

Appeal Decision

Site visit made on 5 June 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th June 2025

Appeal Ref: APP/K0425/W/24/3355839

106 Roberts Ride, Hazlemere, Buckinghamshire HP15 7AN

- 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 Edmund Gemmell against the decision of Buckinghamshire Council.
- The application Ref is 24/05279/FUL.
- The development proposed is erection of new two storey 2 bed low carbon eco dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development differs from that given on the original application form, to remove elements that are not acts of development and succinctly describe the proposal. No party would be prejudiced by this.

Main Issues

3. The effect of the proposed development on:
 - the character and appearance of the host property and surrounding area;
 - protected trees;
 - biodiversity;
 - carbon emissions; and,
 - the living conditions of occupiers of 106 Roberts Ride, in particular regard to loss of light and outlook.

Reasons

Character and appearance

4. The appeal site is within a predominately residential area, where dwellings are typically two-storey, semi-detached with pitched roofs, as per the host property. Most dwellings have parking and gardens in front and are set within reasonable sized plots, with many having single storey garages to the side, creating discernible gaps at first floor level between them. Also, there are sporadic large trees along the road, including in front of the appeal site and trees visible in the gaps between dwellings along the appeal site side of the road. This provides a harmonious, spacious, and pleasant verdant character to the surrounding area.
5. There is some variety of dwelling designs and features within the street scene and examples of different property types, including detached and terraced properties in the wider local area. Also, a number of dwellings have had side extensions, including two-storey side extensions, incorporating side garages. However, these are not directly comparable to the appeal proposal in terms of its form, scale and design. Even though the proposed dwelling would have the appearance of a side

extension to the host property and incorporate elements to seek to assimilate with its design, such as matching external materials, the roof angle of the front roof slope and overall height of the dwelling, the proposal would have a different design, form and character to the host property.

6. The proposed large, glazed windows and doors would maximise heat gain and there are some examples of larger glazing on other dwellings in the local area. However, the proposed design and proportions of the windows and doors would not be in keeping with that found on the host dwelling. Also, despite its narrow width and the angle of the main front roof slope, the proposed dwelling would not appear as a subservient addition to the host property by virtue of its overall scale and design.
7. The general principle of building up to a boundary line may be acceptable, as referred to in certain case law¹, and the new dwelling would not be connected to both dwellings either side, creating a terrace, the proposal would close a discernible gap between dwellings. This would result in the new dwelling appearing cramped and incongruous compared to the typical pattern and form of dwellings in the surrounding area. Consequently, the proposal would harmfully reduce the spacious feel between dwellings and views through to trees at the rear.
8. Even though the proposed dwelling may not be visible from certain viewpoints within the street scene, due to the existing large trees and vegetation nearby, from my site observations, it would be visually prominent from several viewpoints along the road, particularly on approach up the road and in front of the site.
9. The proposal is for a new dwelling rather than an extension to provide additional accommodation associated with the host property. Therefore, by reason of its function, together with its proposed design and form, it would not be or appear subservient to the host property. Furthermore, even if the overall size of the proposed dwelling would not be that dissimilar to, or even smaller than some examples of extensions to dwellings in the surrounding area, which increase the number of bedspaces per dwelling, the proposal would increase the density of dwellings per hectare. This would not be in keeping with the prevailing form and density of dwellings within the immediate surrounding area. Consequently, the proposed dwelling would be visually and spatially incongruent with the surrounding pattern and form of development in the local area
10. The Hazlemere Neighbourhood Plan (November 2023) supports terraced properties, even where they are not characteristic of an area if the new dwelling is certified to a Passivhaus or equivalent standards with a space heating demand of less than 15KWh/m²/year. The information prepared by Greencore sets out that they expect every home they build to be zero carbon ready, operating at the space heating demand of less than such standard or better. While it is envisaged the proposed dwelling could achieve such, it has not been unequivocally demonstrated that it would and no certification has been provided to show it will be built to a Passivhaus or equivalent standard. Therefore, this consideration would not weigh in favour of the proposal in this instance.
11. The revised National Planning Policy Framework (December 2024) (the Framework) encourages designs that promote high level of sustainability and

¹ Berrisford v Mexfield Housing Co-operative Ltd" [2011] UKSC 52 and Hyer v SoS and Exeter City Council [1988] 2 PLR 33

climate change mitigation. Also, as asserted by the appellant, it lowers the bar in relation to maintaining the street scene in areas of low architectural value.

