

# Appeal Decision

Site visit made on 11 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 09 October 2025

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## Appeal Ref: APP/T0355/W/25/3358855

### Land adjacent to 4 Oakhurst, Maidenhead, Berkshire SL6 8HU

- 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 Dardunukaj against the decision of Royal Borough of Windsor and Maidenhead.
  - The application Ref is 24/02001.
  - The development proposed is 1no. new dwelling with attached garage, bin and cycle store, hardstanding, new dropped kerb and boundary treatment.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
  - the character and appearance of the surrounding area;
  - highway safety;
  - biodiversity;
  - flooding; and,
  - climate change.

## Reasons

### *Character and appearance*

3. The appeal site is an attractive, triangular piece of amenity greenspace within a tranquil residential area, bounded by residential properties to its three sides. There are a number of trees within the site, including some of significant scale and protected by a Tree Preservation Order. Also, there are public footways within the site, located toward its edges, providing public access through from Ashdown to nearby roads.
4. Within Ashdown there is a mix of dwelling types and design, including two-storey dwellings and chalet bungalows, although most are detached, pitched roof dwellings set within large, fairly open plots, set back from the road, with wide frontage gardens and driveways in front. Also, dwellings are typically of brick construction, with timber boarding, used as accents.
5. Even if the appeal site is privately owned, there are accessible public footways through the site and, it provides a welcome verdant area of amenity greenspace, beneficial to the visual appearance and character of the surrounding area, visible from public vantage points.

6. Public access is to be maintained along the existing footways and two smaller open amenity areas would be provided as part of the proposed scheme. However, the amount of amenity space and its attractiveness would be considerably reduced compared to existing. The addition of built form including the proposed dwelling and its boundary enclosure, would discernibly reduce the open aspect of the site. Also, despite that replacement tree planting is proposed for the three trees to be removed, overall, the proposal would result in the loss of vegetation. The existing attractive, open public views across the site and of existing trees would be partly obscured by the proposed development, particularly from Ashdown and the public footways. Furthermore, the proposed boundary treatments around much of the site, would make the footways through the site feel more enclosed, which would likely make the amenity area and routes through less attractive to public use.
7. Additionally, the proposed dwelling would appear as an unduly cramped form of development, located at a pinch point to one corner of the site and angled to the road, with limited road frontage. It would harmfully close the open verdant gap between dwellings along Ashdown, further reducing the feeling of openness of the site. Also, due to its limited road frontage, lack of openness around it and proposed position within its plot, the new dwelling would be discordant with the typical plot characteristics of dwellings in the surrounding area. Consequently, the proposed dwelling would not be in keeping with the prevailing character of dwellings in the surrounding area, detrimental to the attractive visual and spatial aspects of the local area.
8. No Arboricultural Impact Assessment or tree protection plan has been submitted with the appeal proposal. Therefore, even if the proposed dwelling could be positioned outside the root protection areas of existing trees shown to be retained, it is unknown whether the proposal would have a detrimental effect on such trees. Particularly, as a number of trees within the appeal site are preserved and have large canopies, which may need some pruning to accommodate the proposed development, due to the close proximity to them. Any loss, reduction or damage to the existing important trees, would be detrimental to the verdant character of the local area.
9. Therefore, the proposal would negatively affect the verdant, open character and appearance of the appeal site. Furthermore, by reason of its siting and site context, the proposed dwelling would be unduly discordant with that of other dwelling in the local area. Consequently, the proposed development would be harmful to the character and appearance of the surrounding area.
10. From the evidence provided and my site observations, the design of the proposed dwelling takes some cues from the scale and design of other dwellings in the local area. While the dwelling would be two-storey with a gabled roof, its design and scale would not be that discordant with other dwellings in the surrounding area and, there are some examples of two-storey dwellings nearby. However, these aspects of the proposal would not overcome the harm that would be caused by reason of the position of the new dwelling, its site context, and that it would negatively reduce the open, verdant character of the appeal site.
11. In view of the above, the proposed development would have a harmful effect on the character and appearance of the surrounding area, in conflict with Policies QP3 and NR3 of the Royal Borough of Windsor & Maidenhead Borough Local Plan 2013-2033 (BLP). Amongst other matters, these policies require new development

to respect and enhance the character of the environment, including the contribution that existing trees make to the appearance of the streetscene and local character/distinctiveness.

