
Appeal Decision

Site visit made on 2 May 2017

by Lesley Coffey BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2017

Appeal Ref: APP/J0350/W/16/3164440
Spring Cottage, Slough SL1 2DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Mann against the decision of Slough Borough Council.
 - The application Ref P/00475/009, dated 4 April 2016, was refused by notice dated 8 September 2016.
 - The development proposed is to erect 8 x 2 bed and 1x3 bed flats and 1x 4bed detached house (previously approved under application ref:P/00475/007) with associated parking, cycle storage and refuse store with access off Upton Park in Slough.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Mann against Slough Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The address above is taken from the application form, although I note that it differs from that on the appeal form. For the avoidance of doubt the decision refers to the site outlined in red on the submitted plans.
4. The appellant submitted revised plans numbers 1488/PL500 Rev F and 1488/PL501 Rev D with the appeal. These relate to the layout of the site and the basement car park. They show minor revisions including the removal of a reference to a laurel hedge along the boundary with the park, the tracking for refuse vehicles and details of the cycle store in the basement car park have been added. I am satisfied that these changes would not be prejudicial to any party and I have determined the appeal on the basis of these plans.

Background

5. The appeal site is situated adjacent to Herschel Park (formerly known as Upton Park). The site is currently vacant but was previously occupied by Spring Cottage, a former lodge which once formed part of the Upton Park Estate. Spring Cottage was not a statutory listed building, nor was it locally listed. Nevertheless the Council considered it to be an attractive building that made a positive contribution to the conservation area.
-

6. The site has a extensive planning history which includes some schemes which were permitted to support the refurbishment of Spring Cottage. However, the cottage was destroyed in 2011 and the Council subsequently granted planning permission, in May 2014, for 2 semi-detached and 2 detached dwellings. A number of the conditions in relation to this permission were discharged in August 2015. The appellant states that work on site has commenced to implement this permission, however, it is unclear at the time of my visit as to what these works entail.

Main Issues

7. I consider the main issues to be:
- The effect of the proposal on the character and appearance of the Upton Conservation Area and Herschel Park;
 - Whether the provision of flats is acceptable in this location;
 - The effect of the proposal on vehicular and pedestrian safety; and
 - The effect of the proposal on biodiversity.

Reasons

Character and Appearance

8. The Council's decision describes the previous consents as 'enabling consents' which had the objective of restoring and rebuilding Spring Cottage. Notwithstanding this, the most recent consent was granted after the destruction of Spring Cottage. Therefore the fact that the appeal scheme would not support the rebuilding or restoration of Spring Cottage does not weigh against the proposal.
9. The appeal site comes within the Upton Conservation Area and adjoins Herschel Park, a Grade II listed park. Section 72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 sets out that in assessing application in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The conservation area is focussed on the park, and falls into two distinct areas, separated by Datchet Road. The appeal site comes within the later phase which includes the original Victorian development arranged around two sides of the park. The park dates from about the mid C19, and is thought to have been designed by Joseph Paxton. It was originally, laid out in informal style as the centrepiece of an associated private residential development, and has recently been restored.
11. The appeal site is located immediately adjacent to the north-east entrance to the park with access from Upton Close. The site comprises a long narrow access leading to a broadly rectangular plot. Two of the boundaries to the appeal site adjoin the park, whilst to the east it is adjoined by the National Foundation for Educational Research, a modern commercial style building with extensive car parking around it.

