



Appeal Decision

Site visit made on 24 June 2019 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2019

Appeal Ref: APP/J0350/W/19/3226699

36 Haymill Road, Slough SL1 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Ujjal Sawhney against the decision of Slough Borough Council.
 - The application Ref P/16759/003, dated 30 November 2018, was approved on 25 January 2019 and planning permission was granted subject to conditions.
 - The development permitted is the construction of a single storey rear, two storey side and part first floor rear extension following the demolition of existing garage.
 - The condition in dispute is No 5 which states that: *The development hereby permitted shall be used only in conjunction with the existing house and shall not be sub-divided or used in multiple occupation.*
 - The reason given for the condition is: *To ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area in accordance with Policy H8 of The Adopted Local Plan for Slough 2004.*
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Decision

1. The appeal is allowed and planning permission Ref P/16759/003 for the construction of a single storey rear, two storey side and part first floor rear extension following the demolition of existing garage at 36 Haymill Road, Slough SL1 6NA granted on 25 January 2019 by Slough Borough Council is varied by deleting condition 5.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The stated reason for the planning condition relates to the 'amenity' of the area. However, Policy H8 of the adopted Local Plan for Slough 2004 (the 'local plan') refers to the loss of residential accommodation. The Council's appeal statement makes it clear that their concern lies primarily with the loss of 'family housing'. Therefore, the main issue in this case is whether the removal of the disputed condition would lead to a loss of housing.

Reasons for the Recommendation

4. It is necessary to consider whether the disputed planning condition meets the guidance for planning conditions set out in the National Planning Policy

Framework (NPPF) and Planning Practice Guidance (PPG). The condition in dispute effectively removes Class L, Part 3, Schedule 2 permitted development rights as are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which relates to the change of use from a single dwellinghouse (Class C3) to a small house in multiple occupation (HMO) (Class C4).

5. The PPG states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.
6. The Council states that the condition is necessary to prevent the net loss of family homes in accordance with Policy H8 of the local plan. However, policy H8 refers to the loss of individual dwellings or any other forms of residential premises and not specifically to family homes. The removal of condition 5 would not lead to a net loss of residential accommodation as the current use (Class C3) as well as a potential HMO (Class C4) would both constitute residential accommodation.
7. Furthermore, the reason given for the condition is that it is necessary to ensure the development does not prejudice the amenity of the area. However, I have no reason to consider that, were the property used for C4 purposes, this would necessarily have an adverse impact on the character of the area and no substantive evidence relating to this has been put forward to me.
8. In addition, the Council suggests that the appeal property would be capable of accommodating a total of 8 people within the approved layout and therefore the disputed condition is necessary to restrict the possibility of the building being used as a large HMO. However, such a use would be *Sui Generis* and would thus require planning permission, and hence the condition has no effect.
9. The condition also seeks to prevent the subdivision of the property and the Council is concerned the ground floor 'parent's room' identified on the plans could be used as an independent self-contained residential unit. However, such subdivision would require planning permission, even if the condition were retained, and so again results in the condition having no effect. In any case the room in question would not provide a kitchen or a front door, is very small in size and so it is unlikely that this would be practicable.
10. I find the disputed planning condition is unnecessary and conflicts with paragraph 55 of the NPPF which seeks to ensure that planning conditions are only imposed where they are necessary and reasonable. Furthermore, the removal of the disputed condition would not lead to a loss of housing and would therefore not conflict with policy H8 of the local plan.

Other Matters

11. I note the neighbour's comment with regards to parking. However, I have no evidence to suggest the demand for parking generated as a result of a possible change of use from a single dwellinghouse (C3) to a small HMO (C4) would be materially greater. It is an urban location with a railway station in close proximity and therefore not all occupants would necessarily need to own a car. I have attributed limited weight to this point in my decision-taking.

12. Though I understand that Condition 5 was added for consistency with the previous approval on the site (ref. P/16759/002), this does not change my view that I find the disputed condition to be unnecessary.

Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR