
Appeal Decision

Site visit made on 5 August 2025

by **P Barton BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/T0355/W/24/3355152

Plot 2 at Corner Plot of Sturt Green and Rolls Lane, Maidenhead SL6 2JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Nikesh Patel against the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 24/01828/FULL.
 - The development proposed is 1no. four bedroom detached dwelling with cycle and refuse storage (Plot 2).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The proposal was originally submitted to the Council as a reserved matters application pursuant to outline planning permission 22/02789/OUT (the outline consent) for 4 serviced plots for self-build and custom housebuilding (SBCH). The proposal was unable to proceed in this form as the outline consent was a single planning unit for 4 dwellings, and I understand that the application was not truly phased. The proposal was subsequently submitted as a full application for planning permission. Reference to Plot 2 in the site address relates to the plots contained within the outline consent.
3. The description given in the application form references the submission of plot passports and marketing strategy in accordance with the Unilateral Undertaking associated with the outline consent. I have used the agreed amended description given on the appeal form for clarity.
4. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission had it made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues, which I set out below.
5. The Council considers that the proposal has not adequately demonstrated how it would be protected from surface water runoff and would not inhibit the flow route of the existing overland surface water flow path, as well as detract from the character and appearance of the surrounding area.
6. Moreover, the Council also considers that in the absence of a completed legal agreement the proposed development would fail to be secured as a SBCH dwelling and would consequently not be exempt from mandatory biodiversity net

gain (BNG) for small sites, as well as not secure a financial contribution towards the Council's carbon off-set fund.

Background and Main Issues

7. In allowing the outline consent at appeal¹ in 2023 the Inspector concluded that the provision of 4 SBCH dwellings clearly outweighed the totality of the harm identified to the Green Belt and the very special circumstances necessary to justify the proposal existed. The evidence before me is that the proposal is for a SBCH dwelling and there is no dispute between the parties on this matter. The proposal would not prohibit the delivery of the other 3 SBCH dwellings on the adjoining plots. The Council has not raised any concerns regarding the provision of a SBCH dwelling on the site subject to securing it as such. I have therefore proceeded to determine the appeal on this basis.
8. Having regard to the above, the main issues are:
 - the effect of the proposal on flood risk;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide appropriate BNG; and
 - whether the proposal complies with the adopted policies relating to climate change.

Reasons

Flood Risk

9. The appeal site lies within Flood Zone 1. However, the Environment Agency updated its flood mapping in March 2025 and part of the appeal site is now located within an area of 'high' likelihood of annual surface water flooding.
10. There is limited information before me on how surface water will be disposed of from the site. The Council has raised concerns that there is no information, including ground investigations and sustainable drainage systems, on how surface water would be managed within the site and the impact on surface water flood risk downstream. It is unclear whether such details could be secured by planning conditions.
11. I note that surface water flood risk was not raised in relation to previous schemes at the wider site, and particularly the extant outline consent. Nevertheless, I must consider this appeal on its individual merits including the latest flood mapping available at the time of its determination. If I allowed the appeal, the proposal would be a standalone consent and as such I give the extant outline consent for 4 SBCH dwellings limited weight on this particular matter.
12. Accordingly, the proposal would not comply with Policy NR1 of the Borough Local Plan 2013-2033 (BLP) which includes that sites that are at risk of flooding need to demonstrate that development is located and designed to ensure that flood risk from all sources of flooding is acceptable in planning terms.

¹ Appeal Ref APP/T0355/W/23/3314990

Character and appearance.

13. Sturt Green is a long straight lane that, for the most part, has housing facing it on both sides. There are gaps to these frontages, including a sizable pond, as well as the appeal site and the wider site subject to the outline consent. The houses vary from modest cottages to more generously sized houses, consisting of a wide variety of architectural styles from different periods, though they generally consist of 2 storey houses and dormer bungalows. Whilst the siting of the houses within their respective plots varies, the prevailing arrangement is that a good proportion of the frontages is given to landscaping in the form of hedging, trees and more ornamental features. Consequently, the street scene is one of long views of a linear cluster of rural residential development with a strong verdant character.
14. Many of the houses along Sturt Green have been extended to the rear incorporating roof designs that reflect the original house. I observed a number of such examples with ridge lines at the same height as, and running perpendicular to, the house's main ridge facing the road. The use of a crown roof to the proposed 2 storey house would achieve broadly the same outcome with this particular scheme, and the extent of the central section would not be readily visible. Consequently, the depth and scale of the proposed house would reflect others along the lane.
15. The submitted plans indicate the retention of some hedging and trees to the site's boundaries with Sturt Green and Rolls Lane, as well as some ornamental hedging within the frontage. Whilst there is understandably hardstanding to the front of the garages, there would also be a noticeable amount of hardstanding to the front of the main house. For the depth and width of the frontage, as well as taking into account the provision of garaging to the side of the house, the amount of hardstanding would dominate. This would erode the overall verdant character of the street scene. Moreover, the harm would be compounded by the creation of 2 access points that would make the hardstanding more visible and dominant.
16. Therefore, I conclude that the dominance of hardstanding to the frontage of the proposed house would have an unacceptable effect on the character and appearance of the area. It would be contrary to Policies QP3 and NR3 of the BLP and the Borough Wide Design Guide, which requires amongst other things, new development to respect and enhance the local, natural and historic character of the environment, as well as contribute to the creation, maintenance and enhancement of the greenness of the borough's streets.