12. The proposal includes 9 apartments with a basement car park and a detached dwelling. The proposed dwelling would be situated towards the south western corner of the park and would be identical to the dwelling previously permitted in that location. The proposed flats would be situated further from the boundary with the park by comparison with the previously approved dwellings, and would comprise a single block with parking in the basement area. It would be two storeys high with an additional floor of accommodation within the roof. The front elevation would include projecting bay windows and gable end roofs. It is proposed to use high quality facing brick with stone features and render under a slate roof.
13. The provision of basement car parking would add to the overall bulk and height of the building. Although there would be some variation in the height of the roof line, in that the southernmost wing would be lower than the remainder of the building, the ground and first floors would be uniform in level. The uniform floor levels together with its greater depth would emphasise the bulk and length of the building and the extent to which it is elevated above existing ground levels. Unlike the permitted scheme it would fail to reflect the topography of the site. The rear elevation would be more utilitarian in appearance by comparison with the permitted scheme. Overall the proposed flats would fail to respect the distinctive character of its parkland setting adjacent to a grade II registered park and with the Upton Conservation Area.
14. The proposed parking and turning areas to the south of the site would extend very close to the boundary with the park and adjoining footpath and would detract from the tranquillity that characterises this part of the park. However, I appreciate that this arrangement is similar to that previously approved and that the overall level of surface parking would be reduced by comparison with the previously permitted scheme.
15. The proposed access road would pass close to a number of the trees to be retained some of which are in the park. The arboricultural advice submitted on behalf of the appellant suggests that the appeal scheme does not raise any new tree issues by comparison with the permitted scheme. The Council's appeal statement expresses a similar view.
16. However, the appeal proposal is materially different from the previous scheme in that in order to accommodate the access to the underground parking the proposal would necessitate alterations to the existing ground levels. Although the changes are shown on the elevational drawings, no other details have been submitted. On the basis of the submitted evidence it would seem that these changes in level would encroach on the root protection area of some of these trees. Therefore notwithstanding the views of the parties, on the basis of the submitted information I am not convinced that the provision of the access road would not have a harmful effect on the health of the affected trees. These trees filter views of the site from the park and I consider their retention to be necessary in order to avoid significant harm to the character and appearance of Herschel Park and its setting, as well as the conservation area.
17. There would be a greater number of dwellings by comparison with the previous scheme. Whilst this would give rise to a greater number of vehicular movements and a higher car parking requirement, given the provision of the underground car parking and the number of dwellings proposed, I do not

consider that this increase would in itself have an adverse effect on the character of the conservation area or the setting of Herschel Park.

18. Overall I conclude that the proposal would harm the character and appearance of the Upton Conservation Area and the setting of Herschel Park. It would not deliver the high quality public realm sought by the Framework and Core Policy 9 of the Slough Local Development Framework Core Strategy 2006 -2026 (adopted 2008) which amongst other matters requires development to respect the character and distinctiveness of townscapes, landscapes and their local designations.

Provision of Flats

19. Core Policy 4 divides the borough into 3 areas and sets out the type of housing appropriate to each area. The planning officer's report infers that the site comes within an urban area outside of the town centre, whereas the Council's appeal statement describes the area is suburban in character. I understand that urban and suburban areas are defined in the appendices to the Core Strategy, but I have not been provided with this information. The supporting text to Core Policy 4 indicates that urban areas are the more accessible areas outside of Slough town centre, and include mixed use, medium or high density areas that are well served by public transport.
20. The appeal site is within walking distance of Slough town centre, close to a range of public transport as well as services and facilities. The area immediately surrounding the site includes several blocks of flats, many three storeys in height, as well as the National Foundation for Educational Research. In my view the locality displays the attributes of an urban area as described within the supporting text to Core Policy 4. Within such areas Core Policy 4 states that new residential development should predominantly comprise family housing and be at a density related to the character of the surrounding area, the accessibility of the location, and the availability of existing and proposed local services, facilities, and infrastructure. It also resists the loss of family accommodation due to changes of use or redevelopment.
21. The definition of a family dwelling within the Core Strategy excludes flats and maisonettes, even where they have direct access to a garden. The appeal proposal would provide 8 x 2 bedrooms flats, 1x 3 bedroom flat and one detached house. The explanatory text states that this policy will be implemented, in conjunction with the other policies in the plan and will take account of the Housing Strategy), the Berkshire Strategic Housing Market Assessment and the Housing Needs Survey.
22. The appeal site occupies an accessible location relative to services, facilities and infrastructure. The Council does not object to the density of the proposal which would be comparable with other development in the locality. Spring Cottage, the previous building on the site, was divided into 3 flats at the time of the fire that destroyed it, therefore the proposal would not give rise to a loss of family dwellings as defined by the Core Strategy.
23. It is apparent that within urban areas Core Policy 4 does not preclude all dwellings falling outside of the Core Strategy definition of family dwellings, but it seeks to meet the housing requirements identified by the SHMA. This approach accords with paragraph 50 of the Framework which requires local planning authorities to identify the size, type, tenure and range of housing that

is required in particular locations, reflecting local demand. The requirement within Core Policy 4 for family homes is informed by the 2007 SHMA, however, a more recent SHMA was published in 2016. This indicates a need for some 6,211 additional one and two bedroom units, which represents about 40% of the total need within Slough Borough. On the basis of the submitted evidence it is not possible to assess whether the balance between family dwellings and other dwellings has changed since the adoption of the Core Strategy in 2008, but it is apparent that at the present time there is a substantial need for one and two bedroom dwellings within the Borough.