However, chapter 12 of the Framework sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what planning and development process should achieve. Furthermore, it sets out that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. For the reasons given above, the proposal would not achieve good quality design.

12. Having regard to the above, the proposal would harmfully affect the character and appearance of the host property and surrounding area, in conflict with Policies CP9, DM32 and DM35 of the Wycombe District Local Plan (August 2019) (WDLP), which require, amongst other matters, that new development has regard to the character and quality of an area. Also, the proposal would conflict with Policy HAZNP1 of the Hazelmere Neighbourhood Plan (NP) (August 2023, made January 2024) which, even though it supports proposals for new homes for households wishing to downsize, requires the design of such to have regard to the Wycombe District Intensification Supplementary Planning Document (SPD) and the Wycombe District Residential Design Guide (June 2017). Furthermore, the Residential Design Guide, includes the requirement that new development should improve or reinforce the existing positive character of the place it is part of.
13. However, in regard to this main issue, there would be no conflict with Policy HAZNP3 of the NP, as it relates to delivering zero carbon buildings and in certain circumstances supports such type of development, even if the plot sizes and plot coverage and layout are different to those in the immediate character area.

Protected Trees

14. Two large, protected trees significantly overhang the front part of the appeal site. The trees are prominent within the street scene and provide a significant positive contribution to the visual amenity of the surrounding area.
15. No detailed tree survey or arboriculturist impact assessment (AIA) has been provided, in line with the relevant British Standard, BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations. While there are existing areas of hardstanding and a single garage where there proposed development is to take place and a non-standard construction and foundation design is proposed, the works associated with the proposed dwelling would be within the root protection area of the preserved trees. Therefore, potential damage could be caused to tree roots, including through the compaction of soil structure, changes in ground levels and disturbance of the existing hardstanding.
16. Even if, as asserted by the appellant, only smaller roots would be affected, as a tree survey and AIA have not been undertaken, no substantive evidence has been provided to demonstrate that the proposed dwelling would not harmfully affect the integrity of the protected trees. Additionally, once built, the new dwelling and its front windows and roof mounted solar panels, would be close to the tree canopy. This may place future pressure to undertake pruning works to the trees, due to the likely impact of such on the outlook of its future occupiers and shadowing caused to the new dwelling.
17. As asserted by the appellant, new service runs would not likely be necessary within the root protection zone and they are supportive of a condition to fence off the

entire untarmacked garden area of the host property. However, even if there are no evident exposed tree roots within the existing tarmacked driveway, this and other considerations advanced by the appellant, would not ensure full protection measures are put in place for the whole of the root protection zone of the preserved trees during construction and that no harm would be caused to the preserved trees.

18. Furthermore, even with certain design and construction methods employed, it is not known whether or not there would be root damage caused to the trees once construction works commence. Including, for example, whether the option of repositioning the metal foundation screws would be feasible to avoid any potential root damage. Therefore, pre-commencement conditions would not be appropriate in such circumstances, as such matters would need to be considered at the time of making the decision.
19. Having regard to the above, the proposal would likely have a harmful effect on existing protected trees, in conflict with Policies DM14, DM34, DM35 and CP9 of the of the WDLP and Policy HAZNP2 of the NP, which amongst other matters, require development to conserve the natural environment including green infrastructure and biodiversity and that such positive characteristics are retained.

Biodiversity

20. Policy DM34 of the WDLP and Policy HAZNP2 of the NP require all development to protect and enhance biodiversity. The proposed dwelling would essentially be located on an existing area of hardstanding and where there is an existing garage and so, as asserted by the appellant, would only result in a small amount of habitat loss. However, as per my findings in relation to harm caused to existing protected trees, the proposal would not protect biodiversity. Furthermore, the submitted ecology report sets out that it has not been prepared by a qualified ecologist. Therefore, no substantive evidence has been provided to demonstrate the proposal would not cause harm to protected species or habitats.
21. The appellant proposes to plant a new hedge between the plots, include a bird box and 2 new trees in pots. Although, the evidence does not demonstrate that the proposal would provide 10% Biodiversity Net Gain (BNG) in accordance with Policy HAZNP2, or that it would comply with the requirements set out in Policy DM34 of the WDLP and the Council's Biodiversity Net Gain Supplementary Planning Document in respect of BNG. Notwithstanding such, the planning application was submitted before the mandatory requirements for BNG were introduced for minor development and therefore is not applicable to the appeal proposal. Furthermore, based on the evidence before me, including the type and scale of development, it is likely that the proposed development would be exempt from the mandatory BNG requirement in any case.
22. The Planning Practice Guidance (PPG), sets out that following the introduction of the mandatory BNG, it would be inappropriate for decision-makers to continue to give weight to aspects of existing local policies related to biodiversity gains which are inconsistent with the statutory framework for biodiversity net gain. The PPG further sets out that, decision makers should not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework. In view of such, it would not be appropriate nor reasonable to require the appeal proposal to meet the local policy requirements for BNG in this instance. Accordingly, the conflict with Policy DM34 of the WDLP and

Policy HAZNP2 of the NP in regard to BNG would be outweighed by material considerations.

23. However, in view of the likely harmful effect on existing trees and the lack of substantive evidence in regard to protected species and habitats, the proposal would have a harmful effect on biodiversity, in conflict with Policy DM34 of the WDLP and Policy HAZNP2 of the NP, which require that new development protect and enhance biodiversity overall.

Carbon emissions

24. Policy HAZNP3 part d) of the NP requires all development (except householder applications) to be accompanied by a Whole Life-Cycle Carbon Emission Assessment, using a recognised methodology, to demonstrate actions taken to reduce embodied carbon resulting from the construction and carbon emissions resulting from the use of the building over its entire life.
25. Various evidence has been provided in regard to the energy efficiency and carbon benefits of the proposed dwelling and it is the appellants intention that the new dwelling would be zero carbon across its entire life cycle. However, no whole life-cycle carbon emission assessment (WLCCEA) has been provided. Greencore have a proven record of delivering homes with space heating demand well below 15kWh/m²/year, although they identify issues with carrying out WLCCEAs and while they set out that in their view a figure of zero can be achieved, this would be subject to certain choices and finishes that are to be confirmed by the appellant. Therefore, the evidence provided does not fully demonstrate that the proposed dwelling would achieve the standards required, nor does it comprise a WLCCEA.
26. Examples² have been highlighted where the Council has accepted proposals for new dwellings without a WLCCEA. However, even though I have not been provided with substantive details of such examples to allow comparison with the proposal, it does not mean that the requirements of Policy HAZNP3 part d) of the NP are now unnecessary or justify why the policy requirements should not be met for the appeal proposal.
27. Furthermore, as set out by the Council, the examples of permissions granted with conditions in respect of a WLCCEA were determined by the Council before a recent appeal decision; ref APP/K0425/W/23/3324425, whereby the Inspector considered it was inappropriate to leave the provision of renewable technologies to condition. The requirements of adopted development plan policy would need to be demonstrated at the time of a decision, in order to justify the acceptability of the proposal against such. Therefore, it would not be reasonable nor appropriate to leave such matters to pre-commencement condition, as it goes to the heart of whether the proposal would be acceptable or not in regard to the criteria of Policy HAZNP3 of the NP.
28. While the Council considered a proposal ref 21/06864/OUT in Hazelmere to adequately address zero carbon considerations in terms of layout, orientation, and direct sunlight, I have not been provided with substantive information to allow comparison of the merits of that scheme with that of the appeal proposal.

² Council refs. 21/07002/FUL; 24/06280/ADRC; 24/06156/ADRC; 22/07126/FUL; 24/05303/FUL; 23/07996/FUL; 23/07081/OUT

29. In view of the above and based on the evidence before me, I cannot conclude that the proposal would comply with Policy HAZNP3 part d) of the NP. Consequently, the proposal would likely have a harmful effect on carbon emissions.
30. However, it has been sufficiently demonstrated that the proposal would have some climate change credentials, in accordance with Policies CP12 and DM33 of the WDLP, including that the new dwelling would incorporate renewable technologies in the form of solar panels and other measures, would be in a sustainable location outside an area of flood risk and that there is no dispute between the main parties in regard to highway and parking matters. Accordingly, I do not find conflict with Policies CP12 and DM33 of the WDLP in respect of this main issue.

