
Appeal Decision

Site visit made on 16 September 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Appeal Ref: APP/T0355/W/25/3369611

Land at 17-19 Clewer Hill Road, Highgate, Windsor SL4 4BU

- 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 Quantum Estates against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 24/03048.
 - The development proposed is 1 no. detached three-bedroom dwelling and 2 no. semi-detached three-bedroom dwellings with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for 1 no. detached three-bedroom dwelling and 2 no. semi-detached three-bedroom dwellings with associated parking and landscaping at Land at 17-19 Clewer Hill Road, Windsor SL4 4BU in accordance with the terms of the application, Ref 24/03048, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal submission included biodiversity net gain calculations, an energy statement, and a drainage strategy summary. The Council has said that these introduce substantive new information that materially alters the scheme and, therefore, that they should not be considered within the scope of the appeal. These documents do not alter the development for which planning permission was sought; they provide additional information in response to the reasons for refusal, and an appellant is entitled to provide such information. Therefore, I have taken these documents into account in determining this appeal. I consider that doing so would not prejudice any party; all parties, including the Council, have had the opportunity to review and comment on these submissions as part of the appeal process.
3. With reference to Planning Inspectorate guidance¹, the Council has also said that as an executed and certified copy of any planning obligation must be submitted at the time of making an appeal under the written representations procedure and because this has not been done, this appeal is invalid. However, the guidance also notes that inspectors have the discretion to accept planning obligations after that deadline, although an inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are exceptional circumstances. Therefore, the submission of a planning obligation which has not

¹ <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england#planning-obligations>

been executed and certified does not make an appeal invalid but it does affect the amount of weight that can be attached to it as I will discuss below.

4. Whilst the description of development on the application form refers to the appeal scheme as 'erection of 1 no. detached house and a pair of semi-detached houses, phase 2 Highgate', the appellant has confirmed that the appeal scheme is a standalone development and should be assessed on its own merits. The appellant has also confirmed on its appeal form that the description of development has changed and, therefore, I have used the amended description that has been stated on the appeal form which is the same as that on the Council's decision notice.

Main Issues

5. The main issues are:
 - the effect of the appeal scheme on the character and appearance of the area;
 - whether there would be satisfactory living conditions for the future occupiers of the proposed dwellings with specific reference to the floor areas of bedrooms;
 - biodiversity net gain (BNG);
 - surface water drainage; and
 - climate change adaptation.

Reasons

Character and Appearance

6. The appeal site is located behind two existing dwellings on Clewer Hill Road, a road which has a varied character and appearance. Whilst predominantly residential, there are detached, semi-detached and terraced houses and bungalows of a variety of ages and architectural styles in the area close to the appeal site. There is also a varied pattern of development including a number of different examples of backland development.
7. To the immediate north-west of the appeal site are three dwellinghouses which have been constructed on land behind dwellings on Clewer Hill Road. These front onto a small, gated cul-de-sac which is known as Highgate. To the immediate south-east is an apartment complex, Byron Court, which is also a gated development to the rear of dwellings on and accessed from Clewer Hill Road. To the south-west, residential gardens associated with dwellings on Kimber Close neighbour the appeal site, separated by a high wall. Given this context, the appeal site is not readily visible from public vantage points.
8. The appeal scheme, which would be accessed via Highgate, would follow a similar building line to the existing dwellings on Highgate. Each dwelling would have parking to its front with incidental planting and a rear garden area, reflecting the existing pattern of development on Highgate and thus avoiding the creation of a cramped feeling or an appearance of over-development. The proposed dwellings would be of a similar scale, massing and proportions to the existing dwellings on Highgate and would be of a complementary design, resulting in a coherent streetscape that would make a positive contribution to the

local area and which, given the limited visibility of the site, would not be overly-prominent.

9. As such, the appeal scheme would be an appropriate form of development that would not be harmful to the character and appearance of the area. Therefore, it would comply with Policy QP3 of The Royal Borough of Windsor & Maidenhead Borough Local Plan (2022) (BLP) and the guidance in The Royal Borough of Windsor & Maidenhead Borough Wide Design Guide (2020) (BWDG) which say that new development should reflect and integrate well with the spacing, heights, bulk, massing and building footprints of existing buildings.