24. The proposal would provide a lesser number of houses than the previously permitted scheme, but there would be an increase of one family dwelling compared to the previous use of the site. The proposal includes four x 2 bedroom ground floor flats. Three of these flats would have direct access to the communal amenity area. Moreover, the site occupies an unusual location, in that it is situated immediately adjacent to a park, with the only road nearby being the lightly trafficked private road which serves Upton Close and the appeal site. Therefore having regard to the size and layout of the flats proposed, I consider that they would be suitable for occupation by families although they would not meet the Core Strategy definition of family dwellings. I therefore conclude that having regard to the location of the site and the dwellings proposed, that the proposal would not conflict with Core policy 4 and the provision of flats is acceptable in this location and would help to meet an identified housing need.
25. The Council refer to a number of appeal decisions. These would appear to differ from the appeal scheme in that the sites concerned are located within suburban areas where infilling is restricted to family houses in order to enhance the distinctive urban character and identity of the area. In addition, unlike the appeal proposal, they generally involved the loss of existing family accommodation. For these reasons the circumstances that informed these decisions are not comparable with the appeal scheme and they do not alter my conclusion above.

Vehicular and Pedestrian Safety

26. Access to the site is from Upton Close and is situated immediately adjacent to the pedestrian access to the park. The proposed access road would adjoin the existing bellmouth that links the park and the appeal site with Upton Close. Although a number of other properties are served by Upton Close, it is a shared surface and the pedestrian environment predominates.
27. The access road would be a shared surface providing a route for pedestrians as well as vehicles. Based on the submitted plans the proposed access would vary in width from 3.8 metres (measured boundary to boundary) to 4.8 metres, although the Council suggest it would be narrower in places. The appellant does not dispute that for a considerable portion of its length there would be insufficient width for two vehicles to pass. This is likely to result in vehicles either reversing in or out of the site, or waiting close to the entrance to the site such that pedestrians would need to walk around the rear of any waiting vehicle to access the park. Such movements would occur immediately adjacent to the entrance to the park where pedestrian movement is concentrated. This part of Upton Close also adjoins a pedestrian link to the houses to the north west of the site. Due to the proximity of the entrance to

the park and the lightly trafficked environment, pedestrians may be less alert to traffic hazards. I observed at the time of my visit that young children were less closely supervised in this area and that the park was also used by wheelchair users. Having regard to the particular circumstances of the site, I consider that there would be a conflict between vehicles accessing and egressing the appeal site and pedestrians using the park, and this would be harmful to pedestrian safety.

28. I am aware that the access arrangements for the extant permission are similar to those proposed. Moreover, the scheme has been designed to keep vehicle speeds low and to ensure good intervisibility between pedestrians and vehicles. Nevertheless, based on the appellant's figures the appeal scheme would be likely to give rise to 20 additional vehicle movements a day by comparison with the permitted scheme. The significantly higher number of vehicular movements by comparison with the permitted scheme and would have a much greater impact on those using the park. Whilst the number of vehicle movements would not have a detrimental effect on the wider highway network, the proposal would fail to provide safe and suitable access for all in accordance with paragraph 32 of the Framework and Core Policy 7 of the Core Strategy.
29. I am aware that there are other properties along the length of Upton Close where vehicles reverse on and off the driveway. However, unlike the appeal proposal these are not situated immediately adjacent to the park entrance and do not involve a large number of vehicle movements at a single location where pedestrian movement is concentrated. I therefore conclude that the proposal would have an adverse effect on vehicular and pedestrian safety.

