The Planning Inspectorate

Appeal Decision

Site visit made on 17 September 2019

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019.

Appeal Ref: APP/J0350/W/19/3232021
33-41 Bayliss Road, Slough SL1 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by CY Projects against Slough Borough Council.
- The application Ref P/08499/005, is dated 24 October 2018.
- The development proposed is for the construction of 6 no 3-bedroom terraced houses, with associated landscaping, refuse / cycle store, gated access, and associated alterations to the pedestrian access route and entrance between Nos 39 and 41 Bayliss Rd..

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. Following the Council's refusal of the application, they have indicated in their submission documents that they cannot demonstrate a 5-year housing land supply. I shall therefore have regard to Paragraph 11 of the National Planning Policy Framework (the Framework) in my determination of the appeal.

3. The Council has indicated that amended drawings were submitted by the applicant but not formally accepted or consulted on. Therefore, they determined the application on the scheme as originally proposed. I have done the same in my determination of this appeal.

Background and Main Issues

4. This appeal has been lodged following the Council's failure to determine the application within the relevant timescale. The Council in their submission include reasons for refusal had they been in a position to determine the application. This includes reference to those development plan policies that the Council considers to be relevant to each of the refusal reasons put forward.

5. The main issues are (i) the effect on the character and appearance of the area; (ii) the effect of the proposal on the living conditions of existing neighbouring occupiers, with particular regard to outlook, privacy, noise and disturbance, and the effect upon the living conditions of future occupiers of the proposed dwellings with particular reference to amenity space and privacy; and (iii) the effect on highway safety with regard to the site access and parking provision; and (iv) the effect of the location and accessibility of refuse storage on bin operatives.

Reasons

Character and Appearance

6. The appeal site is in a backland location behind the dwellings fronting onto Bayliss Road and comprises parts of the former rear gardens of Nos 33 to 43. It is currently overgrown with vegetation whilst containing a small number of single storey buildings. Bayliss Road has a consistent built character that comprises semi-detached dwellings built along a largely rigid building line, with frontage parking, and uniformly designed semi-detached dwellings with hipped roofs. Dwellings predominantly have rear gardens, some of which have single storey buildings within them, resulting in a largely open aspect to the rear. Although not forming part of any residential property, the appeal site with its modest collection of outbuildings, and scrub vegetation is consistent with the open aspect that is a defining feature of the spaces immediately behind dwellings.

7. To the rear of the dwellings and the appeal site, and seen rising above their rooflines, is a large 4 storey flat complex known as Pickford Gardens. A public footpath separates the appeal site from the existing blocks of flats. The site can be seen through existing gaps between properties along Bayliss Road and the large opening between Nos 39 and 41 that would form the site access. A perspective of the site is also seen from Pool Lane to the south. Furthermore, it can also be viewed from upper floor windows pertaining to the flats at Pickford Gardens and between the single storey outbuildings and hedgerow that adjoins the public footpath to the rear.

8. The appeal scheme would consist of two terrace blocks, each comprising of 3 dwellings. These would occupy a large proportion of the site given the modest area allocated for amenity space. The scale of the proposed dwellings would be seen between the gaps that separate Nos 33-44 including the proposed site access, from Pool Lane to the south and from the public footpath to the rear of the appeal site. More prominent views of the proposal would inevitably be seen from upper floor windows associated with Pickford Gardens and the complex's large parking forecourt. The presence of the dwellings in relatively open surroundings rising above gardens and domestic outbuildings would appear stark and incongruous, as well as cramped in context with the Baylis Road houses given the close proximity of the proposal to these dwellings. They would also be seen protruding above the existing rooflines of the Bayliss Road dwellings and against the backdrop of the Pickford Gardens complex creating a sequence of roofscape horizons that noticeably increases the concentration of structures in the area. The overall effect is considered damaging to the prevailing pattern of development and characteristics of the area.

9. The appellant is of the view that the proposal would represent an acceptable transition between the Bayliss Road dwellings and Pickford Garden flats, thus in harmony with the surrounding residential fabric. However, with its siting on a confined site close to the Bayliss Road dwellings and amongst open gardens and smaller domestic structures, this will result in an awkward physical relationship rather than a harmonious association.

10. I conclude that the proposed dwellings would cause material harm to the character and appearance of the area contrary to the requirements of Core Policies CP1, CP4 and CP8 of the Slough Local Development Framework Core Strategy (2006-2026) (the SCS) and Policies EN1 and H13 of the Slough Local Plan (Adopted 2004) (the SLP), which seek, amongst other matters, to ensure development respects and is compatible with its surroundings in terms of design, scale and density. The

proposal would also be contrary to the Framework which requires development proposals to be sympathetic to local character.