Living Conditions of Future Occupiers

10. Because the submitted plans show double beds in all bedrooms, the Council concluded that one bedroom in each of the dwellings would fail to meet the minimum area in the nationally described space standard (NDSS) for a double bedroom (11.5m²) as they would measure 11.1m² for Plot 1 and 10.5m² for Plots 2 and 3. However, the appellant has noted that nowhere does the application documentation state that the dwellings would have 3 double bedrooms and that when assessed as houses with 2 double bedrooms and 1 single bedroom the appeal scheme would comply with the NDSS.
11. Any furniture that is shown on application drawings is illustrative; it does not form part of the development for which permission is being sought. The intention of the NDSS is that the size of the bedroom determines how occupancy is defined. Accordingly, a bedroom exceeding 11.5m² is always counted as a double bedroom and a bedroom of between 7.5m² and 11.5m² is always a single bedroom (all subject to minimum room widths). On that basis, the proposed dwellings, which should be described as 3-bed 5-person dwellings, would accord with BLP Policy QP3, the BWDG and the NDSS which together seek high-quality design and the creation of satisfactory living conditions.

Biodiversity Net Gain

12. The appeal application sought permission for self-build housing and therefore did not include a BNG assessment, but the Council concluded that the proposal did not meet the requirements for a self-build development. Accordingly, the appellant has submitted a BNG assessment with its appeal, acknowledging that the proposed dwellings would not be self-build housing.
13. Although the Council has said that the appellant's BNG assessment is inadequate, it has not explained why. The BNG assessment includes a scaled drawing and calculations of the pre-development biodiversity value of the on-site habitat. It also includes an assessment of the appeal scheme's habitats, concluding that there would be an overall loss of habitats units. Therefore, the appellant has proposed that it would purchase habitats units and has said that it would accept a bespoke pre-commencement condition requiring full details of its biodiversity strategy.
14. There is no need for me to attach such a condition, however; the effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended) (the Act) is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition that development may not begin unless: (a) a Biodiversity Gain Plan (BGP) has been

submitted to the planning authority, and (b) the planning authority has approved the plan.

15. Whilst the Council has also noted that the mandatory BNG has not been secured through a legal agreement, legal agreements are not a relevant consideration as these can only be made after the BGP has been submitted. As such, they are only relevant to the discharge of the biodiversity gain condition and not the planning permission.
16. On the basis of the appellant's assessment I am satisfied that the standard biodiversity gain condition is capable of being discharged successfully and therefore that the appeal scheme would comply with Schedule 7A to the Act and with BLP Policy NR2 which says that development proposals will be expected to demonstrate how they would maintain, protect and enhance the biodiversity of application sites.

Surface Water Drainage

17. An objector has said that the appeal scheme relies on a connection to the existing drainage system on Highgate which was not designed to handle additional capacity and that there are already problems with the drainage system on Clewer Hill Road. However, it has not provided any evidence to demonstrate that there would not be sufficient capacity, and there were no objections from the Council or any consultees in this regard.
18. The lead local flood authority's response to the appeal submission notes that it has reviewed the appellant's updated drainage strategy and that testing has shown that infiltration on the site is not feasible. It has recommended that the design of a surface water drainage scheme which satisfies the sustainable drainage systems (SuDS) hierarchy should be secured by way of a planning condition. On that basis the appeal scheme would comply with BLP Policy NR1 which relates to the management of flood risk.

Climate Change

19. The Royal Borough of Windsor & Maidenhead Sustainability SPD (2024) (SSPD) states that to comply with BLP Policies SP2 and EP1 new developments must as a minimum conserve or enhance environmental quality and in the context of greenhouse gas emissions this means that development must not contribute to climate change and must provide a net zero outcome. It states that once on-site reductions have been maximised, the carbon shortfall should be met via a carbon offset payment where viable in order to meet net zero carbon.
20. The appellant's Energy Statement demonstrates that the construction specification of the development would result in a 59.13% reduction in carbon emissions on top of the existing requirements of Part L of the Building Regulations, and that a further 6.65% improvement would be made through the use of insulation. A further reduction in carbon emissions would be achieved through the use of photo-voltaic panels and air source heat pumps.
21. To achieve net zero carbon the appellant's Energy Statement explains that a total financial contribution of £12,669.37 would need to be made. The Council has said that there is insufficient information in the appellant's statement to enable a calculation of the appropriate offset contribution to be made and that it

does not demonstrate compliance with the latest policies and legislation. However, it has not explained why it considers the submission to be unsatisfactory.

22. Nevertheless, and as already discussed, the appellant has not provided a properly-executed legal obligation to secure this contribution and I am unable to attach any weight to the draft obligation that is before me as it would be unenforceable. Therefore, whilst the appellant may have maximised on-site reductions, a net zero outcome would not be achieved and as such the appeal scheme conflicts with BLP Policies SP2 and EP1 and the SSPD which together seek to ensure that new development is adaptable to and mitigates against climate change and does not have an unacceptable effect on environmental quality.