### *Highway safety*

12. Sufficient parking would be provided within the appeal site to serve the proposed dwelling, as undisputed by the main parties. However, from my site observations the proposed access to the appeal site would be on a bend, located between two footways at a narrow point of the site, and visibility is likely to be restricted in one direction due to vegetation located outside the appeal site. Furthermore, no substantive evidence has been provided to show that vehicles could manoeuvre within the appeal site and be able to leave in forward gear. In view of such, the proposal could lead to harmful conflict between pedestrians and vehicles, with the potential to cause road accidents and detrimentally affect the free flow of traffic on the adjacent highway.
13. Consequently, it is likely that the proposed development would result in an unacceptable impact on highway safety, in conflict with Policy IF2 of the BLP, which sets out, amongst other matters, that development proposals should support the policies and objectives of the Transport Strategy in the Local Transport Plan and be designed to improve pedestrian access and optimise traffic flows. Also, due to the unacceptable impact on highway safety, there would be conflict with the National Planning Policy Framework (the Framework).

### *Biodiversity*

14. Even though the appellant intends to carry out an ecology survey, without such at the time of determination, I am unable to conclude that the proposed development would not cause harm to any protected species or other biodiversity interests. Also, no biodiversity net gain assessment has been carried out to demonstrate that the proposed development would achieve the required 10% Biodiversity Net Gain. This is required under Schedule 7A of the Town and Country Planning Act 1990, as inserted into the 1990 Act by Schedule 14 of the Environment Act 2021 and amended by the Levelling Up and Regeneration Act 2023.
15. In view of such, the proposed development would have a harmful effect on biodiversity, contrary to the provisions of Policy NR2 of the BLP, which requires development proposals to safeguard protected species and habitats and that, it is expected proposals demonstrate how they maintain, protect and enhance biodiversity within sites.

### *Flooding*

16. The appeal site is within Flood Zone 3, which is an area at highest risk of flooding. While a Flood Risk Assessment document was provided with the application, identifying that the site is within Flood Zone 3, this does not satisfy the requirements of the Framework in respect of flooding. It is proposed to use certain design principles to seek to minimise the risk of flooding and it is asserted by the appellant that an existing Flood Relief scheme would help to protect the area generally from flooding. However, this does not comprise a sequential test nor a subsequent exception test for the proposed development, as required by the Framework. Therefore, it has not been appropriately demonstrated that the proposal would be acceptable in terms of flood risk.

17. In view of the above, the proposed development would have a harmful effect on flooding, in conflict with Policy NR1 of the BLP. This policy does not support development where an appropriate flood risk assessment has not been carried out and, requires development to be located and designed to ensure that flood risk from all sources of flooding is acceptable in planning terms.

### *Climate Change*

18. Policy SP2 of the BLP requires all development to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change. Also, in support of the BLP policy requirements, the Council's Sustainability Supplementary Planning Document (SSPD) (July 2024) sets out measures to design and construct new development to improve its environmental performance and reduce its environmental impact, including mitigating and adapting to climate change.
19. The Energy Statement submitted with the proposal sets out what could be included in the design of the new dwelling, to seek to achieve carbon net zero with a heat ventilation system. However, no substantive information, including calculations related thereto, have been provided to demonstrate the relevant local policy requirements would be met by the proposed development. Also, even though the appellant is committed to entering into a legal agreement to secure any potential carbon off set in the form of a financial contribution, with no such mechanism in place, this would not be secured at the time of making the decision and so would not ensure that this is provided.
20. Having regard to the above, the proposed development would not provide acceptable climate change measures and would be harmful in such respects. Therefore, the proposal would conflict with Policy SP2 and EP1 of the BLP, which amongst other matters, require development to be designed to incorporate measures to adapt to and mitigate climate change and not have an unacceptable effect on environmental quality, respectively.

### **Other Matters**

21. The appeal site is within an established residential area, where the principle of residential development is not disputed by the main parties and, the appellant asserts the proposal would promote the good use of land. Also, the Council cannot demonstrate a 5 year supply of housing land and so, the proposal would deliver an additional dwelling in an area where there is a shortfall and demand for new housing. Additionally, the development would have some social and economic benefits through its construction and occupation. However, such benefits of one additional dwelling would not be significant. While the appellant advances the proposal would provide a modern high standard dwelling that is more affordable, no substantive evidence has been provided to demonstrate such and therefore, I do not give weight to such matters.
22. Following pre-application advice from the Council, the appellant sought to overcome the concerns raised therein as part of their appeal submission. However, notwithstanding such, I have found the appeal proposal would cause harm in regard to the main issues, in conflict with the development plan. Furthermore, any pre-application advice is given on a without prejudice basis.

## **Planning Balance & Conclusion**

23. There would be some benefits from the appeal dwelling, including social and economic benefits and it would deliver an additional house in an area where the Council sets out its housing supply is 4.47 years. Although, such benefits overall would not be significant in terms of the scale of the development and so, I give limited weight to such. However, in this instance the presumption in favour of sustainable development does not apply, because the appeal site is in an area at high risk of flooding. Consequently, having regard to Footnote 7 of the Framework, this provides a strong reason for refusing the proposed development.
24. Therefore, 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.
25. Accordingly, I conclude the appeal should be dismissed.

*C Billings*

INSPECTOR