Biodiversity

30. Amongst other matters Core Policy 9 requires proposals to enhance and preserve natural habitats and the biodiversity of the Borough, including corridors between biodiversity rich features. The Framework states that planning should contribute to and enhance the natural and local environment by minimising the impacts on biodiversity and providing net gains where possible.
31. The presence of a protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Circular 06/2005: *Biodiversity And Geological Conservation – Statutory Obligations And Their Impact Within The Planning System* states that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by the proposed development is established before planning permission is granted.
32. Although the appeal site is not subject to any particular designation in itself, it is situated in close proximity the Herschel Park Local Nature Reserve as well as the park itself. At the time of the application, the most recent survey was the one in relation to the proposal for 4 houses (either January 2013 or January 2014). An update to this survey was submitted with the appeal. The earlier survey was itself an update to a 2009 survey. All three surveys were carried out in January.
33. These were walk-over surveys, but based on the submitted evidence they do not appear to have been informed by local records to indicate whether or not protected species were present in the nearby area.

34. The 2016 survey states that it was carried out following the guidelines of the Bat Conservation Trust and the methods included a visual survey of individual trees and a bat detector to record any bat calls. The survey found that none of the trees were found to be suitable for bats due to their age or species and absence of key features. Whilst this may be the case, it is unclear how a survey that does not appear to include a preliminary appraisal of bat activity in the local area, and seeks to assess bat activity on the site using bat detectors in January, is consistent with the advice from the Bat Conservation Trust or Natural England.
35. Whilst there are no water bodies on the site, there are ponds within the park with no physical barrier separating them from the appeal site. No assessment appears to have been made as to whether newts or other species are present in the wider area, including the park and nature reserve. Neither this survey, nor the reptile survey, took place at the appropriate time of year. Indeed both were undertaken at a time of year that Natural England advise such surveys should be avoided. Therefore although the various surveys found no evidence of protected species on the site and concluded that the site was of low ecological value, I am unable to rely on the findings of the survey or its conclusions. In the absence of a clear and reliable indication as to whether protected species are present on the site, and if so, how they use the site, it is not possible to mitigate against any potential harm.
36. I am therefore unable to conclude that the proposal would not have a significant adverse effect on protected species and their habitats. Accordingly the proposal would fail to comply with Core Policy 9 or the paragraph 109 of the Framework.

Other Matters

37. The Council confirm that it is satisfied with the general approach to drainage issues on the appeal site, but that detailed proposals will be required at a later date. Although Thames Water identified an inability of the existing waste water infrastructure to accommodate the needs of the proposal, it does not object to the scheme in principle, and is satisfied that this matter can be covered by way of a Grampian condition. I share this view and I am satisfied that the proposal would, subject to conditions, make satisfactory provision for drainage.
38. The Council state that the Housing Trajectory in the Council's Annual Monitoring Report 2013-14 shows that Slough is projected to meet its housing allocation for the whole of the plan period (2006-2026) by 2018/19 without any reliance upon windfalls or any other major sites coming through the planning process. Notwithstanding this, the most recent SHMA (February 2016) indicates that the current level of housing need may well be greater than that within the Council's housing trajectory. Therefore the provision of 10 additional homes within an accessible location would help to meet the housing needs of existing and future generations thereby contributing to the social role of sustainability.
39. The proposal would also contribute towards the environmental role of sustainability due to its proximity to Slough Town Centre and public transport. The provision of jobs during the construction period and modest contribution of future residents to the local economy also weigh in favour of the proposal.

Conclusion

40. I have found above that the proposal would harm the character and appearance of the Upton Conservation Area and the setting of Herschel Park, both of which are designated heritage assets. The harm would be less than substantial and therefore in accordance with paragraph 134 of the Framework it should be weighed against the public benefits of the proposal, including securing the optimum viable use of the site.
41. The proposal would deliver public benefits in terms of the provision of additional dwellings in an accessible location. There would also be some economic benefits arising from the proposal as outlined above. I have found that in the circumstances of this proposal the provision of flats would be acceptable. The proposal would give rise to significant harm to the Upton Conservation Area and Herschel Park and would have an adverse effect on biodiversity. The proposal would also adversely affect pedestrian and vehicular safety and would fail to comply with the development plan as a whole. I therefore conclude that the benefits of the proposal would not justify the significant harm identified above.
42. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR