
Appeal Decision

Site visit made on 17 September 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/J0350/W/20/3246233

Land at 12 - 14 Lynwood Avenue, Slough SL3 7BH

- 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 Matt Taylor (Churchgate Premier Homes) against the decision of Slough Borough Council.
 - The application Ref P/12604/002, dated 30 July 2019, was refused by notice dated 27 January 2020.
 - The development proposed is demolition of the existing dwelling and construction of 4no. three bed dwellings and 2no. four bed dwellings with associated access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The description in the banner heading is taken from the Council's decision notice, and is the same description used by the appellant on the appeal form. I have considered the appeal on this basis.

Main Issues

3. The main issues are the:
 - effect of the proposal on the character and appearance of the area;
 - effect of the proposal on the living conditions of neighbouring occupiers, having particular regard to outlook and noise.

Reasons

Character and appearance

4. The appeal site comprises No.12 and No.14 Lynwood Avenue, which are large detached properties on the eastern side of the road. Both properties benefit from sizeable rear gardens which extend a considerable distance from their respective dwellings. By virtue of its positioning on the bend of the highway, the garden of No.14 splays away from the house which means the rear garden is wider than that of the surrounding properties.
5. Lynwood Avenue is characterised by large detached and semi detached properties set in large plots. It is evident that dwellings in the vicinity of the appeal site all benefit from very long rear gardens stretching away from their

respective dwellings. Development is of a linear fashion, with houses that are set back from the highway with front gardens. The street itself appears as a tree lined avenue, and the presence of grass verges and trees on the edge of the road gives this area of Slough a pleasing verdant appearance. It was apparent from my site visit that whilst individual houses may have individual design features, the street has a uniform appearance which gives it a well established character.

6. The appeal proposal is for the demolition of No.14, and the erection of 6 dwellings. Plot 1 would be located adjacent to Lynwood Avenue in the space created by the demolition of No.14; with the remaining 5 dwellings being built within the rear garden areas. A new access road would be provided between No.12 and Plot 1, with a new simple priority junction with Lynwood Avenue being created.
7. Policy H13 of the Slough Local Plan 2004 (LP) pertains to backland and infill development. It states that proposal for small scale infilling, including backland development will not be permitted unless they comply with several criterion. This includes requiring that the proposal is of a type, design, scale and density of dwellings that are in keeping with the existing residential area.
8. This area of Lynwood Avenue is characterised with properties set in large plots, with long spacious rear gardens. The introduction of 5 new dwellings, with associated hardstanding in this location would introduce considerable built form within two spacious undeveloped residential gardens. The proposal would result in the loss of this verdant space, and would add a significant degree of urbanisation within these gardens. Furthermore, the formation of a new cul-de-sac behind the dwellings on Lynwood Avenue would introduce a form of development which would not be sympathetic to the established linear pattern of development in this area.
9. The large amount of hardstanding required to serve the proposed dwellings, would in this location appear as a significant urbanising effect within these open rear gardens. This would not respect their existing character. Furthermore, the introduction of a new access road to serve the development would also introduce a new feature which is uncommon within this street scene. This would appear as an incongruous addition to the existing tree lined avenue character of Lynwood Avenue.
10. The appellant contends that the development would not be readily visible from the public realm, which would reduce the harm to the character and appearance. I do not find this to be the case. The introduction of a new access would be highly prominent within the street scene, and the new dwellings would be clearly visible from Lynwood Avenue along this road. Furthermore, the proposal would be highly visible to a number of existing dwellings along Lynwood Avenue, including No.12, as well as the neighbouring properties of No.10 and No.16.
11. Whilst I note the appellant's comments that in the wider area there is a variety of residential types and densities, the character of Lynwood Avenue is well established and distinctive. The introduction of new dwellings in this location would appear as an incongruous addition to the rear garden area, as they do not reflect the pattern of development nor the spacious undeveloped nature of these gardens.