Living Conditions

11. The appeal site appears largely open, albeit with the presence of the small number of single storey outbuildings and boundary trees, when viewed from first floor windows of Nos 33 – 43 Baylis Road. The gardens of the properties are enclosed by boundary fences and walls therefore the site is not readily visible from these areas, although there is likely to be an appreciation that the appeal site represents an open area of land beyond these boundaries that contributes towards the residents' outlook.

12. The proposed flank walls of Plots 1 and 6 would be sited very close to the rear boundaries of the No 33 and 43 and would enclose the space with two stark brick elevations that rise to 2.5 storeys. This would appear unacceptably imposing and the impact would be greatest when viewed from upper floor windows and rear garden areas of Nos 33, 35, 41 and 43. These neighbours, would, markedly and unreasonably, lose outlook and feel unduly enclosed. Notwithstanding, the proposal's close proximity to neighbouring dwellings, the submitted Daylight and Sunlight Assessment Report, concludes that the proposal would not have an unacceptably harmful effect upon neighbouring occupiers in terms of overshadowing and access to sunlight.

13. In terms of the effect on privacy, Nos 33-43 would not be unduly harmed, as the facing flank walls of Plots 1 and 6 would not have any habitable room windows that would otherwise overlook these neighbouring garden areas. However, all of the proposed dwellings would have first floor windows that would overlook the rear gardens of Nos 31 and 45 respectively. There is limited depth to the proposed gardens (approximately 7m) therefore the first-floor windows of Plots 1-6 would have the effect of looming into the garden spaces of Nos 31 and 45 to the extent that their privacy would be restricted and therefore unacceptably harmed. It is acknowledged that there is already a degree of mutual overlooking into these garden areas, but I consider the proposed development would result in a further intrusion that exceeds what would be acceptable in this instance.

14. As for the effect on the living conditions of future occupiers, there would be a very limited separation distance between the existing first floor windows relating to No 33 and No 44 from the proposed rear gardens of Plots 1 and 6 respectively. The neighbouring windows would loom over the private space and would result in a significant and unacceptable invasion of the privacy of future occupiers when using their garden areas.

15. The proposal would utilise the existing entry into the site between Nos 39 and 41 Baylis Road for vehicular access purposes. This would be in close proximity to existing flank wall windows at ground and first floor, as well as the rear amenity space of Nos 39 and 41. The vehicular movements associated with 6 new dwellings are anticipated to be low over a 24hr period, nevertheless I would expect vehicle noise to be characterised by engines starting, revving, doors opening and closing, and drivers and passengers talking. Furthermore, the gated access would require, in all likelihood, vehicles to wait with their engines running at locations very close to the windows and garden areas of Nos 39 and 41. I would also anticipate some noise associated with the action of the gates opening and closing and the regular trips by residents to the refuse storage area immediately abutting the boundary of No.41.

16. Cumulatively I consider that the sounds and activity in and around Nos 39 and 41 would be intrusive at certain times of the day and would have the effect of significantly harming the enjoyment that residents could reasonably expect from within rooms and the gardens of their properties. I acknowledge the appellant's proposals for planting and boundary fencing along the side boundaries of the neighbouring dwellings in question, however, I do not consider that these would adequately mitigate the noise and disturbance that could arise.

17. The Council's case refers to the loss of garden space that would affect the amount of useable space for existing dwellings at Nos 33-43. However, these existing gardens are already contained and separated from the appeal site by existing boundary enclosures. Furthermore, the appellant has provided ownership details of the appeal site to demonstrate that it is within his ownership and not displacing any neighbouring land. The appellant has also provided a statutory declaration regarding the historic use of the site. Accordingly, I do not share the concerns of the Council in respect of the loss of existing amenity space.

18. In terms of the size of the proposed amenity areas, four of the six dwellings would have an area of less than 50m^2, which is the space standard the Council considers acceptable in this instance. However, these space standards have been taken from the Slough Local Development Framework Residential Extensions Guidelines Supplementary Planning Document (2010) (the SPD), which is a document that specifically relates to extensions not dwellings, therefore I have attributed limited weight to the guidance. Nevertheless, it is acknowledged that the gardens of four dwellings have restricted space commensurate to the proposed floorspace of the dwellings. However, the application site is within 300m of two public parks that include play facilities and it is considered that these would adequately address the space limitations of the Plots referred to, and in doing so would not significantly harm the amenity space needs of future occupiers.

19. Consequently, I conclude that the overbearing outlook, loss of privacy, and unreasonable levels of noise and disturbance would cause significant and unacceptable harm to the living conditions of the existing occupiers of Nos 33-43. The proposal would also have a significant and unacceptable impact upon the living conditions of the future occupiers as a result of the overlooking impact I have identified. The proposal would therefore be contrary to Policy H13 and H14 of the SLP which, amongst other matters, require development proposals to protect the amenity of existing and future occupiers. In terms of the Framework, the proposed development would fail to comply with the requirement for proposed developments to have a high standard of amenity for existing and future occupiers.

