



Appeal Decision

Site visit made on 27 May 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2020.

Appeal Ref: APP/J0350/W/19/3243170

7 Mina Avenue, Slough SL3 7BY

- 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 Mr and Mrs Sumeet Pal Singh Mann against Slough Borough Council.
 - The application Ref P/02745/003, is dated 30 May 2019.
 - The development proposed is for the replacement of an existing dwelling with a new detached house with ancillary facilities.
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Decision

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

Procedural Matters

2. The Council has assessed the application on the basis of the original plans submitted. However, the appeal submission includes two sets of revised plans, referred to by the appellant as Revision P2 and P3. The Council did not consult on those further revisions.
3. Those plans, like the original plans, also show the footprint and rear/front elevations of an approved dwelling at the neighbouring property, No 9 Mina Avenue (No 9). But unlike the original plans, they also show the silhouette of the dwelling's existing footprint and rear/front elevations. The Council considered that the revised drawings were inaccurate and confusing for interested parties and members of the public.
4. Notwithstanding the Council's position on the accuracy of the revisions, in the interests of fairness I am obliged to determine the appeal on the basis of the plans considered by the Council. Not to do so could potentially prejudice the interests of interested parties as I have insufficient evidence to suggest that the implications of changes to the scheme have been fully considered. Even if some respondents may appear to be aware of the proposed revisions, I cannot be entirely certain there are not interested parties who did not comment on the basis of being content with the scheme as submitted and are unaware of the proposed changes.
5. The appellant has requested that all three proposal options are assessed as part of this appeal, with the original plans being the preferred option. However, the appeals procedure guide¹ states that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

interested people's views were sought. I have therefore determined this appeal on the basis of the original plans submitted.

6. I have sought clarification regarding the addresses of properties referred to in the Council's statement. Following their response, I am now satisfied that the correct properties have now been referred to and relate to those I observed on my site visit.

Background and Main Issues

7. 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. These include reference to those development plan policies that the Council considers to be relevant to each of the refusal reasons put forward.
8. The main issues are: (i) the effect of the proposed development on the character and appearance of the area; (ii) the effect of the proposed development on the living conditions of neighbouring occupiers at Nos 5 and 9 Mina Avenue, with particular regard to outlook and natural light; and (iii) whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outlook and natural light.

Reasons

Character and Appearance

9. The appeal property comprises a traditional bungalow located on Mina Avenue. It is flanked by the hipped roof bungalow at No 9, and No 5 Mina Avenue (No 5), a detached two storey dwelling characterised by a hipped roof and a front projecting double height bay window with gable roof.
10. I have been referred to a planning permission for a replacement two storey dwelling at No 9. At the time of my site visit there was no suggestion that this development had been implemented nor any indication that works had commenced. Furthermore, there is no information on when the permission expires and whether there are any pre-commencement conditions that would need to be discharged.
11. Mina Avenue largely comprises detached two storey dwellings set back from the road. The dwellings are evenly spaced with side pathways and narrow driveways occupying the intervening spaces. Houses along the street have unifying architectural features such as bay windows and projecting gables, however, they each have individual designs and incorporate a variety of roof shapes. The dwellings are relatively consistent in terms of their width, height, proportions and roof span. I consider that the variations in the appearance of dwellings along with the relative consistency in their proportions, contribute positively to the character of the street.
12. The roof of the proposed dwelling would have an excessive span that would be seen from Mina Avenue to project deep into the appeal site. The sides of the roof would meet to form a flat roof crest and when combined with its sizeable width and length the roof would display a bulky and angular profile when viewed from the street. The proposed roof's design and scale would contrast markedly to the roofs of the existing dwellings at No 5 and No 9, along with a large majority of those in the street, which have more reduced proportions. Consequently, the proposed development would have a discordant and unsettling presence in the street that

would fail to respect the prevailing proportions of existing dwellings that contribute positively to the street's character.

13. I acknowledge that the approved, but unbuilt, replacement dwelling, at No 9 has a large asymmetrical roof. However, even if this approved dwelling were to be built, the proposed development at the appeal property would incorporate more dominant proportions that would be harmful in the context of the street.
14. The two-storey porch that would project from the front elevation of the proposed dwelling is large in scale, however, there are other dwellings in the street that incorporate similar front gable additions in terms of their appearance, height and proportions. Therefore, I have not found this part of the proposed dwelling to contribute to the harm I have already referred to.
15. The proposed replacement dwelling would be sited marginally further forward and closer to the road than the existing dwelling at the appeal site. Nevertheless, it would maintain the staggered building line (with Nos 5 and 9) albeit partially broken by the proposed front porch feature. Consequently, I have found there to be no unacceptable harm in respect of the proposal's siting and position in the context of the area's prevailing pattern of development.
16. As discussed, there are aspects of the proposal including its siting and the design and scale of the front porch that are considered acceptable in the context of the character and appearance of Mina Avenue. However, the scale and design of the roof, would result in the proposed dwelling having an unacceptable impact in the street.
17. I conclude that the proposed development 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 that development respects and is compatible with its surroundings 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.

Effect on living conditions of existing neighbours

18. The proposed dwelling would be positioned close to the side boundary with the existing dwelling at No 9, leaving only a narrow gap. No 9 has a patio and garden area to its rear that would be separated from the appeal property by a boundary fence. A tree and an existing single storey store building are also positioned close to the boundary with the appeal property. Despite the presence of these features the proposed dwelling would be seen to rise considerably above the boundary when viewed from the rear of No 9 while incorporating a substantial rearward projection. The proposed dwelling's height, bulk and closeness to the private amenity area of No 9 would have an oppressive and overwhelming impact upon existing occupiers of the dwelling such that it would lead to a substantial loss of outlook and an unacceptable sense of enclosure when viewed from this space.
19. The existing appeal bungalow is sited in close proximity to the kitchen and conservatory windows in the side and rear elevation of the bungalow at No 9. Despite this, these neighbouring windows receive a reasonable level of natural light. Furthermore, the existing appeal bungalow's sloping roof and rear single storey extension affords No 9's kitchen and conservatory a reasonable level of outlook beyond the envelope of the appeal bungalow. The proposed development would extend excessively beyond these neighbouring windows into the rear garden of the appeal property. This level of projection combined with the proposal's

height, mass and close proximity would significantly enclose the space around the kitchen and conservatory windows, such that it would have a domineering effect on the outlook of neighbouring occupiers from these rooms. Moreover, given the orientation of the windows in relation to the proposed development, it would adversely diminish the level of natural light they would receive, resulting in a poor quality living environment for neighbouring occupiers.

20. The appellant indicates that the proposed development would be sited approximately 3m behind the front building line of the existing bungalow at No 9. This would ensure that the forwardmost side window and the front window serving the sitting/dining room of No 9 would continue to receive an acceptable level of natural light, while the outlook from the room would not be significantly harmed. The rearmost side window of the sitting/dining room would likely face the proposed dwelling, thus diminishing the outlook and reducing the amount of natural light the room would receive. However, this is already diminished by the existing side flank elevation of the existing bungalow at the appeal property, and the proposal would not significantly add to this.
21. The appellant and the Council take a different view on whether the proposed two storey portion of the dwelling would breach a 45-degree line when taken from the nearest habitable room window on No 5's first floor. Even if it was measured from the window closest to the proposed dwelling, as stated by the Council, the proposal's first floor would likely result in a modest breach of the 45-degree line given that it would not excessively project beyond this point. Furthermore, I observed during my site visit that the neighbouring window in question has an orientation that would continue to receive acceptable levels of natural light if the proposal were allowed. Consequently, it would not result in an unacceptable loss of natural light or enclose space such that neighbouring outlook to the window in question would be adversely harmed.
22. In terms of the impact of the proposal on neighbouring living conditions, whilst there would be no adverse harm to outlook and natural light at No 5 and to the sitting/dining room of No 9, I have nonetheless found that the outlook and natural light to the rear amenity space, kitchen and conservatory of No 9 would be harmed.
23. Accordingly, the proposed development would have an adverse impact on the living conditions of neighbouring occupiers of No 9 Mina Avenue, in terms of their outlook and natural light. The proposal would therefore be contrary to Policy H13 and EN1 of the SLP and Policy CP8 of the SCS which, amongst other matters, require development proposals to have regard to the relationship with neighbouring properties and to protect the amenity of adjoining 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 occupiers.
24. The Council in their statement referred to the proposed development being in conflict with Policies CP1 and CP4 of the SCS. However, these do not relate specifically to the protection of living conditions, and therefore I have not referred to these in my conclusion on the main issue.

Effect on living conditions of future occupiers

25. The two rooms in the roof space of the proposed development would each be served by four windows providing a good level of natural light to enter the internal space. Although some of these windows would be obscure glazed, the front and rear facing windows are not, and these would provide occupiers with an acceptable

level of outlook facing the street and rear garden. Similarly, I am satisfied that the proposed ground floor living room would be adequately served by windows such that acceptable levels of natural light would enter the space, while the front facing window would provide a pleasant outlook onto the street.

26. I acknowledge that the side window serving the proposed playroom would have its outlook and natural light diminished by the presence and close proximity of the side boundary fence and flank elevation of No 5. However, the room would also be served by a secondary, albeit smaller rear window that would be orientated to allow more natural light into the room, as well as provide occupiers with an improved outlook that would be acceptable.
27. The first-floor study window would be served by an obscure glazed window facing No 9. Although the outlook and level of natural light would be diminished by the type of glazing, the window is of an acceptable size to allow a reasonable degree of light to enter. On balance I do not consider that the living conditions of those using the room for its intended purpose would be severely diminished to the extent that they would be adversely harmed.
28. Therefore, the proposed development would provide acceptable living conditions for future occupiers in terms of outlook and natural light. On this basis the proposal would accord with the Framework which requires proposed developments to have a high standard of amenity for future occupiers.
29. In concluding on this main issue, I have not referred to the SLP policies the Council based its concerns on, as they contain no specific requirements for the protection of future occupiers' living conditions. Similarly, I have not referred to the Council's Residential Extensions Supplementary Planning Document as this specifically relates to house extensions.

Other Matters

30. I acknowledge the possibility that the approved, but as yet, unbuilt dwelling at No 9 could replace the existing bungalow. From the limited information I have, it would extend deeper into the site and have a different internal room layout. It would also, according to the appellant, project beyond the rear wall of the appeal proposal into the garden area I have referred to above. However, I have no information before me indicating when that dwelling would be built, nor is there any mechanism in place that would require the dwelling to be built in advance of the appeal proposal.
31. Even, with the fallback position of the dwelling at No 9 being built, coupled with the possibility that I was to allow the appeal proposal, there could still be a period of time when the living conditions of occupiers of the existing dwelling at No 9 would be harmed by the appeal proposal. Moreover, it would be entirely possible that the existing dwelling at No 9 would remain and that the extant permission would not be implemented.
32. The appellant raises concerns that if the appeal is not allowed then the approved scheme at No 9, if built, would harm the amenities of occupiers of the appeal dwelling. On this matter and notwithstanding my earlier comments, I acknowledge that there is a possibility of the approved scheme at No 9 being built, however, I am unable to comment on the specifics of that approval's effect on living conditions as I have not been presented with the full details of that scheme. In any event each case is determined on its own merits.
33. Reference has also been made to an 8m rear extension approved at the appeal dwelling under the prior approval process, however I have no specific details of this

case, nor did I see any evidence of this extension at the appeal site. Nevertheless, the prior approval process sets limits as to the scale of rear additions, and it is likely that the two-storey scale of the appeal proposal would be infinitely greater than what would be permissible under the prior approval process.

Planning Balance

34. 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.
35. In relation to the sustainable development objectives in the Framework, I acknowledge that the appeal scheme could be located in an existing built up area with good accessibility to various modes of transport, services and facilities. I accept that it would also result in a larger dwelling that would contribute to the variety of the local housing stock.
36. However, new housing should incorporate good design that respects the prevailing character of an area, but this proposal is considered harmful in that regard. Whilst I accept that the Framework supports small scale development, the proposal would not result in a net increase in housing given that there is already a bungalow on the site. The economic benefits resulting from the construction period and spending of future occupiers would be minimal. Moreover, the harm to the living conditions of neighbours would conflict with the environmental and social objectives of achieving sustainable development.
37. Overall, whilst I have given some limited weight to the benefits of the development in my decision, in this case, I consider that the harm to the area's character and appearance, the living conditions of neighbours, 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.

Conclusion

38. 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