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## Appeal Decision

Site visit made on 9 October 2025

**by A Oyebade MSc FCILT**

an Inspector appointed by the Secretary of State

**Decision date: 27<sup>th</sup> April 2026**

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**Appeal Ref: APP/T0355/W/25/3364995**

**Oakley Court Hotel, Windsor Road, Water Oakley, Windsor, Windsor and Maidenhead SL4 5UR**

- 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 Vinyl Space Limited against the decision of Royal Borough of Windsor and Maidenhead.
  - The application Ref is 24/02735/FULL.
  - The development proposed is 1 no. outdoor swimming pool, external courts comprising of 2 no. tennis courts, 4 no. padel courts and 4 no. pickleball courts, lighting and associated landscaping works.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The appeal site lies near the listed buildings comprising the main mansion hotel and its associated structures. In reaching my decision, I have had regard to my statutory duties under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. I note that the planning application form presents a different description of the appeal proposal, referring to “the construction of an outdoor swimming pool within the walled garden, external courts comprising two tennis courts, four padel courts and four pickleball courts, lighting and associated landscaping works.” The email correspondence between the Council and the appellant dated 28 November 2024 confirms that both parties accept this amended description.
4. The appellant submitted a Heritage Statement only after the application had been refused. While the Council’s procedural guidance makes clear that such material should ordinarily be provided through a fresh application, the Council nevertheless chose to issue comments on the document. In light of this, I have taken the heritage statement into account in reaching my decision.

### Main issues

5. The main issues are:
  - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the “Framework”) and any relevant development plan policies;
  - the effect on the openness of the Green Belt;

- the effect on the setting of the nearby heritage assets
- the effect on biodiversity in the area; and
- whether the harm arising by reason of inappropriateness, together with any other identified harm, would be clearly outweighed by other material considerations to amount to the very special circumstances required to justify the proposed development.

## Reasons

### *Appropriateness of the development proposal in a Green Belt*

6. Paragraph 154 of the Framework sets out among others the pertinent category of development which may be regarded as not inappropriate in the Green Belt as:
  - the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation and allotments; if the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Policy QP5 of the Royal Borough of Windsor and Maidenhead (RBWM) Local Plan (Adopted February 2022) sets out the requirements for assessing proposals relating to facilities for outdoor sport and recreation. In determining compliance, the following matters are material:
  - The scale of any proposed development must be strictly limited to what is demonstrably necessary for the effective operation of the enterprise or the related use of the land.
  - All buildings must be sited and designed to remain visually unobtrusive, avoiding the introduction of any prominent or urbanising features within the countryside. This requirement extends to the design and impact of any new or upgraded access routes and parking areas.
  - The development, including any associated lighting, must not give rise to adverse effects on landscape character, biodiversity, residential amenity, or highway safety.
8. The appeal site lies within a tranquil stretch of countryside beside the River Thames, an area characterised by peaceful walking routes, boating activity, and expansive riverside views. The surrounding built form is predominantly historic, rural, and low-density, comprising Victorian Gothic buildings, traditional Berkshire farm structures, riverside cottages, and a small number of discreet modern homes. The host building occupies a prominent riverside position within the semi-rural setting of Water Oakley. It forms part of a historic estate landscape, centred on the Grade II listed Victorian Gothic mansion set within extensive parkland grounds.
9. Part of the appeal site comprises an area enclosed by boundary walls and dense vegetation, containing a vegetable garden and two tennis courts. Under the proposal, the vegetable garden would be replaced with a swimming pool, while the two existing tennis courts would be retained. These elements would not be visible from outside the enclosed area. These aspects of the scheme would not give rise to harm to the Green Belt.

10. However, the development would be extended to provide two additional tennis courts, four padel courts, and four pickleball courts outside the enclosed area, a space which appears to be considerably more than that occupied by the prevailing facilities, with limited separation between them. Overall, the footprint of the development within the Green Belt would more than double compared with the current arrangement. While the low-level lighting comprising bollards and spike spots for the trees around the proposed swimming pool is acceptable, the additional flood lighting and supporting lighting columns for the courts would add further clutter.