Biodiversity

17. The mandatory requirement for development to deliver at least 10% BNG contains a number of exceptions, one of which is SBCH and subject to criteria that the appeal proposal would meet.
18. A planning obligation is the most appropriate method to secure the proposal as SBCH to ensure that first occupants have had primary input into the design and layout of the dwelling, the ownership of the custom and self-build dwelling for a period of three years as well as to bind the requirement to successors in title should the property be sold in the future in order to fulfil the requirements of the Self-Build and Custom Housebuilding Act 2015.

19. In order to qualify for the exemption to BNG, the proposal should be accompanied by a planning obligation that secures the dwelling for this purpose. In the absence of a legally binding mechanism there is no certainty that the proposed scheme would be carried out or occupied as a custom and self-build scheme. Consequently, the biodiversity gain objective would not be met.
20. For the above reasons, the proposed development would not provide an appropriate BNG, contrary to Policy NR2 of the Borough Local Plan 2013-2033 (BLP), which requires, amongst other things, development proposals to identify areas where there is opportunity for biodiversity to be improved.

Climate change

21. BLP Policy SP2 requires all developments to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. It refers to, amongst other things, the Sustainable Design and Construction Supplementary Planning Document, or successor documents, for further guidance. This has been superseded by the Sustainability Supplementary Planning Document (SSPD) and is a material consideration.
22. Whilst BLP Policy SP2 does not set any specific targets or standards, the SSPD seeks to secure a contribution to the Council's carbon offset fund where developments have demonstrated that net zero cannot be achieved. The SSPD identifies an initial set price of carbon offsets per tonne over a 30-year lifetime of the development.
23. The appellant's Energy Statement calculates that a 64% improvement over Building Regulations could be achieved. The scheme would not be net zero with a carbon dioxide emissions rate of 0.8 tonnes per year and would require a contribution. However, in the absence of a legally binding mechanism to secure the financial contribution towards the Council's carbon off-set fund the proposal would fail to comply with BLP Policies SP2 and EP1 relating to climate change.
24. The officer report makes reference to the Council's Sustainability Team requesting parts of the SSPD's checklist be secured by condition and the Council concluding that these needed to be addressed prior to determination. These details are not before me and as I am dismissing the appeal for other matters, I have not considered this matter further.

Other Matters

25. I acknowledge the appellant's concerns over the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Planning Balance

26. The National Planning Policy Framework (the Framework) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. I give significant weight to the conflict with BLP policies QP3, NR3, NR1, NR2, EP1 and SP2, which are consistent with the Framework in ensuring that development is made safe from flooding during its lifetime without increasing flood risk elsewhere, sympathetic to local character,

providing net gains for biodiversity and helping to reduce greenhouse emissions. As a result, I find that there is conflict with the development plan as a whole.

27. The Council states that it has a deliverable housing supply of 4.47 years. In these circumstances, Paragraph 11 d) of the Framework is applicable. However, Paragraph 11 d) i) provides an exception where there are circumstances where the application of policies in the Framework to protected areas or assets of particular importance provide a strong reason for refusing the proposal. Footnote 7 establishes that this includes areas at risk of flooding. As I have found a flood risk, the appeal does not benefit from the presumption in favour of sustainable development.
28. For the purpose of my assessment, if I had found nothing before me to indicate that there is a clear reason for refusing the proposal as per footnote 7, then Paragraph 11 d) ii) of the Framework identifies that planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to certain key policies, including securing well-designed places.
29. The proposed development would make a positive contribution in the delivery of a SBCH dwelling, with energy efficiency measures, though this is tempered by the absence of a planning obligation as discussed above. The limited scale of the development means that I afford the provision of a new house within the context of the current shortfall moderate weight in favour of the proposed development. I have considered paragraphs 61 and 73 of the Framework, which emphasises the Government's objective of significantly boosting the supply of homes and the important contribution small and medium sized sites can make to meeting the housing requirements of an area.
30. On the other side of the balance, there would be harm to the character and appearance of the area and a flood risk, as well as no valid exemption to BNG and no contribution to the Council's carbon off-set fund. Given the long-lasting nature of such effects, I attribute significant weight to this conflict.
31. Therefore, I conclude that the adverse impact of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework does not apply.

Conclusion

32. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

P Barton

INSPECTOR