



## Appeal Decision

Site visit made on 18 December 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 3<sup>rd</sup> January 2025**

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**Appeal Ref: APP/T0355/W/24/3338902**

**26 to 54 Beverley Court, Cedar Drive, Sunningdale, Ascot.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Kiefer Smith Layne of Consortiums Developments Ltd against the decision of the Royal Borough of Windsor and Maidenhead.
  - The application Ref is 23/02163.
  - The development proposed is a roof extension to provide 5 additional residential units.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the address of the site from the Council's Decision Notice, which better reflects the location than that used in the application form. The appellant has used the same address in the appeal form and so no party would be prejudiced as a result.
3. Since the appeal was made, a revised National Planning Policy Framework (the Framework) has been published. Although I have made my determination against the updated national policy context, the relevant changes to the Framework are not fundamental to matters which are determinative to the outcome of this appeal.

### Background and Main Issues

4. Schedule 2, Part 20, Class A of the General Permitted Development Order (GPDO) permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats. The application seeks prior approval for the creation of five additional units to the appeal building, an existing residential block, on this basis.
5. Third parties have questioned whether the proposal meets one of the requirements of GPDO paragraph A.1(d), namely that the additional stories are not permitted if constructed other than on the principal part of the building. This therefore forms part of my assessment.
6. Furthermore, the development is only permitted where it complies with the conditions set out at GPDO paragraph A.2(1). One condition is in respect of

the effect of the proposal on the external appearance of the building. This is a matter of dispute between the appellant and the Council.

7. The main issues are:

- whether the proposal complies with the description of permitted development under Schedule 2, Part 20, Class A of the GPDO, and
- the effect of the proposal on the character and appearance of the area.

## **Reasons**

### *Compliance with the GPDO*

8. The GPDO defines the principal part of a building as the main part of it, excluding any front, side or rear extension of a lower height, whether this forms part of the original building or a subsequent addition to it. The roof of the appeal building cascades in sections, such that some of its parts are lower than others. Nevertheless, it does not have what can reasonably be described as 'main' parts, whereby one section can be readily distinguished as dominant over other subservient parts of the building. Instead, it is a single entity.
9. On this basis, the proposal would not extend the building other than on its principal parts. It would therefore be different to an appeal decision in Hackney<sup>1</sup>, which involved the upward extension of what were described by the Inspector as additions to the building, and so were not on its principal parts. For this reason, I conclude that the proposal would comply with the description of permitted development under Schedule 2, Part 20, Class A of the GPDO.

### *Character and Appearance*

10. Cedar Drive consists of suburban cul-de-sac development, predominantly of two-storey dwellings but with a few 2.5 storey properties, particularly at the entrance to the street. As identified by the Townscape and Visual Impact Assessment (TVIA), buildings locally include semi-detached, detached and terraced properties, of varying designs and materials. However, despite some infill, most properties are of the same era, have between two and three-stories, and have pitched roofs. These factors give a medium density to the immediate area, and a degree of consistency.
11. The appeal building is Block Two, one of a pair of brick-built residential buildings. They are positioned in a staggered layout, set well back from the road and surrounded by green space and rear car parking. As such, both the blocks of Beverley Court are somewhat anomalous to the character of the rest of the road. Nevertheless, their sloping roofs and three-storey height maintain the medium density characteristic of the rest of Cedar Drive.
12. The proposal would result in the building having a flat-roof design, intended to limit the extent of the increase in height when compared to the existing ridgeline. It would be within the height characteristic for domestic scale areas, and the 1.5x context height, both as identified in the Council's Building Height and Tall Buildings Supplementary Planning Guidance (December 2023). The proposal would also use external materials to match the rest of the building.

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<sup>1</sup> LPA reference APP/U5360/W/21/3287425

13. Even so, the proposed ridgeline would be notably taller than that of the existing building. Moreover, the proposed eaves lines would be significantly higher than those of the current building. Despite softening by trees, boundary treatments and the countryside nearby, the resultant building would appear excessively tall and dominant in comparison to the others surrounding it.
14. Furthermore, the design of the proposed flat roof would contrast sharply and harmfully with the pitched roofs of most other buildings in Cedar Drive. As a result, the proposal would appear incongruous in the street scene, causing substantial harm to its character and appearance. The adverse visual effects of the proposal would be visible from publicly obtainable viewpoints, for example TVIA Key Views 1, 2 and 3.
15. A Prior Approval application for development very similar to the proposal was approved by the Council in 2020<sup>2</sup>. That said, this decision pre-dated case law<sup>3</sup> which has clarified that the meaning of the relevant paragraph of the GPDO can relate to the external appearance of adjoining or nearby properties and not just of the building itself. As a matter of planning judgement, consideration of the effect of the proposal on nearby buildings is necessary here. In any case, there is no dispute that the 2020 approval has now expired.
16. Planning permission was granted for eight units to the rear of 29 to 31 Cedar Drive, in 2002<sup>4</sup>. The Inspector considered that a comparatively high density was appropriate here, being very close to the railway station and the facilities in Sunningdale. However, that decision relates to development of fewer storeys than the proposal before me and in a different location, and so is not comparable to it.
17. I therefore conclude that the proposal would harm the character and appearance of the area. Consequently, it would conflict with Paragraphs 124(e) and 135 of the Framework. These require that development is sympathetic to the surrounding built environment, including having consistency with the prevailing form of neighbouring properties and the overall street scene.

### **Other Matters**

18. The permitted right is intended to support development on brownfield land and make better use of built-up areas, whilst also creating jobs for the construction industry. Nevertheless, my findings relate solely to whether the proposal complies with the requirements of the GPDO, including in respect of its appearance.
19. The site is within an area where new development may affect the Thames Basin Heaths Special Protection Area (SPA), protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the main issue, as competent authority I would have carried out an Appropriate Assessment in respect of the potential effects of the proposal on the SPA. However, as I have found that permission should be refused for other reasons, this matter need not be considered any further in this case.

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<sup>2</sup> LPA reference 20/02445/PT20A

<sup>3</sup> CAB Housing Ltd v SSLUHC [2003] EWCA Civ 194

<sup>4</sup> APP/T0355/A/01/1074029

**Conclusion**

20. For the reasons given above, and taking into account all other matters raised, the appeal is dismissed.

*O Marigold*

INSPECTOR