
Appeal Decision

Site visit made on 13 August 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Appeal Ref: APP/J0350/W/19/3220250

61 Langley Road, Slough SL3 7AH

- 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 B Dhillon against the decision of Slough Borough Council.
 - The application Ref P/07170/007, dated 24 May 2018, was refused by notice dated 4 December 2018.
 - The development proposed is described as the change of use to care home (C2) and the insertion of roof lights.
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. I have amended the original description of development to reflect that provided within the Council's decision notice in the interests of accuracy and consistency. The amended description of the proposed development has been agreed by the Appellant.
4. Whilst the above description of the proposed development has been agreed by the main parties, the evidence indicates that there is dispute regarding the current permitted use of the appeal property.
5. In this regard, it is maintained that, following permission for the completion of an extension at the appeal property, the property changed its use from Use Class C3 (Dwellinghouses) to Use Class C4 (Houses in Multiple Occupation for between three and six unrelated persons). However, it is also apparent from the evidence before me that no information was supplied by the Appellant to the Council that confirmed that that permitted change of use specifically fell within the restriction that it be for between three and six unrelated persons.
6. Consequently, there is no evidence before me that would confirm that the correct current permitted use of the appeal property falls within the description of Use Class C4. Subsequently, and also by reason of the agreed description of the proposed development, the evidence indicates that the application is for the change of use from Use Class C3 to Use Class C2 (Residential Institutions).

7. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issues

8. The main issues are:

- The effect of the proposed development on housing stock; and,
- The effect of the proposed development on the living conditions of nearby residents with particular reference to noise and disturbance.

Reasons

Housing Stock

9. The appeal site comprises a detached house which is substantial in terms of its scale, width and height, set within a generously sized plot. The appeal property is located on Langley Road which is a residential street outside of Slough town centre and which, whilst it is acknowledged is a main road, is relatively quiet in terms of traffic.
10. The properties located on this section of Langley Road are somewhat mixed in terms of scale and, predominately, benefit from generous separation distances between the properties and their neighbours. The residential dwellings are set back significantly from the highway behind driveways and front gardens and, in my view, represent low density residential housing.
11. Core Policy 4 (Type of Housing) of the Slough Local Development Framework Core Strategy 2006-2026¹ (the Core Strategy) provides that there will be no net loss of family accommodation as a result of flat conversions, changes of use or redevelopment. In this respect and for the reasons given above in relation to the current permitted use of the site, the change of use from residential dwelling to residential institution would conflict with the provisions of this Policy.
12. Policy H12 of the Local Plan for Slough² (the Local Plan) provides that certain properties within the Borough have been designated as being located in "Residential Areas of Exceptional Character" (RAEC). This Policy further confirms that within RAEC, development, including the change of use to nursing homes, which would have a detrimental impact on the character and amenity of the area will not be permitted. There is no dispute between the main parties that the appeal property is located within a RAEC.
13. It has been put to me that the appeal proposal would have a detrimental impact on the character of the area and specifically would be harmful to the need to provide a range of housing types to meet the needs of a balanced community. The supporting text to Policy H12 of the Local Plan provides a further explanation and justification for the policy, confirming that the designation of the properties listed within the policy as RAEC are required in order to protect the few remaining large family houses within the Borough.

¹ Adopted December 2008

² Adopted March 2004

- Consequently, the change of use to a care home and all of the activities associated with such a use, would not accord with the provisions of this policy.
14. Policy H22 of the Local Plan specifically concerns development in respect of Elderly Persons, Nursing and Care Homes. Criterion h) of this Policy provides that proposals for nursing/care homes will not be permitted within areas designated as RAEC. As noted above, the appeal scheme is located within a RAEC. Consequently, the appeal proposal would conflict with Policy H22 of the Local Plan.
 15. However, it is maintained by the Appellant that the relevant Policies from the Local Plan are contradictory, do not conform with the Framework and that consequently, the Appellant considers that the weight to be attached to these policies in the determination of this appeal, should be limited.
 16. In this respect Policy H22 of the Local Plan includes a blanket ban on care homes within areas designated as RAEC. However, Policy H12 of the Local Plan, which also indicates that change of use to care homes with RAEC will not be permitted, is qualified by including a criterion that may permit such a change of use subject to the proposal not having a detrimental impact on the character and amenity of the area.
 17. Given the above, and in light of the potential contradiction between these policies, assessment of the impact on the character and amenity is required. In this regard, I conclude that there would be some degree of impact on the character of the area resulting from the proposal given the change of use would be likely, in my view, to result in an intensified use of the appeal property which would change the character of this relatively quiet residential area.
 18. Consequently, for the above reasons, the proposal would conflict with both Policy H12 and Policy H22 of the Local Plan and would be contrary to Policy C4 of the Core Strategy which seeks to preserve a mixture of housing types within the borough.
 19. It has been put to me by the Appellant that the Local Plan should be considered to be out of date due to its lack of conformity with the Framework specifically in relation to making effective use of land. In this regard, whilst it is acknowledged that the Framework now includes a specific and separate section on this aspect, previous versions of the Framework did include guidance on this principle. Consequently, I have no evidence before me to doubt that the Local Plan is not in conformity with the Framework in this respect.

Living Conditions

20. Notwithstanding the potential conflict between Policy H12 and Policy H22 of the Local Plan described in the main issue above, Policy H22 of the Local Plan does include criteria that the proposed development of Care Homes must not have an adverse impact on neighbouring residential properties.
21. The appeal property's current permitted use is as a dwelling house, and consequently the key issue is whether a significantly greater level of disturbance would be caused to nearby residents by the proposed use than by the property's existing permitted use.

22. Whilst I acknowledge that the potential noise and disturbance of residents at the proposed care home would not be significantly different from that potentially generated by a large family occupying such a property, the proposed use of the site would, in my view, result in increased level of activity throughout the day resulting from the likely increase in number of visitors, care providers and medical professionals attending the appeal site. Given the appeal site is located in a quiet residential area as described above, the increase in the level of activity resulting from the proposal would have a detrimental impact on the living conditions of residents of neighbouring dwellings.
23. Consequently, the proposal would be in conflict with the overall provisions of Policy H22 of the Local Plan and further the proposed development would be contrary to Core Policy 8 of the Core Strategy with particular regard to the unacceptable impact on the living conditions of adjoining dwellings in respect of noise and disturbance.

Other Matters

24. Interested parties have raised additional objections to the proposal regarding the effect of the appeal scheme on drainage and water pressure within the surrounding area. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue, these are not matters which have been critical to my decision.

Conclusion

25. For the reasons given above, I have found that there would be conflict with the Development Plan with regards to the provision of housing types to meet the needs of a balanced community and find that the activity associated with the proposed change of use would have a detrimental impact on the living conditions of nearby residents.
26. Whilst I acknowledge the information supplied by the Appellant with regard to the provision of suitable housing for elderly and disabled persons within the borough, there is no evidence before me which demonstrates that such facilities must be provided at the appeal site's location rather than in a location where there would not be a loss of large family home and where activities at the site would not have a detrimental impact on the living conditions of nearby residents with regards to noise and disturbance.
27. Consequently, for the reasons given above, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR