



Appeal Decision

Site visit made on 16 July 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/J0350/W/19/3223179

26 Springfield Road, Slough SL3 8QJ

- 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 and Mrs S Sharma against the decision of Slough Borough Council.
 - The application Ref P/16259/003, dated 12 November 2018, was approved on 18 February 2019 and planning permission was granted subject to conditions.
 - The development permitted is the retention of the demolition of the existing dwelling and erection of new dwelling (part retrospective).
 - The conditions in dispute are Nos 4 & 8 which state that:
Condition 4 *"The first floor windows in the side elevations and the roof lights in the front and rear roof elevations of the development hereby approved shall be glazed with obscure glass and any opening shall be at a high level (above 1.7m internal floor height) only."*
Condition 8 *"Within three months of the date of the first occupation of the dwelling house hereby permitted the outbuilding shown on drawing number 15/273/100 rev D dated Jan 19 will cease to be used as temporary living accommodation, all domestic fittings including kitchen and bathroom fittings, will be removed from the outbuilding, the outbuilding shall not be used as separate self-contained residential accommodation or for any industrial, commercial or business use and shall only be used for domestic purposes incidental to the enjoyment of the main dwellinghouse hereby permitted."*
 - The reasons given for the conditions are:
Condition 4 *"To minimise any loss of privacy to occupiers of adjoining residential properties in accordance with Core Policy 8 of the Slough Local Development Framework Core Strategy 2006-2026, December 2008."*
Condition 8 *"For the avoidance of doubt and to protect the amenities of the adjoining occupiers and the character of the area in accordance with Core Policies 4 and 8 of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008 and the Slough Local Development Framework."*
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Decision

1. The appeal is allowed and the planning permission Ref P/16259/003 for the retention of the demolition of the existing dwelling and erection of new dwelling (part retrospective) at 26 Springfield Road, Slough SL3 8QJ granted on 18 February 2019 by Slough Borough Council, is varied by deleting conditions 4 & 8 and substituting for them the following conditions:

Condition 4 *"Any opening of the roof light in the rear roof elevation of the development hereby approved shall be at a high level (above 1.7m internal floor height) only."*

Condition 8 "Within three months of the date of the first occupation of the dwelling house hereby permitted the outbuilding shown on drawing number 15/273/100 rev D dated Jan 19 will cease to be used as temporary living accommodation, all kitchen fittings and cooking facilities, shall be removed from the outbuilding, the outbuilding shall not be used as separate self-contained residential accommodation or for any industrial, commercial or business use and shall only be used for domestic purposes incidental to the enjoyment of the main dwellinghouse hereby permitted."

Procedural Matters and Background

2. For clarity, in my heading above I have used the description of development from the decision notice. Planning permission was granted for the demolition of the existing single storey dwelling and erection of a two storey dwelling on 18 February 2019. Condition 4 requires certain windows to be obscure glazed and non-openable above 1.7m when measured from the internal floor height. The appeal seeks the variation of this condition such that there is no requirement to have obscure glazing in the two rooflights which are shown on the plans as serving the playroom.
3. In addition, condition 8 requires that within 3 months of the occupation of the main house the outbuilding should cease to be used as temporary living accommodation and is only used for domestic purposes incidental to the main dwelling. Separate permission¹ was granted for the detached outbuilding which also contains a condition that it shall only be used for incidental purposes. However, condition 8 of reference P/16259/003 expressly referred to the removal of bathroom fittings. The appeal seeks the variation of the wording of the condition such that the sanitaryware can be retained within the outbuilding.
4. I observed at my site visit that construction at the appeal site is at an advanced stage. Aside from the omission of the west facing first floor window in the side elevation, the submitted plans largely reflect the building that has been built on site. I shall consider the appeal accordingly.

Main Issues

5. The main issues are whether the conditions are reasonable or necessary in the interests of the living conditions of neighbouring occupiers, with particular regard to privacy and noise, and in respect of the impact of the development on the character of the area.

Reasons

Living Conditions

6. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that planning conditions should be kept to a minimum and only imposed, amongst other matters, when they are necessary. Planning Practice Guidance (PPG) suggests that this is tested by asking whether it would be appropriate to refuse planning permission without the requirements imposed by the condition. It follows that if a condition is wider in scope than is necessary to achieve the desired objective, it will fail the test of necessity.

