
Appeal Decision

Site visit made on 21 November 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 04 December 2017

Appeal Ref: APP/J0350/W/17/3181792
1 and 2 The Drive, Slough SL3 7DB

- 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 Khan against the decision of Slough Borough Council.
 - The application Ref P/07663/020, dated 27 February 2017, was refused by notice dated 2 May 2017.
 - The development proposed is the erection of an outbuilding to provide one studio flat and a utility room and storage facilities for the benefit of residents of the existing flats.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to outlook and the provision of external living space;
 - the effect of the development on the living conditions of the existing flats with particular reference to privacy, noise and disturbance; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site forms part of the rear amenity space associated with the flats located at 1-2 The Drive. There are four flats at this address – two at ground floor level and two at first floor level. Planning permission has also recently been granted for an additional flat in the loft space of this building.

Living conditions

5. The main front elevation of the proposed flat would directly face the rear ground floor flat at No 1 at very close proximity. Such is the deficiency in the separation, the proposal would lead to a high level of mutual overlooking

- between habitable room windows which would lead to an unacceptable loss of privacy for existing and future occupants.
6. Due to the constraints of the site there would be no outlook from the rear part of the dwelling and natural light would be restricted to that gained from two roof lights. At the front, the two storey scale and proximity of the existing flats would amount to an overbearing and oppressive feature that would dominate the outlook for future occupants of the proposed flat. The only other outlook opportunity would arise from the side patio doors which would face down the length of a high boundary fence. These two windows would not therefore provide any meaningful relief to the lack of outlook at the rear.
 7. I recognise that this is a communal garden for the four flats and that there will already be some activity close to the rear of the existing ground floor flats. I also recognise that the proposed flat would have its own access, independent from the other existing flats. Nevertheless, to access the proposed flat, as well as the various communal stores, would necessitate walking across, close by, to the habitable room windows of the existing flats. As a result, the proposal would materially add to the level of comings and goings and general activity at in this location, along with an associated increase in noise and disturbance. This would not be mitigated by noise insulation measures to the flat. The proximity of these activities would also further reduce existing levels of privacy.
 8. Similarly, the general activities associated with the existing flats as well as the position of proposed store facilities and utility room would result in undue noise and disturbance as well as poor levels of privacy for the future occupiers of the proposed flat. It may be possible to mitigate the noise effects by appropriate sound attenuation, but this would be lost by any reasonable requirement to open windows and would not assist in matters relating to privacy.
 9. Due to the main orientation of the dwellings at No 3 The Drive and Nos 73, 74 and 75 Cherry Avenue, relative to that of the appeal proposal, as well as existing boundary treatments, I'm not convinced that the proposal would result in unacceptable harm to the occupiers of those properties.
 10. Although the proposal would provide a utility room and storage facilities for the occupiers of the existing flats, this benefit would be substantially outweighed by the harm I have described.
 11. In terms of amenity space, I have noted the Council's reference to is Development Control Guidelines for Flat Conversions (April 1992) but I have not been provided with a copy of this document. I cannot therefore be sure of its relevance or current status. The appellant has confirmed that future occupants would have access to the existing shared amenity space and having regard to the provisions of Policy H14 of the Local Plan for Slough (LP), I consider that this would be acceptable having regard to type and size of the dwelling and the likely requirements of future occupants, as well as the proximity and availability of public open space at Springate Field. I acknowledge that the increasing number of flats would reduce the space provision per flat but on the basis of the above, I'm not convinced that this would be sufficient on its own to result in conflict with LP Policy H14 and to warrant withholding planning permission.

12. I also acknowledge that the proposed flat would meet minimum space standards¹. However, the proposal would not provide a good standard of living accommodation for future occupiers and would also result in unacceptable harm to the living conditions of the existing occupants of the ground floor flats at Nos 1 and 2. In this regard, the proposal would amount to an unacceptable over development and over intensive use of the site, which would be contrary to Saved LP Policies H13 and EN1 and Core Policies 4 and 8 of the Slough Local Development Framework Development Plan Document (DPD). The state, amongst other matters, that the design of all development within the existing residential areas should respect the amenities of adjoining occupiers. It follows therefore that I also find conflict with paragraphs 17 and 53 of the National Planning Policy Framework (the Framework) which state that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens.

Character and appearance

13. The character of the area predominantly comprises two storey houses but also includes flats, in two storey and three storey buildings. My observations in this regard are consistent with those of the Inspector dealing with the previous appeal² at this site. The principle of further flatted development would not therefore be uncharacteristic or in itself harmful to the character and appearance of the area. However, I did not observe any single storey flats in comparable positions within the garden areas of any existing residential development. In this regard, the proposed residential development would not be in keeping with the character of the area.
14. However, I note that planning permission³ has been granted for an outbuilding in this location to serve the existing flats, which the appellant states would have the same dimensions as that currently proposed. This is not disputed by the Council. Therefore, whilst the form of residential development is uncharacteristic of the area, the physical manifestation in public and private views would be little different to that which has already been approved. On the basis of the limited information before me, this appears to set the proposal apart from the appeal decision⁴ referred to by the Council.
15. Having regard to this fallback position, I do not find that the proposal would be unacceptably harmful to the character and appearance of the area and would not conflict with LP Policies H13 and EN1 or DPD Policies 4 and 8 or section 7 of the Framework, insofar as these policies require development to be sustainable, of high quality design and improve the quality of the environment.

Other matters

16. I accept that the proposal would benefit from a relatively sustainable location within an established residential area. However, as a residential garden, the appeal site is specifically excluded from being previously developed land as defined by the Framework.

¹ Department for Communities and Local Government Technical housing standards – nationally described space standard (March 2015)

² Appeal Ref: APP/J0350/W/17/3171402

³ Planning permission ref: P/07663/016

⁴ Appeal Ref: APP/J0350/W/17/3173429

Conclusion

17. Whilst I have not found unacceptable harm to the character and appearance of the area, I have found that the proposal would cause significant harm to the living conditions of existing and future occupants and as such would not amount to sustainable development. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR