street the Architect's Statement is referring to, but from my observations, this elevated section of flat roof would be at odds with the prevailing character of the IWCA, thereby adding to the harm that the proposal would cause to its character and appearance.
22. The scheme would be appropriately finished in stock brick, and other than the garage doors and dormers, its detailing, including timber sash windows in shallow reveals, with soldier courses above, would not appear out of place.
23. Finally, I note that the planning permission for a pair of semi-detached houses on this site (Ref: 10/00421/FULL) is no longer extant, but in any event, that scheme did not contain dormer windows or roller shutter garage doors, and its form and appearance was therefore substantially different from this proposal.
24. For the above reasons, the proposal would fail to preserve or enhance the character and appearance of heritage assets, and it would thereby conflict with Policy HE 1 of the Borough Local Plan 2013 - 2033 (2022) ('BLP'). It would also conflict with BLP Policy QP 3 Part b) which requires development proposals to respect and enhance the local or historic character of the environment, paying particular regard to matters including urban grain, layout, rhythm, height, scale, bulk, massing and proportions; and with the stance at Framework paragraph 135 for development which is sympathetic to local character, including the surrounding built environment.
25. Having regard to the statutory test, the scheme would fail to preserve or enhance the character and appearance of the IWCA. In accordance with the Framework, the harm to the significance of that designated heritage asset is a matter to which I attribute great weight. Whilst significant, as the harm caused to it would be 'less than substantial', I will weigh it against the public benefits of the proposal later in my decision.

Living conditions

26. The proposed house next to No 21 would have a side access leading to a rear courtyard, including a bin store, thus providing a convenient route for bins to be moved to the roadside for collection, and an alternative route for bicycles to be moved in and out of the garage.
27. However, the proposed house next to No 17 would have no side access. As a result, bins would need to be wheeled through the garage which, given its narrow width, would not be a practical option when occupied by a car. Additionally, having regard to drawing no. RUS-LBY-ZZ-00-DR-Z-1101 Rev B, I am not persuaded that bicycles could be easily wheeled through the garage passed a parked car, and

taking them through the house would not be a convenient arrangement. The scheme would not therefore provide a user-friendly layout for those occupants.

28. The Windsor and Maidenhead Borough Wide Design Guide 2020 Supplementary Planning Document ('BWDG') is a material consideration which, it states, should inform the design of residential schemes, although departures from it may be considered where there is robust design justification. At Principle 8.4 it says that south-facing gardens for proposed four bedroom houses should have a minimum area of 70 sqm. At 31.5 sqm and 15.5 sqm respectively the proposed rear courtyards would fall well short of that advice.
29. The appellant states that compliance with the BWDG's guidelines is not feasible in many constrained town centre locations, and points to large areas of public open space in the vicinity, including in the grounds of Windsor Castle, along the banks of the River Thames, and at Bachelors Acre. However, in my view, off-site public spaces do not perform the same function as on-site areas, which typically provide a directly-accessible, secure and private space, where residents can relax, play and perform domestic activities as part of their home-life.
30. Whilst the PA scheme does not include any outdoor amenity areas, those two flats are considerably smaller and with fewer bedrooms compared to this proposal, and it is therefore likely that they would be occupied by fewer people. Consequently, compared to that fallback, I consider that this scheme would not provide better living conditions for the future occupants.
31. The scheme would not ensure good living conditions for the occupants of the proposed accommodation. It would conflict with BLP Policy IF 2's requirement for development to provide appropriate cycle parking. It would also conflict with the high-quality design requirements of BLP Policy QP 3, including its Parts d), l) and o) which state that development shall provide easy access for cyclists, sufficient levels of high quality private amenity space, and adequate measures for the storage of waste; but not with its part m), as referenced in the decision notice, which addresses the amenities of neighbours.
32. It would also conflict with the Framework's requirement to provide a high standard of amenity for all users; and, as there is no robust justification for a departure from the BWDG, the scheme would also conflict with its advice.