Other Matters

Living Conditions of Neighbouring Occupiers

23. Occupiers of existing properties in Kimber Close and on Clewer Hill Road have objected on the basis that first floor and roof-level windows in the appeal scheme would overlook their properties and that the inclusion of rooflights would encourage the conversion of the loft space. They have noted that the Council did not support rooflights on the now-built dwellings on Highgate and attached a condition to the permission for those dwellings which prevents the installation of dormer windows to avoid unacceptable overlooking to the gardens on Kimber Close, along with a restriction on the enlargement, improvement or any other alteration of those dwellings. They have also objected to the scale and massing of the appeal scheme, saying that it would be too dense and large, out-of-keeping with the area, and that the proposed dwellings would be visually-dominant and would harm views / the outlook from their properties.
24. Objectors have referred to a 2003 appeal decision and the planning permission for the other dwellings on Highgate to support their comments regarding loss of privacy and harm to outlook. However, I have not been provided with details of the appeal scheme or of any previous design iterations of the existing dwellings on Highgate to enable me to assess whether there were any similarities with the appeal scheme. Similarly, whilst it has been noted that a previous planning permission in respect of Highgate was only approved because it specifically excluded any development of the land behind 17 and 19 Clewer Hill Road (i.e. the site of the dwellings that are proposed in this appeal), I have not been provided with any information to explain why that might have been the case. In any event, each scheme must be considered on its own merits and against policy that is in force at the time of the decision.
25. I have already concluded that the appeal scheme would be an acceptable form and design of development within the local context. Given the distance between the appeal scheme and the nearest properties on Clewer Hill Road and Kimber Close I consider that there would not be a harmful impact in terms of overlooking or privacy. On that basis I do not see any need to prevent the installation of windows at roof level or the use of roof-level space within the proposed dwellinghouses. Furthermore, whilst planning policy does not protect views from individual properties, given the distance between the existing and proposed

properties I consider that the appeal scheme would not harmfully impact the outlook of the existing occupiers of nearby properties.

26. Although there would be some additional vehicle movements and activity associated with new dwellings and whilst this may be a peaceful residential area, the appeal scheme would not represent a significant intensification of development in the local area and would not result in a material deterioration of the living conditions enjoyed by occupiers of neighbouring properties as a result of noise and disturbance caused by the future occupiers of the appeal scheme. However, construction of the appeal scheme will inevitably result in some noise and disruption and given the site's location in a residential area I consider it necessary to control the hours of working and require that the development is carried out in accordance with a construction management plan (CMP).

Landscaping

27. Residents on Clewer Hill Road also said that they would like the opportunity to approve the planting plan so that landscaping that would be close to their dwellings would not grow too tall, be planted too close to their fence, or become a maintenance burden. Given that details of landscaping would be submitted pursuant to a planning condition, any consultation on this would be a matter for the local planning authority.

Waste Management

28. An objector has noted that the existing bin store for Highgate is inadequate, that bins frequently obstruct the pedestrian access to Highgate, and that adding more bins would exacerbate this issue, creating particular difficulties for those with mobility challenges, pushchairs, or in wheelchairs. I consider that this is capable of being satisfactorily addressed by way of a planning condition requiring further details of bin storage which will enable the local planning authority to ensure that satisfactory provision is made before the development is occupied.

Parking and Access

29. Objectors have said that the potential conversion of lofts to living accommodation would create additional parking pressure which could obstruct emergency vehicle access and access to residents' parking spaces, and cause safety issues on Clewer Hill Road. Therefore, they have advocated that more parking be provided. Notwithstanding that there are no minimum parking requirements in planning policy, the highway authority did not raise any issues in relation to parking or suggest that additional parking ought to be provided. Similarly, and based on the submitted swept path information, the highway authority did not raise any concern in relation to the site's vehicular access even though objectors have said that it does not meet safety standards in the Manual for Streets.

Infrastructure

30. A local resident raised concerns about the ability of local services and infrastructure to respond to additional housing. However, neither the Council nor any consultees have raised such concerns or sought financial contributions or other mitigation measures in respect of local services or infrastructure.