12. The appellant has drawn my attention to several backland development sites within the local area, which I visited during my site visit. This includes sites at Whitehouse Way, Mina Way, Sophie Gardens and Hawtrey Close. I note the comments made by the appellant that these sites demonstrate examples of backland development that has integrated well with the character and appearance of their respective area.
13. I have not been provided with the full details of those schemes, so cannot be certain of the circumstances which led to them being found acceptable by the Council. In any case, I do not consider that the examples given by the appellant are directly comparable to the appeal site.
14. With the exception of the site at Whitehouse Way, the examples provided by the appellant are of a much smaller scale than the appeal proposal. Whilst the development at Whitehouse Way is in close proximity to the appeal site, I do not consider that the characteristics are comparable. The development is served from Langley Road, which is a much busier road than Lynwood Avenue, as such the provision of a new access road is much more in keeping with the street scene.
15. The evidence submitted by the appellant indicates that the rear gardens surrounding that location are of a more moderate size than the appeal site, and therefore it appears as a much more densely built up area. This is not directly comparable to the long narrow largely uniform gardens apparent at the appeal site. In any event, every application and appeal must be determined on its own planning merits, which is what I have done in this case.
16. I note the appellant's assertion that paragraph 123 of the National Planning Policy Framework (the Framework) encourages an increase of housing density when a Council is unable to meet its required housing land supply. Furthermore, the Framework seeks to make more effective use of land in sustainable locations. However, this is caveated that any increase in density should not take place if there are strong reasons why this would be inappropriate. In this instance I find that the proposal would introduce significant built form into these open verdant gardens which would significantly harm the character and appearance of the area.
17. Accordingly, I find that the proposal would harm the character and appearance of the area. There is conflict with policies CP1, CP4, CP8 of the Slough Core Strategy 2006-2026 (CS), policies EN1 and H13 of the LP. Together these policies seek, amongst other things, that development is of a high quality design that respects the character and identity of an area. The Council have made reference to the Framework in their reason for refusal. Whilst I have not been directed to the specific area of conflict, the proposal would fail to accord with section 12, which seeks amongst other things, that development is of a good design that is sympathetic to the surrounding built environment.

Living conditions

18. The appeal proposal would position new dwellings along the boundaries of the neighbouring properties gardens on Lynwood Avenue. Most notable are plot 6 which would be in close proximity to the garden for No.16, and plot 2 would be adjacent to No.10. There would be minimal separation distance between the flank walls of these properties and the rear garden space.

19. Whilst I appreciate that the proposed dwellings are situated a fair distance from the neighbouring properties, the small separation distance from the boundary of the gardens and proposed scale and mass of the dwellings means they would appear as dominant and overbearing from within these gardens. This would introduce built form in close proximity to existing gardens which currently benefit from a pleasing open aspects which would harm the outlook.
20. I note the garden of No.16 currently has an outbuilding situated at the rear, and the appellant's contention that the presence of this building lessens the impact on the garden of this property. I do not find this to be the case. The flank of the dwelling in plot 6 would extend beyond the front of this outbuilding by a considerable distance. I find that this would be of a sufficient degree that the proposal would create a sense of enclosure within this rear garden which would harm the outlook enjoyed by occupiers.
21. The new access to serve the proposal would be positioned in close proximity to both No. 12 and No.14 with minimal separation distance from the edge of the road and the flanks of these properties. This would be the only access to the 5 dwellings, and would therefore be used by both pedestrians and vehicles.
22. Given the close proximity of this new access, I find it highly likely that arrival and departure of both vehicles and pedestrians along this access would create considerable noise and disturbance to the occupiers of No.12 and No.14. The evidence provided by the appellant's transport consultants¹ indicate the site would generate in the region of 30 new vehicular trips a day. This is a figure which would, in my view, create a noticeable increase in disturbance for these occupiers.
23. Given the width of the proposed access, cars entering and leaving the site would pass extremely close to No.12. Furthermore, the proposed turning head and two car parking spaces would be located at the bottom of the new reduced garden for No.12 which means the plot would be surrounded on three sides by areas accessible by vehicles. This would introduce a new source of noise in close proximity to this dwelling, which would in my view harm the living conditions of these occupiers.
24. Whilst the Council have raised concerns that vehicles on this access road would harm the living conditions of No.16; I consider that this property is far enough away from the access and turning head that there would not be any harm to the living conditions of these occupiers in respect of noise.
25. The Council have raised concerns that the location of the gardens of plots 2,3,4, 5 and 6 would lead to an intensification of residential use in close proximity to the neighbouring properties on Blandford Road South. It has been put to me that this increase in residential use and associated activity within the gardens would lead to an increase in noise and disturbance. I do not find this to be the case. The gardens for the properties on Blandford Road South are currently adjacent to the existing gardens for No.12 and No.14, and as such it is reasonable to assume that there is currently a degree of disturbance caused from these gardens. This is to be expected within a residential garden, and I do not find that the proposal would lead to any increased harm in this respect.

¹ Highway Planning Ltd letter reference 19.107.01 dated 18 October 2019

26. I have found that the proposal would not harm the living conditions of occupiers of Nos. 21, 23, 25, 41, 43 and 45 Blandford Road South in respect of noise. However, it would harm the living conditions of occupiers No.12 and No.14 having particular regard to noise, and harm to the outlook of occupiers of No.10 and No.16 Lynwood Avenue.
27. There is conflict with policy CP8 of the CS and policies H13 and EN1 of the LP. Together these policies seek, amongst other things, that backland development is of a high quality design that does not cause a substantial loss of amenity. The Council have made reference to the Framework in their reason for refusal. Whilst I have not been directed to the specific area of conflict, the proposal would fail to accord with section 12, which seeks amongst other things, that development is of a good design that achieves a high standard of amenity for existing and future users.

Other matters

28. The Council have included a third reason for refusal in their decision notice, which relates to the need for the appellant to provide a financial contribution towards highway measures. This includes walking and cycling measures in the vicinity of the appeal site, as well as a contribution towards a parking study on Lynwood Avenue. A draft Unilateral Undertaking has been provided as part of this appeal, however this has not been signed and therefore no mechanism exists to secure these measures. Given that I am dismissing this appeal for other reasons it is not necessary for me to consider this matter in any further detail.
29. I note that there has been considerable representations made by interested parties in respect of the impact of the proposal on highway safety. This focusses on two key issues. Firstly; the parking on Lynwood Avenue, and secondly the capacity of the highway network and operation of the junctions at either end of Lynwood Avenue.
30. I have been presented with evidence from local residents in respect of the capacity constraints of the junctions at either end of Lynwood Avenue. A key concern appears to be the operation of the priority junction of London Road and Lynwood Avenue. Whilst I did not observe any excess queuing at this junction during my site visit, this was only a single point in time and I recognise this may not be wholly reflective of the situation during busier times.
31. It has been put to me that there are existing safety concerns as a result of traffic congestion in the area. The appellant has provided details of the accidents in the vicinity of the junction of Lynwood Avenue and London Road for a period covering the past 5 years. Whilst this has indicated 3 accidents in this location, this does not demonstrate to me that there is an inherent safety concern in this location. I note that the Highway Authority have not raised any safety concerns in this location. In any event, the small additional amount of vehicular movements from the appeal site would not cause harm to highway safety.
32. Turning to the issue of parking, it was evident from my site visit that there was a considerable amount of on street parking currently experienced on Lynwood Avenue. In places this restricts the width of the road to a single vehicle. The proposal would provide car parking on site which complies fully with the Council's parking standards. I have been presented with no evidence that this

level of parking would result in a need for future occupiers to park on Lynwood avenue. As such I am satisfied therefore that the proposal would not create any additional parking demand which would impact highway safety.

33. It has been put to me that that allowing the development within these rear gardens would set a precedent for other similar proposals in this area. I have not been provided with any examples of specific sites which could be developed on Lynwood Avenue. The appeal site is somewhat unique, as its location on a bend allows for a wider garden than surrounding properties. Furthermore, each appeal and application must be judged on its own merits, and I have not been provided with any compelling evidence to indicate that should the appeal be allowed this would encourage similar development in the area.

Planning Balance and Conclusions

34. The Council acknowledges that it is unable to identify a five year supply of housing. Paragraph 11 and Footnote 7 of the Framework states that relevant policies for the supply of housing should not be considered up to date where a five year housing land supply cannot be demonstrated. Where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
35. In the context of the development plan, I have found that the proposed development would be contrary to policies CP1, CP4, CP8 of the CS, policies EN1 and H13 of the LP. For this appeal in the absence of a five year supply of housing the policies most relevant to the determination of this appeal should be considered out of date.
36. The appellant contends that the proposal would deliver a number of benefits. The provision of 5 new dwellings in a relatively sustainable location, would make a small contribution towards the Council's 5 year housing supply. The proposal would also provide minor economic benefits. The construction of the site would likely provide short term employment benefits and new residents would provide limited support to the existing facilities in the area.
37. However, I have found that the proposals would result in significant harm to the character and appearance of the area. Furthermore, the proposal would harm the living conditions of neighbouring occupiers in respect of outlook and noise. Collectively, these are matters to which I afford significant weight in decision making terms. As such it is not considered to be sustainable development and would be contrary to the aims of the Framework to achieve well designed places, supportive of health and social well-being by providing a good standard of amenity for all.
38. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
39. For the reasons given above, I conclude that the appeal should be dismissed

S Shapland

INSPECTOR