



Appeal Decision

Site visit made on 20 January 2026 by L Clark MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2026

Appeal Ref: APP/T0355/W/25/3374535

Land Adjacent To 7 Bryer Place, Windsor SL4 4YL

- 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 Fiznik Gjergji against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 25/01192/FULL.
 - The development proposed is 'new build 3 bed dwelling providing living accommodation over two floors, containing three bedrooms (one en-suite) and a family bathroom at lower ground level. At the upper ground level, the proposal would provide a kitchen / living room to the rear of the property, a separate utility room, with an office and snug located to the front of the property.'
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters and Main Issues

3. I have used the description above as it is sufficient to identify the appeal scheme. In addition, the main parties appear to agree that planning permission 491/70/C did not specifically require the amenity space to remain in perpetuity. The site is also not designated. It appears as though the crux of the matter in this regard is how the appeal site contributes to the character and appearance of the area as a green space. With that and the other evidence in mind, the main issues are a) the effect of the proposed development on the character and appearance of the area with particular regard to protected trees; b) whether or not the proposal would be subject to biodiversity net gain requirements; and c) the suitability of the proposal with specific regard to energy sustainability.

Reasons for the Recommendation

Character and Appearance

4. The appeal site is an open and undeveloped parcel of grass at the corner of Bryer Place and Gilman Crescent. There is a defined and steep slope to it, running downhill to the back edge of the footway as it extends round the street corner. There are two protected trees on the site. One is close to the side boundary of Number 7 Bryer Place and the other to the rear of the site on the higher ground

level. Dwellings are detached and well-spaced, generally set well back from and facing their frontage.

5. Whilst not designated or protected by policy, the appeal site is a good example of designed open and landscaped space to an estate street corner. In conjunction with similar areas where Hemwood Road meets Gilman Crescent, the abutment of landscaped gardens to the back edge of pavements and trees and hedges within and without local plots, the appeal site contributes importantly and positively to a verdant local character which is a positive aspect of the character and appearance of an otherwise densely built-up area. This is reinforced by the spacious arrangement of detached buildings.
6. The introduction of what would be a substantial and sprawling two storey building on the appeal site would significantly and unacceptably reduce the open qualities of the appeal site, eroding its contribution to the verdant character of the area. The visual effects of the scheme would be exacerbated by the building's discordant siting noticeably further forwards of Number 7 and how it would loom over the pavement as it extends round onto Gilman Crescent. Whilst not necessarily a living conditions issue per se, such effects would unacceptably impinge on the visual enjoyment of the current open space as it would be experienced by local residents. The amount of other local open space would not sufficiently dissuade me from this view.
7. The aforementioned trees are a Himalayan Birch and an Oak respectively. The former would be removed to make way for the dwelling. The latter would be mostly avoided save for some ground works encroaching into the outer edges of its Root Protection Area (RPA). Whilst being slated for removal on necessity grounds due to its location, the Birch not only makes an important visual contribution to the prevailing verdant feel of the estate but also reinforces the natural qualities of the green space despite how it has grown over time. It is not the most mature or highest quality of examples, but I remain to be convinced its removal is justified, particularly in light of no firm plans for replacement planting, how long anything would take to establish and how the appeal site has, over time since the inception of the estate, lost a lot of tree cover.
8. The Oak tree is of both significant age and imposing stature. It is a defining feature of the street scene and its immediate surroundings due to its height and siting on higher ground. It is obvious in views from Bryer Place, Gilman Crescent and on lower ground along Hemwood Road. Incursion into the RPA for the Oak would appear to be within the garden of the proposed dwelling roughly around where it would be terraced and the lower parts paved over. The plans suggest the upper areas would remain as grass.
9. Whilst the incursion would be minor, it could be avoided altogether if the dwelling were not erected on the appeal site. I am also concerned that it could occur at a point where, at the outer extremities of the RPA, important fibrous and thus sensitive feeding roots may be just below the surface. Without details as to how the terracing, any retaining structures and introduced hard surfacing might be carried out, the full extent of the potential effects are unclear with the above in mind. Taking into account the tree's value and visual amenity importance, I would be reluctant to agree that conditions would be appropriate for either ground investigations or other methods that may or may not work in practical reality as they may influence where approved development would be going.

10. The proposal therefore has the potential to cause unacceptable harm to both of the trees on the site. With this and the above in mind, the appeal scheme would harm the character and appearance of the area, failing to meet the requirements of Policies IF4, QP1, QP3 and NR3 of the Royal Borough of Windsor and Maidenhead Local Plan 2022 (LP) and Policies DES.01 and OS.02 of the Windsor Neighbourhood Plan 2021 (NP). These are concerned with respecting existing character, and the contribution trees make to a street scene amongst other things.

Biodiversity Net Gain (BNG)

11. The evidence suggests that the scheme would be exempt from BNG requirements because it would be a self-build. The CIL documents state that it would be a self-build but do not provide legal security of such. In the absence of a suitably robust mechanism such as a planning obligation/legal agreement or other means, the development would not be properly secured as a self-build and would consequently revert to being an open market dwelling. i.e. any grant of planning permission for the appeal scheme could not be certain of it being for a self-build dwelling.
12. I have considered the imposition of a suitably worded planning condition for BNG, but I have no sufficiently detailed evidence to know what the current baseline of the site is for the purposes of establishing a metric and resultantly I am unable to understand what a gain would equate to in either quantitative or qualitative terms. Furthermore, and adopting the precautionary principle, I could not recommend granting a planning permission for works which may, in so implementing them, affect a site to which assessment needs to be undertaken as to its value and/or condition in biodiversity terms prior. With this and the above in mind, the proposed development would be liable to provide BNG under the statutory duty. A lack of detail in this respect would also not meet the requirement of Policy NR2 of the LP which is concerned with the enhancement of biodiversity amongst other things.

Energy Sustainability

13. The proposal is supported by measures that would be incorporated into the development. Such would include higher levels of insulation, mechanical ventilation with heat recovery, solar panels, water consumption levels and rainwater harvesting. Energy sustainability has also been considered at the design stage in terms of the building's orientation. Given the relatively modest scheme for a single dwelling, there is limited scope to require anything further. No compelling case has been put before me to suggest why this would not be adequate to meet the relevant requirements of Policy SP2 of the LP which is concerned with development incorporating measures to mitigate climate change amongst other things.

Other Matters

14. Policy NR5 of the LP relates more to the provision of renewable energy regeneration schemes and is therefore not immediately relevant to the appeal scheme.
15. I am aware that the Council is unable to demonstrate the supply of housing sites as required by the Framework. In such a situation, the policies which are most important for determining the application are out of date and 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, having particular regard to key policies for directing

development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

16. The appeal scheme would not be acceptable in character and appearance or ecological terms, and I ascribe the adverse effects here substantial weight as they would be significant and enduring and conflict with the relevant parts of the Framework, sections 12 and 15 specifically. The scheme would provide a single dwelling and there would be some other benefits of an economic and social nature through construction and occupation, but these would be time and scale limited respectively. The proposal would exceed minimum space standards, would respect the building line, be a smaller scheme than the original proposals and would match the design of neighbouring dwellings. These are not contentious matters in the appeal and would be a lack of harm in each case. With this and the above in mind, the benefits of the proposals would be worthy of limited weight.
17. It is therefore sufficiently clear that the adverse impacts of granting planning permission for the scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Despite being in a sustainable location, the appeal scheme would not, in particular, represent an effective use of land or be well designed given my findings. It would not provide affordable housing. The presumption in favour of sustainable development does not therefore apply to the proposals.

Conclusion and Recommendation

18. For the reasons given above, the appeal scheme would conflict with the development plan and material considerations do not indicate a decision other than in accordance therewith. I therefore recommend that the appeal should be dismissed.

L Clark

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

John Morrison

INSPECTOR