Housing Delivery

31. With reference to the National Planning Policy Framework (the Framework), the appellant has noted that small and medium-sized sites can make an important contribution to meeting the housing requirement of an area and that smaller sites are often built-out relatively quickly.
32. The Council has noted that it does not have a 5-year housing land supply but that as it can currently demonstrate a 4.04-year housing land supply relatively limited weight should be attached to the scale of the shortfall.
33. In addition to ascribing very limited weight to the creation of construction jobs for a temporary period, in its Statement of Case the Council has said that the appeal scheme would provide one additional dwelling which would make a very limited contribution to the Council's 5-year housing land supply. However, its officer report says that there is no relevant planning history for this site and notes that the scheme would provide 3 additional dwellings. In the absence of any evidence of an extant permission for two dwellings on the appeal site, I consider that a net increase of 3 dwellings should be weighed in the planning balance.

Planning Balance

34. Because the Council does not have a five-year supply of housing land, paragraph 11 d) of the Framework is engaged. Therefore, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
35. Given the housing land supply position in the borough, I attach significant weight to the delivery of 3 new homes. As noted by the Council, I also attach a very small amount of weight to the creation of temporary construction jobs.
36. The appellant's Energy Statement identified that a financial payment would need to be made to achieve net zero carbon but a properly-executed planning obligation has not been provided to secure this. Whilst this results in a conflict with policy, the amount of negative weight that I ascribe to that conflict is reduced by the extent of carbon reduction that would be achieved through the measures set out in the Energy Statement and, accordingly, I attach moderate negative weight to this matter.
37. However, that adverse impact of the appeal scheme does not significantly and demonstrably outweigh the benefits and therefore, I consider the appeal scheme to be acceptable when considered against the policies in the Framework when taken as a whole.

Conditions

38. I have reviewed the conditions proposed by the Council in light of the tests in the Framework and advice in the Planning Practice Guidance. Given that a number of conditions that were suggested by consultees were not proposed in the list of conditions in the Council's Statement of Case, for example in respect of flood risk and construction activities, I consulted the main parties on a revised suite of conditions, also seeking agreement to any pre-commencement conditions.

39. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
40. Further conditions requiring samples of the materials and details of hard and soft landscaping to be approved are also necessary, in the interests of the character and appearance of the area, as are details of cycle and waste storage to ensure that these are appropriately accommodated in the appeal scheme and retained thereafter.
41. The Council's highways department recommended that works be undertaken in accordance with a CMP. When I consulted the Council on my proposed conditions it objected to this condition on the basis that it was not reasonable or necessary for a scheme of this scale. Given the small size of the site (which might affect the scope for site compounds and so on) and representations in relation to the effect of construction activities on the highway network and on nearby residents, I consider it both necessary and reasonable for works to proceed in accordance with a CMP that is to be submitted and approved before any works take place, and I also note that the appellant agreed to this pre-commencement condition. Whilst an objector suggested that a condition be added requiring that the CMP be made available to local people to comment on before works take place, any public consultation would be a matter for the local planning authority.
42. I also consider it necessary to ensure that vehicle parking and turning areas are laid out before occupation and retained thereafter to minimise the effects of the appeal scheme on the highway network.
43. In light of comments from consultees and interested parties in respect of living conditions, measures to mitigate against the effects of aircraft noise are necessary, as are limitations on demolition and construction hours. The working hours in the condition that I have attached are those recommended by the Council's Environmental Protection department and those which are commonly acceptable in residential locations; I do not find there to be any justification for more restrictive hours as has been advocated by a nearby resident. Whilst the Council also objected to this condition, given the location of the site in proximity to a number of residential properties, I consider that it is both necessary and reasonable and, again, I note that the appellant did not object.
44. A condition requiring that side-facing windows have obscured glazing and cannot be fully opened is also necessary in the interests of the privacy of occupiers of neighbouring dwellings.
45. To address flood risk the lead local flood authority recommended that details of a surface water drainage scheme be provided. I agree that this is necessary, although I do not consider that details must be provided before development commences given that the siting of the proposed houses is already known and that the drainage scheme would be designed in that context.
46. A condition requiring details of measures to minimise heat loss is necessary to ensure that the environmental impact of and carbon emissions created by the appeal scheme are minimised.

- 47. To ensure compliance with BLP Policy NR2 which says that development proposals should enhance the biodiversity of application sites, a condition relating to biodiversity enhancements is necessary.
- 48. Given that BLP Policy EP3 seeks to minimise artificial light pollution to avoid detrimental impacts on neighbouring residents and biodiversity, a condition relating to the specification of artificial lighting is necessary.
- 49. Whilst the Council proposed a condition requiring that 20% of the parking spaces be provided with electric vehicle charging points the SSPD states that through Part S of the Building Regulations there is a legal requirement to provide electric vehicle charging at all residential development that has associated parking spaces. Therefore, a planning condition is not necessary. The Council has also proposed a condition requiring a Biodiversity Gain Plan. This would duplicate the provisions of Schedule 7A of the Act and, therefore, is also not necessary.