20. I have considered that the proposed amenity space for future occupiers would be acceptable and would not harm their living conditions. On this basis the proposal accords with Policy H14 of the SLP where it requires consideration of the proximity to existing public open space and play facilities.

Highway Safety

21. The proposed access drive complies with the Council's minimum width of 4.8m, except from the road to the new entrance gates which at 3.8m would be below the standard considered acceptable by the Council. This would make it difficult for vehicles to exit and enter the site at the same time. Furthermore, the access gates are not set back the minimum 6m from the pavement relating to Baylis Road, meaning a waiting vehicle preparing to access the site would likely straddle the pavement obstructing pedestrian movements along it. Despite this I consider the instances where two vehicles would meet each other at the same time at the site

access would be rare, given the number of dwellings the access drive would serve. Whilst times when there would be a vehicle obstructing the pavement at the same time a pedestrian is travelling along it, would be equally infrequent. Therefore, I do not agree with the Council that the access into the site is so inadequate, such that it would be unsafe.

22. I acknowledge that there are neighbouring objections in respect of increased parking and congestion in the area, however, the proposed development would meet the required parking standards. Although one off-street parking space would be displaced from No 39 as a result of the new access arrangements, there are largely no on-street parking restrictions in the immediate vicinity and as such there would be opportunities to park nearby. In any event the loss of one parking space is unlikely to place significant parking stress upon the area.

23. In concluding on this matter, the proposal would not significantly harm highway safety. I have therefore found no conflict with Core Policy 7 of the SCS which, amongst other matters, requires proposals to make appropriate provision for improving road safety, is sustainable and is located in the most accessible locations.

Location and accessibility of refuse storage

24. The Council has prescribed guidance relating to bin storage (Refuse and Recycling Storage for New Dwellings, Planning Guidance (December 2013, Updated November 2018) (the RRPG)). The guidance states that the preferred maximum distance where a wheeled bin is sited and nearest practicable position at which the collection vehicle can stop must not exceed 15m, but up to 25m may be acceptable in some circumstances. The proposed bin storage building would be marginally more than 15m prescribed but less than 25m, and although no examples are provided in the guidance of when it may be acceptable, it is considered that the drag distance for bin operatives is not excessive and would not result in the proposal being an unsatisfactory form of development. Moreover, arrangements could be made with refuse and recycling companies for the gated access to be kept open during bin collection times.

25. Therefore, the proposal would not be unacceptable in relation to the location and accessibility to refuse storage as it complies with the RRPG, which amongst other matters allows a drag distance for bin operatives to be up to 25m in some circumstances.

Other Matters

26. The appellant states that the site's long-term vacancy has resulted in it being subject to anti-social behaviour. Whilst I sympathise with this, I do not see this as a reason to allow the appeal given the harm I have identified. Moreover, there may be alternative security measures that would overcome the anti-social behaviour that has occurred at the site.

27. I have had regard to other matters raised by neighbouring occupiers including the risk of air pollution from construction activities, odours from bins, the loss of sunlight and daylight as a result of the proposed dwellings, and possible damage to trees and shrubs on adjoining land. However, as I am dismissing the appeal on the first and second main issues, for the reasons given above, I have not pursued these matters further.

Conclusion

28. The Council accept that they do not have an up to date 5-year housing land supply. Therefore, Paragraph 11 of the Framework advises that where policies relating to the supply of housing are considered to be out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

29. In relation to the sustainable development objectives in the Framework, I acknowledge that the appeal scheme would be located in an existing built up area with good accessibility to various modes of transport, services and facilities, and the general thrust of national policy seeks to boost housing provision. I accept that it would also be an efficient use of underused and derelict land, meet internal space standards and have a design and use of materials that is consistent with other dwellings.

30. However, good design also relates to respecting the prevailing character, but this proposal is inconsistent with the general pattern of development in the area. Whilst I accept that the Framework supports small scale development, the contribution of 6 dwellings to the supply and mix of housing in the area would be minimal, as would be any economic benefits resulting from the construction period and spending of future occupiers. Moreover, the harm to the character and appearance of the area and living conditions of neighbours would conflict with the environmental and social objectives of achieving sustainable development, and any benefits arising from sustainable construction and energy efficiency would be modest.

31. Overall, whilst I have given weight to the benefits of the development in my decision, in this case, I consider that the harm to the character and appearance of the area, living conditions, and the associated conflict with the development plan, significantly and demonstrably outweigh the identified benefits when assessed against the Framework as a whole. Therefore, the proposal would not be a sustainable form of development, and the conflict with the development plan is not outweighed by other considerations including the Framework.

32. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

R. E. Jones

INSPECTOR