*Effect on the openness of the Green Belt*

11. Openness is a fundamental attribute of the Green Belt, encompassing both spatial and visual dimensions. The proposal would significantly enlarge the existing game area beyond the current enclosed space, resulting in a material and harmful reduction in openness. The appellant argues that the proposed fencing has been designed to be lightweight and transparent, with no branding or vinyl applied to the court surrounds, to integrate the structure into the landscape and to safeguard the openness of the Green Belt. Both parties agree a caselaw decision cited by the appellant (Samuel Smith Old Brewery, Tadcaster v North Yorkshire CC [2018] EWCA), which concludes that openness can be preserved even if a proposal incorporates additional built form in the Green Belt where there was previously none. However, the fencing would be of considerable height and extend across a substantial length. Although elements such as chain-link and mesh may retain a degree of visual permeability when viewed in isolation, the inclusion of solid fibreglass panels, clear glazing, and their associated supporting posts would introduce features that are discordant with the rural landscape. These components would also increase the visibility of the development within its immediate area.
12. The submitted elevation drawings also demonstrate that the proposed landscape planting would be insufficient to screen the full extent of the fencing. Furthermore, the appellant asserts that the fence heights have been reduced from those in the previously withdrawn scheme, decreasing from 2.75m to 2.1m so that they would sit discreetly behind the proposed hedge, with lowered sections introduced along the longer side elevations that would, they claim, be entirely concealed by planting. I acknowledge that the proposed 2.1m chain-link fencing around the pickleball court is broadly comparable in height to the associated hedges. However, the submitted elevation drawings demonstrate that the 2.75m mesh fencing, incorporating fibreglass and comfort-glass elements surrounding the padel courts, significantly exceeds the height of the adjacent low hedges. This discrepancy is clearly illustrated in Elevation 02 and Elevation 03 of the plans. Consequently, the development would introduce a substantial amount of additional built form, both in terms of height and overall footprint.
13. The appellant submits that the site is largely secluded, positioned more than 20 metres from the River Thames to the north and enclosed by dense woodland to the south. While I acknowledge that visibility is not the sole determinant when assessing the impact on openness, the limited public views and the proximity of similar established facilities within the wider site are relevant considerations. I also accept, as noted earlier, that the section of the site containing the existing vegetable garden and the two tennis courts is not visible. However, the remainder of the appeal site, comprising the two additional tennis courts and the associated game areas, lies within an open part of the Green Belt. This area is not enclosed in

the same way and therefore contributes more directly to the spatial openness of the designation.

14. The appellant also refers to a comparable scheme at Braywick Park, Maidenhead (ref. 23/02552/FULL), which was recently approved. However, that development occupies a notably smaller area of land, appears visually connected to its host buildings within the Green Belt, and incorporates a substantially shorter length of fencing. Moreover, there is no indication that the approved fencing includes any solid structural elements.
15. The appellant further argues that the appeal site is secluded, with very limited visibility and no views available from public vantage points, leading them to conclude that the proposal would have no effect on the perception of spatial openness. I acknowledge that the visual impact would be highly localised, with the development and its surrounding landscape primarily apparent only upon arrival at, or within, the site itself. However, the central issue is not solely the degree of visibility but whether the development would preserve the openness of the Green Belt and not conflict with its purposes. For the reasons set out above, I find that the proposal would satisfy neither requirement.
16. The appellant also contends that the extent of built development—comprising the proposed courts at 3,739 sqm, is significantly less than the 7,000 sqm estimated by the Council, and that even when the proposed landscaping enhancements are included, the total area would amount to only around three-quarters of the Council's projected figure. However, the submitted plans indicate that the footprint of the development extending beyond the existing enclosed area within the Green Belt would be substantially larger than that of the current facilities. The introduction of built form across this sizeable area of open land, if not appropriately assimilated, would consequently result in harm to the openness of the Green Belt.
17. I consider, therefore, that the development would create harm to the openness of the Green Belt. Accordingly, the proposal would constitute inappropriate development in the Green Belt and not therefore accord with Policy QP5 of the RBWM Local Plan and the Framework, as explained above.

#### *Effect on the setting of the nearby heritage assets*

18. The plant equipment and changing facilities associated with the proposed swimming pool would be accommodated within existing curtilage-listed structures adjacent it. These would not be visible, although I note that any alterations to those buildings would require listed building consent. Subject to such consent being obtained, if necessary, these aspects of the scheme would not harm the setting of the heritage assets.
19. The appeal proposal's use of contrasting materials and the inclusion of more lighting structures would appear visually intrusive and would diminish the character and openness of the Green Belt. This visual intrusion would, in turn, adversely affect the way in which the setting of the listed building is experienced, resulting in harm to both its setting and its overall significance.
20. The appellant's Heritage Statement draws attention to Historic England's description of this part of the Green Belt as having "an eroded historical character," and therefore making only a limited contribution to the significance of the listed buildings on the site. It further argues that, owing to the distance between the

proposed courts and the host listed building, the development would not affect the ability to appreciate the significance of the principal heritage asset, whose value is largely derived from its distinctive Victorian Gothic architecture. The Statement also contends that the impact on the walled garden would be minimal, asserting that key views would remain intact and that the legibility of the internal space would not be materially diminished.

21. Notwithstanding these points, and as set out above, the solid elements of the enclosures proposed around the padel courts would appear conspicuously within the garden setting. Their scale and form would intrude upon the way in which the setting of the listed building is experienced, thereby diminishing the contribution that this setting makes to the significance of Oakley Court. In this respect, I find that the appeal proposal would result in harm to the setting of the heritage assets. Consequently, the proposal would be contrary to Policies HE1 and QP3 of the RBWM Local Plan and the Framework.

#### *Effect on biodiversity in the area*

22. The applicant states that although the site-based Biodiversity Net Gain (BNG) calculation shows a net loss of 42.7%, the proposed enhancements to off-site areas would result in an overall BNG of 24.96%. On this basis, they contend that the proposal accords with the requirements of the Environment Act 2021. The Council, however, maintains that because the on-site and off-site measures amount to a 'significant enhancement', a legal agreement is required prior to determination to secure appropriate long-term monitoring, which cannot be achieved through a planning condition alone.
23. The appellant has referred to several approved schemes in which BNG requirements were secured by condition. I note that the examples cited were determined after the BNG provisions came into force on 12 February 2024. I also acknowledge that Policy NR2 of the RBWM Local Plan does not explicitly prescribe the mechanism through which BNG must be secured. Moreover, paragraph 98 of the Environment Act 2021 states that BNG requirement should be a planning condition. In these circumstances, I agree with the appellant that the matter can appropriately be addressed by way of a planning condition. Subject to the imposition of such a condition, the appeal proposal would comply with Policy NR2 of the RBWM Local Plan, the Environment Act 2021 and the requirements of the Framework. However, the weight attributable to this compliance is decisively outweighed by the significant harm arising from the scheme's clear conflict with Policies HE1, QP3 and QP5 of the RBWM Local Plan.

#### **Other considerations and planning balance**

24. The appellant has submitted a 'letter of need' setting out the hotel's intention to maintain its competitive position by expanding the range of sporting facilities available to guests, which is said to support visitor health and wellbeing. It is also suggested that the proposal would generate employment both during the construction phase and in its subsequent operation. In addition, the Heritage Statement identifies public benefits arising from the proposed landscaping scheme, including the introduction of strategically positioned pleached trees, as well as extensive repairs to the brick copings and buttresses of the listed walled garden.
25. Paragraph 153 of the Framework makes clear that any harm to the Green Belt, and particularly to its openness, must be afforded substantial weight. Paragraph 212

further requires that great weight be given to the conservation of designated heritage assets. Inappropriate development is, by definition, harmful to the Green Belt and should only be permitted in the most exceptional circumstances. Such “very special circumstances” arise only where the harm resulting from inappropriateness, together with any other identified harm, is clearly and convincingly outweighed by other material considerations. In this context, the benefits associated with the proposal does not amount to a contribution of sufficient magnitude that would outweigh the identified harm to the Green Belt location. The degree of harm to openness is significant, and no compelling justification has been advanced that would overcome the strong presumption against inappropriate development in the Green Belt.

26. Having regard to the Framework, the proposal would give rise to less than substantial harm to the designated heritage assets, reflecting its limited spatial impact. I attach only limited weight to the social benefits and to any contribution the scheme may make to local employment. The substantial weight that must be given to the harm to the Green Belt, together with the identified harm to the setting of the designated heritage assets, are not clearly outweighed by the other considerations advanced. As such, very special circumstances do not exist. Taken cumulatively, the development would therefore conflict with the spatial strategy and design principles set out in Policies HE1, QP3 and QP5 of the RBWM Local Plan, as well as the requirements of the Framework.

### **Conclusion**

27. Having considered all other material factors relevant to the proposed development, none provide sufficient justification to depart from the provisions of the development plan. Accordingly, and for the reasons set out above, I conclude that the appeal should be dismissed.

*A Oyebade*  
INSPECTOR