Conclusion

- 50. For the reasons given above the appeal should be allowed.

P Burley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be commenced within three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 3206_hgchw/ pl01, version no.: A, received on 11 December 2024;
 - 3206_hgchw/ pl02, version no.: A, received on 11 December 2024;
 - 3206_hgchw/ pl03, version no.: A, received on 11 December 2024; and
 - 3206_hgchw/ pl04, version no.: A, received on 11 December 2024.
- 3) Prior to the commencement of any works or demolition, a construction management plan showing how demolition and construction traffic (including cranes), materials storage, facilities for operatives and vehicle parking and manoeuvring will be accommodated during the works period shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved construction management plan.
- 4) During the demolition and construction stages of development no groundwork, demolition or construction work shall be carried out, no plant shall be operated, and no collections from or deliveries to the site shall be made other than between the following hours:
 - Monday to Friday 08.00-18.00
 - Saturday 08.00-13.00

No works shall take place on Sundays or on Bank or other Public Holidays.
- 5) No development above slab level shall take place until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the National Planning Policy Framework and the Planning Practice Guidance. The approved surface water drainage scheme shall be carried out prior to first occupation, and retained for the lifetime, of the development.
- 6) No development above slab level shall take place until details of the materials to be used on the external surfaces of the development have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- 7) Notwithstanding any landscaping details shown on the plans hereby approved and prior to any works above slab level, full details of hard and soft landscaping works and boundary treatment shall be submitted to and approved in writing by the local planning authority to include the following:
 - a) hard landscaping – these details shall include a hard landscape specification and supporting plan(s) to a recognised scale illustrating the proposed positions, dimensions, materials and finished levels of means of enclosures (e.g. fences, walls); vehicular and pedestrian accesses; hard surfaces (e.g. driveways, car parking, footpaths, patios, decking) and minor structures (e.g. sheds, refuse and storage areas, cycle storage); and

- b) soft landscaping – these details shall include a detailed soft landscaping plan to a recognised scale clearly illustrating the location of all trees / shrubs / hedges / plants to be planted and areas of turf to be laid.

Thereafter all hard and soft landscape works shall be carried out in accordance with the approved details. Following completion of the development they shall be retained in accordance with the approved details. If within a period of five years from the date of the planting of any tree / shrub / hedge / plant shown on the approved plan(s), or any tree / shrub / hedge / plant in replacement for it is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, another tree / shrub / hedge / plant of the same species and size as that originally planted, shall be planted in the immediate vicinity, unless the local planning authority gives its written consent to any variation.

- 8) No part of the development shall be occupied until the refuse bin storage area and recycling facilities have been provided in accordance with the approved details. These facilities shall be kept available for use in association with the development at all times and retained for the lifetime of the development.
- 9) No part of the development shall be occupied until covered and secure cycle parking facilities have been provided in accordance with the approved drawing. These facilities shall thereafter be kept available for the parking of cycles in association with the development at all times and retained for the lifetime of the development.
- 10) No development above slab level shall commence until a report detailing the external lighting scheme, and how this will not adversely impact upon wildlife, has been submitted to and approved in writing by the local planning authority. The report (if external lighting is to be installed) shall include the following details:
- a layout plan with beam orientation;
 - a schedule of equipment;
 - measures to avoid glare; and
 - an isolux contour map showing light spillage to 1 lux both vertically and horizontally, areas identified as being of importance for commuting and foraging bats, and locations of any bat and bird boxes.
- 11) Prior to the occupation of the development hereby permitted, details of biodiversity enhancements, to include but not limited to locations and elevations of the integral bat boxes on the new building and native and wildlife-friendly landscaping, shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall thereafter be installed prior to first occupation and maintained as approved for the lifetime of the development.
- 12) Prior to occupation of the development, details of measures to minimise heat loss, including their siting and design, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained as set out in the Energy Statement (S45C-925062714431).

- 13) Prior to first occupation of the development, details of the measures to be taken to acoustically insulate all habitable rooms against aircraft noise, together with details of the methods of providing ventilation to habitable rooms, shall be submitted to the local planning authority and approved in writing. The measures shall be installed prior to first occupation and maintained as approved for the lifetime of the development.
- 14) Prior to first occupation of the development, any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouses must be obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be maintained as such for the lifetime of the development.
- 15) No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with the approved details. Thereafter, those areas shall be kept available for parking and turning for the lifetime of the development.

End of Conditions