¹ Reference P/16259/001 dated 19 April 2018

7. The rooflights are located in the front and rear roof slopes close to the apex of the roof. The front roof light would face towards Springfield Road, with a hedgerow and field beyond that. Therefore, as it does not face directly towards a dwelling it is not necessary to impose restrictions upon it in order to safeguard the privacy of nearby residents.
8. Due to the length of the rear garden at the appeal site, the rear roof light is some distance from residences to the north, which prevents unreasonable levels of overlooking to their occupants. Furthermore, with the rear rooflight closed, the combination of the slope of the roof and the height of the lower sill of the roof window is sufficient to prevent intrusive views to the private rear gardens of the properties located either side of 26 Springfield Road. On this basis there is no requirement for obscure glazing.
9. Therefore, the requirement for obscure glazing on both rooflights goes further than is necessary to protect the privacy of adjoining residential occupants. In addition, the two rooflights would be the sole lighting for a principal room at 26 Springfield Road. Obscure glazing would diminish the quality of the living conditions of the occupants of the room which, given that I have found would be unnecessary to safeguard the privacy of others, would be unreasonable.
10. Nevertheless, if the rear rooflight were to be fully open, given the height of the rooflight relative to the adjacent properties, it is possible that depending on the internal floor level, some taller occupants could obtain intrusive views of the rear gardens at 24 and 28 Springfield Road respectively, that would be harmful to the privacy of the adjacent residential occupiers when using their garden. Accordingly, a restriction in the height of the opening of the rear roof light to not less than 1.7m from internal floor level would prevent this harm.
11. Condition 4 includes further restrictions in relation to windows in the side elevations of the appeal property. I observed that the constructed west facing elevation omits the first floor window shown on drawing number 15/273/63 as a second window to bedroom 3. As the window does not currently exist, it follows there is no requirement to impose restrictions. In any event, the alignment of the window would face onto the single storey flank elevation of 28 Springfield Road which does not itself contain windows. As such, it would not have resulted in intrusive views reducing the privacy of the adjacent occupants. Therefore, the restrictions in condition 4 in relation to this window are unnecessary.
12. There are two high level, obscure glazed windows, serving a bathroom and en-suite bathroom, shown on drawing 15/273/65 on the east facing elevation. These appeared to be under construction at my site visit. As they align with, and face towards the flank elevation of 24 Springfield Road which does not contain first floor windows, the privacy of the occupants of No. 24 is not compromised. In these circumstances, it is not necessary to impose the restrictions in condition 4, as it would not have been necessary to refuse the permission without them.
13. Accordingly, although I consider that the wording of condition 4 has a wider scope than is necessary to achieve the objective of safeguarding privacy, I do consider that it remains necessary and reasonable to have some safeguards in relation to the opening height of the rear rooflight. This is in order to comply with Core Policy 8 of the Slough Local Development Framework, Core Strategy 2006-2026, December 2008 (CS) that, amongst other matters, requires

development to respect the amenities of adjacent occupiers. Therefore, deleting condition 4 and replacing it with an amended wording removing restrictions on the front rooflight and first floor windows in the side elevations, and omitting the requirement for obscure glazing in the rear roof light but retaining the restriction on the opening height, would reasonably address the requirements of Core Policy 8.

Character of the area

14. The evidence suggests that whilst building work has been taking place on the site in relation to the replacement dwelling, the outbuilding at the rear of 26 Springfield Road has been used by the appellants as temporary living accommodation. Notwithstanding that the outbuilding has separate consent to be used incidental to the former dwelling, condition 8 makes it clear that such temporary living arrangements should cease within a reasonable period of the replacement main dwelling becoming habitable.
15. The location and form of the outbuilding is commensurate with an incidental role to the main dwelling. Furthermore, the activity normally associated with a separate unit of residential accommodation would be likely to disturb nearby residents given its proximity to the rear gardens of Nos.24 and 28 Springfield Road and its position forward of 2 Pepys Close where a rear access appears to be in use. There is no dispute between the parties that, upon the completion of the building works to the main house, the outbuilding should have an incidental use. To do otherwise would conflict with Core Policies 4 and 8 of the CS which share the objective that new residential development should enhance the distinctive suburban character and identity of established residential areas.
16. It is the appellants intention to use the outbuilding as a domestic gym and study/workshop. I have not seen robust evidence to show that this would not constitute an incidental use to the main dwelling. Whilst I have limited information regarding the nature of the bathroom facilities within the outbuilding, based on the evidence before me, I accept that it would be reasonable to accommodate these to support such a use. The inclusion of such facilities would not render the outbuilding as being used for purposes beyond those incidental to the enjoyment of the main dwellinghouse.
17. Although the submitted plans do not specifically refer to the provision of bathroom facilities within the outbuilding, as the appeal proposal relates to the replacement of the main dwelling, and it is not shown that their provision would require planning permission, perhaps this is not surprising. Furthermore, the evidence does not suggest that the use of the outbuilding as a domestic gym and study/workshop would conflict with the wording of condition 4 on planning consent P/16259/001, which prevents the use of the outbuilding as separate self-contained residential accommodation, and which expressly prohibits cooking facilities but does not refer to bathroom facilities.
18. From the evidence provided, the primary concern of the Council is to prevent the use of the outbuilding as separate self-contained residential accommodation. It is not fully explained why it would not be sufficient to restrict the wording of the condition accordingly. In such circumstances, the use of the outbuilding as self-contained residential accommodation would require express consent, and in the event of a breach, it would be open to the Council to take enforcement measures. As such, general concerns regarding the potential for future breaches of planning control would not justify a

condition requiring preventative measures to remove the bathroom facilities where this amounts to imposing a condition with a wider remit than is necessary.

19. Accordingly, at present, due to the requirement to remove sanitaryware, the wording of condition 8 is wider than is necessary to secure the objective that the outbuilding returns to its incidental role upon the occupation of the main dwelling. Nevertheless, the overall objective remains necessary and reasonable to meet with the high quality design objectives for new residential development in Core Policies 4 and 8 of the CS, which amongst other matters, include requirements to respect the character of the surrounding area and the living conditions of adjacent occupiers. Therefore, deleting condition 8 and replacing it with revised wording omitting the reference to bathroom fittings would reduce its scope to that necessary to meet the objectives of the relevant development plan policies.

Other Matters

20. The concerns raised in relation to parking provision, overshadowing of nearby properties and the scale of the development being out of character with the wider area are not concerns that have been raised by the Council. As such I have little substantive evidence before me that the access and parking arrangements would be inadequate, nor that the proposal would otherwise result in unacceptable harm. Further concerns are raised in relation to construction work having commenced prior to obtaining planning permission. However, this would not justify withholding planning permission which has otherwise been judged to be acceptable on its merits.
21. Whether the building work complies with relevant Building Control and Health and Safety Legislation are matters that would be more appropriately addressed through the application of those specific legislative regimes rather than through the planning appeal process.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed conditions and substituting them with revised wording.

Helen O'Connor

Inspector