



Appeal Decision

Site visit made on 16 February 2026

by D Marley BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2026

Appeal Ref: APP/T0355/W/25/3375023

Fairview, Shoppenhangers Road, Maidenhead SL6 2PZ

- 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 Mani Gill of Gill Capital Homes Limited against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 25/00857.
 - The development proposed is demolition of existing dwelling and construction of 8 new apartment units comprising of 6 two bedroom units and 2 one bedroom units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the decision notice, as this more accurately describes the site.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area, with particular regard to protected trees;
 - ancient woodland; and
 - climate change.

Reasons

Character and appearance

4. There is a large tree to the front of the site and adjacent to the access subject to a Tree Preservation Order ('TPO'). It is set behind a brick wall, with areas of hard surfacing and soft ground in front. The tree is visible for a considerable distance from public viewpoints along Shoppenhangers Road. The appellant's Arboricultural Impact Assessment and Method Statement (the 'AIA'), identifies that the Root Protection Area ('RPA') of the tree extends across a significant extent of the front of the site.
5. As a result of its visibility and overall extent, the tree plays an important role in influencing the green and verdant nature of the section of Shoppenhangers Road in proximity to the appeal site. The tree therefore makes a significant contribution to the visual character of the area.

6. The proposal would include the removal of the existing hard surfacing in proximity to the tree, and the installation of new hard surfacing over some areas currently either hard surfaced or soft ground. The AIA identifies that works would be supervised by an arboricultural specialist and undertaken through the use of hand tools and handheld pneumatic tools, and that a cellular confinement system would be utilised over certain areas of soft ground.
7. Given the extent of the RPA identified in the AIA, there is likely to be a significant root network which will contribute to the health of the tree within parts of the area of soft ground that would be hard surfaced as part of the proposals. The appeal submission and associated plans identify no adjustment to site levels, and the AIA identifies that shallow excavation of soft ground to install the cellular confinement system and hard surfacing would be required.
8. Therefore, although the precise extent of excavation is not identified, the extent of hard surfacing proposed on soft ground and the manner in which the cellular confinement system would be installed means that excavation works would likely occur to root areas of the tree. Although I acknowledge an arborist would be onsite and hand tools or handheld pneumatic tools used, excavation would nevertheless expose tree roots and be likely to result in damage to the root network. Whilst certain areas of hard surfacing would become soft ground, this would not mitigate the harm to the root network.
9. In addition, there is limited detail before me with regards the proposed services route to serve the new dwellings. Whilst the AIA identifies that services should be routed to avoid the RPA, it nevertheless acknowledges that works within the RPA may be required for their installation. Although the AIA provides a number of potential methods of services installation, there is no detailed assessment as to the likely effect of such measures on the root network or the long term health of the tree. On the evidence before me, excavation for the installation of services within the tree's RPA would be likely to result in damage to the roots of the tree. Given the potential for an adverse effect on the health of the tree, it would not be appropriate to secure additional details with regards such a matter via condition.
10. The damage to the root network would be likely to affect the tree's long term health and contribute to its future deterioration, increase pressure for its removal, and by doing so undermine the contribution of the tree to the character and appearance of the area.
11. I acknowledge that the appellant has proposed to undertake the removal of the existing hard surfacing by hand or using handheld pneumatic tools, and that hard surfacing would be removed to existing soil level, supervised by an arborist. Given this, I consider the removal of existing hard surfacing could be undertaken without adverse effect on the tree. Such matter could have been secured by condition, had I not found harm arising in other regards.
12. I acknowledge that it may be possible to install hard surfaces through permitted development. However, works to the protected tree, such as the cutting of roots, would require a separate consent. This matter does not therefore lead me to an alternative conclusion on this issue.
13. Therefore, the proposed development would harm the character and appearance of the area, with particular regard to protected trees. The proposed development would conflict with the relevant provisions of Policies QP 3 and NR 3 of the

Borough Local Plan 2013-2033 (the 'BLP'). Amongst other matters, these policies require development proposals to protect trees and vegetation worthy of retention, and consider the impact of development on existing trees.

Ancient woodland

14. The appeal site comprises an existing dwelling with ancient woodland close to the boundary of the site. At the northern boundary, the land slopes downwards away from the appeal site towards the ancient woodland.
15. The proposal includes the demolition of the existing dwelling and its replacement with a larger building that would encompass a greater footprint. The proposal would result in built footprint closer to the ancient woodland than the current dwelling, in close proximity to the northern boundary.
16. The proposal would result in construction activities, including demolition, being undertaken close to ancient woodland. Such activities would be likely to give rise to the emission of dust. Whilst reference is made to the use of net fencing to seek to restrict this dust reaching the ancient woodland, there are limited details with regards the type of fencing proposed, nor its efficacy with regards the extent to which dust pollution would be prevented from reaching the ancient woodland.
17. In addition, given the nature of the development, it is likely that construction vehicles would utilise the site, with the potential risk of spills of oil, fuels and other pollutants. Whilst general measures have been proposed to restrict pollution during the construction phase and protect the ancient woodland, the measures are largely non-specific in nature. Reference is made to pollution control fencing to be installed where required, however no substantive details have been provided as to how such fencing would restrict run-off from pollutant spills close to the northern boundary. Given the proximity of development and thus construction vehicles to the northern boundary, the measures proposed are insufficient to demonstrate that a pollutant spill close to the ancient woodland boundary would be effectively contained, were it to occur.
18. I therefore consider that the proposed development would likely result in dust arising from demolition and construction reaching the ancient woodland, and that pollutant spillages would not be satisfactorily managed were they to occur. The release of dust particles or fuel would be likely to result in pollution to the ground around the trees within the ancient woodland. The falling ground levels from the appeal site along the northern boundary would not be likely to mitigate this harm.
19. Such an outcome would be detrimental to the long term health of the trees, and would result in the deterioration of the ancient woodland, and to the other habitats and species which benefit from its presence. Given that it has not been demonstrated that construction works are capable of being carried out without harm occurring, it would not be appropriate for additional details with regards the measures proposed to be managed by condition.
20. Whilst I acknowledge that the proposal does not identify works within the root areas of trees forming part of the ancient woodland, this does not mitigate the harm I have found arising from the other effects of the development. Therefore, whilst the appellant makes reference to the conclusion of a previous appeal decision at the site with regards ancient woodland, on the evidence before me this decision considered the effect of that proposal on the root system of specific trees

forming part of the ancient woodland, rather than the effect of the proposal on ancient woodland more broadly. As such, the Inspector's conclusions in that appeal has not led me to an alternative conclusion on this issue.

21. I also acknowledge that the appellant has set out specific measures and associated standards or conditions to manage the effect of noise and light pollution on ancient woodland. Had I not found harm arising in other regards, I consider that sufficient information has been provided on these matters to be adequately managed by condition. In addition, although the proposal would include bat and bird boxes, hedgehog highways, and other measures to improve biodiversity within the site, these would not mitigate the harm I have identified that would result to ancient woodland.
22. As a result of the above matters, the proposal would have an unacceptable effect on ancient woodland. The proposed development would therefore conflict with the relevant provisions of Policies QP 3 and NR 3 of the BLP. Amongst other matters, these policies require proposals to ensure ancient woodland is maintained and protected, and to respect the natural character of the environment.

Climate change

23. Policies EP 1 and SP 2 of the BLP identify that development proposals should not have an unacceptable effect on environmental quality, that proposals are required to demonstrate how they incorporate measures to adapt to and mitigate climate change, and that applicants should refer to specific documents, or successor documents, for further guidance with regards climate change mitigation.
24. The proposed development would include measures within the building fabric, the provision of air source heat pumps, and photovoltaic panels serving a number of residential units, to reduce the quantum of carbon emissions generated by the proposal. The appellant's Energy Statement identifies that these measures to address climate change would achieve an approximate 75% reduction in carbon emissions.
25. The Energy Statement further identifies that the proposal would not achieve net zero carbon emissions ('net zero') in the absence of a financial contribution to the Council's Carbon Offset Fund (the 'Fund'), sought by the guidelines set out within the Sustainability Supplementary Planning Document (2024) (the 'SPD'). The proposal does not include an obligation for a contribution to the Fund. On the evidence before me, the SPD is a successor document to those specifically referenced in Policy SP 2 of the BLP.
26. I have been directed to two previous appeals considering similar scales of development, whereby inspectors have concluded differently as to whether a contribution to the Fund to achieve net zero met the relevant tests. This includes a previous appeal at the site. I have also been provided with a called-in decision whereby the Inspector's conclusion that a contribution to the Fund met the relevant tests was agreed with by the Secretary of State.
27. Whilst I acknowledge that the BLP requires proposals to refer to successor documents for further guidance, Planning Practice Guidance ('PPG') nevertheless sets out that local requirements for a building's sustainability should form part of a Local Plan following engagement with appropriate partners, and should be based on robust and credible evidence and pay careful attention to viability. The PPG

further sets out that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination.

28. Therefore, whilst I acknowledge that the SPD was subject to local consultation, it was not subject to examination, and on the evidence before me was subject to consultation after the adoption of the BLP. I have not been directed to what evidence may have been considered at the examination of the BLP that may have linked the relevant policies within the development plan and the requirements of the subsequent SPD to achieve net zero development, nor been provided with the full evidence base and viability considerations that led to the net zero guidelines set out in the SPD. Although I acknowledge a previous appeal concluded that the local consultation conducted, and reference to successor documents within the development plan, was sufficient to meet the relevant tests, the evidence before me does not lead me to the conclusion that the relevant policies in the BLP were examined in the context of development achieving net zero.
29. In addition, whilst I have had regard to the conclusions of the called-in decision, on the evidence before me the need for a contribution to achieve net zero was not a matter of dispute between the parties, and I do not have full details before me as to the relevant considerations that may have applied in the reasoning of this matter.
30. Therefore, I cannot conclude that achieving net zero is a requirement of Policies EP 1 and SP 2 of the BLP. Given my reasoning above, neither of the decisions concluding that a contribution was required has led me to an alternative conclusion on this issue.
31. As the proposal includes a variety of methods which would significantly reduce the total quantum of carbon emissions, it would incorporate measures to adapt to and mitigate climate change which would be built into the development. There is no substantive evidence to suggest the proposal would, in the context of climate change, have an unacceptable impact on environmental quality, nor that the measures proposed would not conserve environmental quality.
32. Therefore, I see no reason to depart from the previous conclusions of the Inspector considering a similar proposal at this site. Achieving net zero through a contribution to the Fund would not be necessary to make the development acceptable in planning terms. Therefore, whilst the proposed development would conflict with the requirements of the SPD, given I have not identified conflict with the relevant Development Plan policies, in these particular circumstances I afford the conflict with the SPD limited weight.
33. Given the above, the proposed development would not result in an adverse impact on climate change. The proposal would therefore comply with the relevant provisions of Policies EP 1 and SP 2 of the BLP. Amongst other matters, these policies require proposals to incorporate measures to adapt to and mitigate climate change, and to conserve, and to not have an unacceptable effect on, environmental quality.

Other Considerations

34. The proposal would result in additional dwellings in close proximity to public transport links, provide economic benefits during construction and occupation phase, provide onsite measures for biodiversity, and may offer opportunities for additional energy efficiency when compared to the existing dwelling.
35. The Council is currently unable to demonstrate a five year housing land supply, which on the evidence before me stands at 4.04 years. Given this shortfall the additional dwellings would support the provision of housing in the Borough which attracts moderate positive weight, however given the scale of development the other associated benefits would be limited.

Planning Balance

36. The proposed development would result in harm to ancient woodland, and would result in harm to the character and appearance of the area, given its effect on protected trees. Given my reasoning on these matters, the conflict between the proposal and Policies QP 3 and NR 3 of the BLP should be given significant weight in the determination of the appeal. In addition, given my conclusions above, there would be a conflict with the development plan as a whole.
37. As the Council cannot demonstrate a five year housing land supply, Paragraph 11d of the National Planning Policy Framework (the 'Framework') sets out that, in circumstances where policies which are most important for determining the application are out-of-date, that permission should be granted unless, as set out in Paragraph 11di, the application of policies in the Framework that protect areas or assets of particular importance, including irreplaceable habitats, provide a strong reason for refusing the development proposed.
38. The Framework identifies that development resulting in the deterioration of ancient woodland should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. No exceptional reasons have been put forward to justify the proposed development, notwithstanding the matter of compensation. The proposal would thus have an unacceptable effect on ancient woodland, an irreplaceable habitat.
39. Given this, the policies of the Framework provide a strong reason for refusing the development proposed, and this matter is a material consideration weighing significantly against the proposal.
40. As such, the provisions of Paragraph 11di are engaged and the benefits I have identified that would arise from the proposal would not be sufficient to outweigh the harm.

Conclusion

41. The proposal would conflict with the development plan and material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal should be dismissed.

D Marley

INSPECTOR