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# Appeal Decision

Site visit made on 5 November 2019

**by R E Jones BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> December 2019.**

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**Appeal Ref: APP/J0350/W/19/3231370**  
**40 Kings Road, Slough SL1 2PT**

- 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 Mohamed Choudry against the decision of Slough Borough Council.
- The application Ref P/04454/007, dated 4 December 2018, was refused by notice dated 31 January 2019.
- The development proposed is for the change of use of outbuilding as use as a gym to residential use.

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Council's decision notice altered the description of the development in the Application form to the one I have used in the banner heading. This is more aligned with the description in the Appeal form, but I consider that the Council's description of the appeal proposal is more accurate, and I have therefore considered the appeal on this basis.
3. Whilst occupation of the outbuilding would be for a family member with specific needs, the evidence before me indicates that it would be a separate residential use from No 40 Kings Road, and I have assessed the appeal on that basis.
4. During my site visit I observed that some of the proposed internal works to the outbuilding had already commenced. This included the installation of a toilet/shower room and a partition wall separating the proposed bedroom from the living area. These works accurately reflect the details on the drawings submitted. Therefore, in addition to what is proposed, I have determined the appeal on the basis that the appellant is seeking consent for those elements now in place.
5. I also observed a raised deck and veranda on the front elevation of the outbuilding. These are not shown on the drawings before me and I have not considered them in determining this appeal.
6. The outbuilding is already in place and has planning permission for purposes incidental to the dwelling house.

## **Main Issues**

7. The main issues of the proposed development are the effect on;
- the character and appearance of the area,
  - the living conditions of future occupiers, with particular regard to outlook and outdoor space, and
  - the living conditions of occupiers of 38 and 42 Kings Road, with particular regard to general disturbance and privacy.

## **Reasons**

### *Character and appearance*

8. The appeal site comprises a semi-detached dwelling located within a long rectangular plot. The dwellings along this part of Kings Road are located close to the street along a curved building line. Their rear gardens are characterised by their linear shape and lawns whilst generally having an open and undeveloped appearance.
9. The outbuilding to be converted sits at the bottom of No 40's rear garden, and due to its utilitarian design, its size and location has the appearance of an ancillary building. The proposal would not result in any change to the building's siting and appearance, however, it would become a dwelling that would be at odds with the existing pattern of residential development in the area. Along with the likelihood of external domestic paraphernalia around the outbuilding, such as outdoor seating, bin storage and additional boundary enclosure, it would significantly change the appearance of the site. By appearing less ancillary and more domestic in its appearance, this would result in a discordant development in marked contrast to the surrounding amenity spaces that serve dwellings along this part of Kings Road.
10. I acknowledge that there may be similar examples further afield of outbuildings at the rear of properties being used for residential purposes. However, I did not observe any similar development at the rear of this part of Kings Road during my site visit. Moreover, I have not been presented with the full details of the specific cases referred to and whether or not the Council has issued planning permission in respect of these. For this reason, I cannot be sure they bare any similarity with the appeal proposal. In any event, the examples provided do not make this proposal acceptable or overcome the harm identified.
11. Therefore, the proposal would result in significant harm to the character and appearance of the area. It would be contrary to Policies H13 and EN1 of the Adopted Local Plan for Slough 2004 (the LP) and Core Policies 4 and 8 of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008 (the CS). These, amongst other considerations, require developments to be compatible with the existing residential area in terms of design and scale. The proposal would also be contrary to the Framework which requires development proposals to be sympathetic to local character.

### *Living Conditions of Future Occupiers*

12. The drawings show that the outbuilding's only bedroom would be served by a single window, while light would also be obtained from the rooflight that serves

the living area. The window would have an outlook onto the rear yard area which is shallow in depth and enclosed by a block wall along with boundary trees while also facing an existing store building. Although the window and rooflight would allow sufficient daylight to enter, the physical characteristics of the rear yard area would appear dominant and oppressive when viewed from the bedroom. This unattractive outlook from the bedroom would create an unsatisfactory living environment for future occupiers.

13. I consider that imposing conditions to introduce additional windows, or to alter the layout of the dwelling would not be reasonable. There would be a lack of certainty as to what the changes would be, or their effect, and I cannot be assured that such conditions would be effective.
14. A designated area of outdoor space for future residents has not been shown on the drawings. However, an area of functional private space with an acceptable outlook, serving the needs of future occupiers could be adequately provided in front of the outbuilding. Although no outdoor space standards for new dwellings has been provided, this area in front of the outbuilding, I consider, could be commensurate to the level of accommodation proposed. The overall depth of the existing garden would also ensure that the occupiers of No 40 could maintain acceptable living conditions and their own adequate outdoor space. Mutual overlooking could be overcome by a suitable means of enclosure.
15. Notwithstanding this, I did not consider that the area to the rear of the outbuilding could be acceptable as outdoor amenity space. It is shallow in depth and enclosed by high block walls, boundary trees and an existing store. The sense of physical enclosure around this area would create an unattractive living environment for future residents.
16. Although the proposal could provide an acceptable area of outdoor amenity space, it would have an unacceptable impact on the living conditions of future occupiers with regard to outlook. It would therefore be contrary to Policies H13 and EN1 of the LP and Core Policy 8 of the CS, which amongst other requirements, require developments to have a high standard in terms of their layout and design. It would also be contrary to the Framework where it seeks to secure a high standard of amenity for all existing and future users.
17. Core Policy 4 of the CS is referred to, however this relates to the type of housing rather than living conditions. Therefore, it weighs neither for nor against the proposal in relation to this issue.

#### *Living Conditions of Occupiers of 38 and 42 Kings Road*

18. The proposed dwelling would likely be accessed externally from Kings Road, via the side walkway between No 40 and the side boundary enclosure shared with the neighbouring No 42. There would be no separate vehicular access for the proposed dwelling.
19. There would likely be more movements along the side walkway, associated with the proposed dwelling compared with the building's existing gym use. I also envisage more general activity around the proposed dwelling in terms of residents coming and going. However, the additional movements from a single bedroom dwelling would not be so significant so as to be harmful given the predominantly residential surroundings to the site. On this basis, I am not

persuaded that the level of disturbance arising from the residential use would harm the living conditions of No 42.

20. During my site visit, I observed that existing boundary treatments, the orientation of the outbuilding's windows coupled with the distance from neighbouring windows, along with the single storey nature of the proposal, would result in there being no harmful effect from overlooking into the garden areas and habitable rooms belonging to Nos 38 and 42.
21. The proposal would therefore have an acceptable effect on the living conditions of Nos 38 and 42 in terms of general disturbance and privacy. It would accord with Policies H13 and EN1 of the LP as well as Core Policy 8 of the CS. These require, among other things, that development respects the privacy and the amenity of adjoining occupiers. It would also accord with the Framework where it seeks to secure a high standard of amenity for all existing and future occupiers.
22. Core policy 4 has been referred to but weighs neither for nor against the proposal in relation to the living conditions of neighbours.

### **Other Matters**

23. The Appellant has provided information in support of the appeal relating to the health of an elderly dependent. I have considered the Equality Act 2010 and the Public Sector Equality Duty (PSED) to which I am subject. Section 149 (7) of the Act sets out the relevant protected characteristics which include a person's disability. Since there is the potential for my decision to affect a person with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 (1) of the Act. The negative impact of dismissing the appeal on the appellant arises from the elderly dependent not being able to reside in ground level residential accommodation that provides additional living space needs. However, having due regard to this, in my view the adverse impacts of dismissing the scheme would be proportionate having regard to the legitimate and well-established planning policy aims to protect the character and appearance of the area and the living conditions of future occupiers. Taken alongside the other considerations forwarded by the appellant, including the locational benefits of the residential use, the PSED considerations would not outweigh the harm I have identified.
24. That the outbuilding has Buildings Regulations approval in place, in addition to services and utility connections, does not overcome the harm I have identified. In any event, Building Regulations is one form of consent, that is separate to obtaining planning permission. Furthermore, there are assertions made about how the Council administered the processing of a separate council housing application and concerns relating to how it collects Council Tax. These are matters for the Council to address.
25. Turning to the effect of the neighbouring block of flats and associated garaging has on existing living conditions. I have accounted for the presence of this development as part of the surrounding urban fabric, and I found in assessing the appeal that it has an orientation and siting that is not untypical of the suburban area, where complete freedom from intrusion is rarely possible.
26. I have had regard to other matters raised by neighbouring occupiers including the concerns over trees and hedges, the installation of services, foul and

surface water drainage and potential unauthorised works. However, as I am dismissing the appeal, for the reasons given above, I have not pursued these matters further.

### **Conclusion**

27. I have found that open space provision for future occupiers and the effect on living conditions of neighbours would be acceptable. However, this is outweighed by the detrimental impact the proposed residential use would have on the character and appearance of the surrounding area and the internal living conditions for future occupiers. For the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

*R. E. Jones*

INSPECTOR