Living conditions

31. A side gable window serving the existing kitchen of the host property would be lost as a result of the proposal. However, this is an obscurely glazed window, with limited outlook and light, due to the position of the existing detached garage close to it. While it may be the only window directly serving the kitchen, as demonstrated by the appellant, this receives borrowed natural light from adjacent rooms and openings therein. Also, the attached conservatory serves as an extension to the kitchen and is used for dining, rather than the kitchen. Therefore, despite the loss of the only window directly serving the kitchen, the proposal would not unduly reduce light and outlook to a habitable room, to the detriment of the living conditions of the occupiers of the host property in this instance.
32. In view of the above, the proposed development would not harmfully affect the living conditions of the occupiers of 106 Roberts Ride, in particular regard to loss of light and outlook. Consequently, there would be no conflict with Policies DM35 and DM36 of the WDLP, which amongst other matters, require the amenities of neighbouring properties to be preserved.

Other Matters

33. The Council does not have a 5 year housing land supply, stated to be 1.96 years as of the end of March 2024. Therefore, the proposal would deliver an additional dwelling in an area where there is a shortfall and demand for new housing. I give significant weight to this consideration, in favour of the proposed development.
34. The proposed development would be a small, self-build dwelling, allowing the appellant to downsize, yet remain in the local area and meet the local need for smaller homes. The new dwelling would include eco-home design elements with low energy use, which is generally supported by local and national planning policy and guidance. The proposal would provide an affordable, windfall dwelling in an accessible, sustainable location and would be an infill plot, which promotes the effective use of land and would not involve the loss of green space. Also, the dwelling would provide social and economic benefits through its construction and occupation. However, due to the small scale of the development, even in combination, I give moderate positive weight to these considerations.
35. The appeal proposal is an amended scheme, submitted to seek to address the previous concerns raised. The new dwelling would have adequate parking, there is on-street parking available nearby and no harm would be caused to highway safety. Also, the existing and proposed dwelling would have sufficient garden amenity space for the enjoyment of their occupiers and there would be no harm

caused to the living conditions of neighbours by reason of overlooking, overshadowing and loss of light. However, these are neutral matters in respect of the main issues.

36. Additionally, the actions of the Council during the consideration of the application and appeal, including the costs and time incurred by the main parties as a result of such, are neutral matters in relation to my findings on the proposal. Also, even though the appellant is a local and parish councillor, an environmentalist and climate campaigner, who supports renewables and saving trees, such matters do not affect my findings on the appeal proposal. Therefore, these matters do not weigh in favour of the proposed development.

Planning Balance

37. The proposal would conflict with policies contained within the WDLP and NP in regard to character and appearance, trees, biodiversity, and carbon emissions. Therefore, the proposal would conflict with the development plan as a whole.
38. The Council cannot demonstrate a 5 year housing land supply. In such circumstances paragraph 11d) and footnote 8 of the Framework establishes the policies which are most important for determining the application are out-of-date. Consequently, the presumption of sustainable development applies, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
39. The Council's housing land supply position is 1.96 years as of the end of March 2024. This is considerably below the Government's expectations and therefore, the provision of additional dwellings would make a positive contribution towards meeting the Council's shortfall. Although I give significant weight to this, given that the proposal is for one dwelling, the overall benefits from such would be limited. Also, due to the scale of the development, the other social and economic benefits of the proposal would have limited positive weight.
40. Consequently, the adverse impacts of the proposal on the character and appearance of the surrounding area, trees, biodiversity, and carbon emissions demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

41. For the reasons given above, the proposal would conflict with the development plan as a whole and material considerations do not indicate a decision should be made other than in accordance with it.
42. Accordingly, I conclude the appeal should be dismissed.

C Billings

INSPECTOR