Safety and convenience of highway users

33. Each proposed house would have an integral garage abutting the pavement, such that drivers would need to reverse in or out. Although drawing no. RUS-LBY-ZZ-00-DR-Z-1101 Rev B) depicts the tracking lines of a car, as pointed out by the Council, there are discrepancies given that one line conflicts with a pillar, and that another abruptly changes direction.
34. That said, I observed that whilst Russell Street is narrow and one-way, it is lit by street lamps, has double yellow lines, and appears to carry a modest volume of slow-moving traffic. Although the proposed garages would be narrow and their entrances just 2.5 metres wide, the residents of the proposed houses would no doubt become accustomed to manoeuvring in and out of them.
35. This scheme of just two houses would typically generate only a limited volume of vehicular movements. Having regard to Russell Street's characteristics, and the

site's existing arrangement, where drivers access a parking area, albeit one that is larger and open, I am not persuaded that the proposal would significantly harm the safety or convenience of highway users. Thus, on this issue, it would not conflict with BLP Policy IF 2, including its stance that proposals shall optimise traffic flows and circulation, and provide appropriate car parking.

Sustainability and carbon off-set measures

36. The Council maintains that the scheme lacks information with regards to sustainability measures, and that it is not accompanied by a legal agreement to secure any potentially required carbon offset contribution.
37. However, the Sustainability and Energy Statement by CHB Sustainability, along with the submitted drawings, outline various sustainability features, including sections of sedum grass roof, measures to limit energy demand, on-site energy generation through the use of air source heat pumps and a photovoltaic system, water efficiency measures and electric vehicle charging points.
38. BLP Policies SP 2 and QP 3 set out the need for sustainable design and construction, which minimises energy demand and water use, maximises energy efficiency and minimises waste, and incorporates measures to adapt to and mitigate climate change. I have not been provided with the Council's Sustainable Design and Construction Supplementary Planning Document, to which BLP Policy SP 2 refers, but I see no cogent reason why more detail of the proposed energy and sustainability measures could not be appropriately addressed by means of a planning condition, as suggested by the appellant, should the appeal be allowed.
39. I am therefore satisfied that the proposal would include appropriate sustainability and carbon off-set measures, and that it would not conflict with BLP Policies SP 2 and QP 3.

Other matters

40. As illustrated at figures 8 and 9 of the appeal statement, the existing building on the site includes a door which leads directly to No 21's courtyard, and a side window on the boundary with a view over No 17's garden. As a result of this scheme, both would be removed. However, that door is solid and used only as a fire escape, and that window would serve a bedroom in the PA scheme where the occupants would typically seek to protect their own privacy. Consequently, this scheme's benefit to adjacent occupiers' living conditions would be limited.
41. The scheme would make use of a small site, in a sustainable location within a large settlement, close to services and amenities, which the residents would no doubt help to support, thus contributing to the local economy. In those regards it finds support from the Framework, but as the PA scheme would deliver broadly similar benefits, whilst making use of an existing building, this carries only limited weight in favour of the proposal.
42. The Council acknowledges that it cannot demonstrate a minimum of five years' worth of housing as required by Framework paragraph 78. The scheme would make a small contribution of two units to its housing supply, which constitutes a public benefit. As the fallback of the PA scheme would make a similar contribution, this carries modest weight in favour of the proposal.

Planning Balance and Conclusion

43. The Framework does not change the statutory status of the development plan as the starting point for decision making. I have found that the proposal would significantly harm the character and appearance of the area, including the significance of Alexandra Court, and that it would fail to preserve or enhance the character or appearance of the IWCA, in conflict with BLP Policies HE 1 and QP 3 Part b). Additionally, there would be limited harm as a result of its failure to provide appropriate living conditions for the future occupants, in conflict with BLP Policies QP 3, including its Parts d), l) and o), and IF 2.
44. I have identified a modest public benefit in respect of the scheme's contribution to housing supply, and limited benefits in terms of its accessibility to services which the occupants would be likely to support, the contribution to the local economy, and improvements to adjacent occupiers' living conditions. However, having regard to Framework paragraph 215 the public benefits would not outweigh the harm to the IWCA.
45. Given that the Council cannot demonstrate a five year supply of deliverable housing sites, in accordance with Framework paragraph 11d) those development plan policies which are most important for determining the application are deemed to be out of date. However, having regard to its part i and footnote 7, the scheme's conflict with Framework policies which seek to protect designated heritage assets provides a strong reason for refusing the development proposed. The scheme does not therefore benefit from the Framework's presumption in favour of sustainable development.
46. It would conflict with the development plan when considered as a whole, and material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For these reasons, and having regard to all other matters raised, including representations by interested parties, the appeal is dismissed.

Chris Couper

INSPECTOR