



Appeal Decision

Site visit made on 20 October 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2020

Appeal Ref: APP/J0350/W/20/3255950

193 Vicarage Way, Colnbrook, Slough SL3 0RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Hashem Jamalzadeh against the decision of Slough Borough Council.
 - The application Ref P/16862/003, dated 2 April 2020, was refused by notice dated 26 June 2020.
 - The application sought planning permission for construction of a single storey side and rear extension without complying with a condition attached to planning permission Ref P/16862/000, dated 22 May 2017.
 - The condition in dispute is No 5 which states that: "The extension hereby permitted or any part of dwelling house and shall not be sub-divided or used in multiple occupation."
 - The reason given for the condition is: "To ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area, which may occur if the property".
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal proposal seeks to remove a condition which removes the ability to change the appeal site from a house to a house in multiple occupation (HMO) using permitted development rights. As a result, the main issue is whether condition 5 meets the tests in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG) having regard to the amenity of the area.

Reasons

3. The Framework requires clear justification for the restriction of national permitted development rights. The PPG says that conditions restricting the future use of permitted development rights or change of use may not pass the tests of reasonableness or necessity but does not explicitly preclude them.
4. It is clear that at the time of the original application, there was concern, given extra weight by third-party contributions, that the proposed extension could lead to a potentially more intense future use of the property, which could harm the amenity of the area. In response to that concern, assurances were given on this point, and the appeal condition was imposed to ensure that such an

increase in the intensity of use could be fully considered through a future planning application.

5. To my mind, the obvious parking pressure on Vicarage Way, with cars on the pavement and a proliferation of private signage seeking to impose control, adds weight to those earlier concerns, which have not otherwise disappeared, over the effects of a more intense occupation of the appeal site beyond those which could reasonably be expected as a single-family house. As a result, I consider that the condition is necessary, relevant to planning and relevant to the development permitted.
6. There is nothing before me to suggest that the condition is not enforceable, and the precision of the condition has recently been addressed in another appeal decision ¹. There are no reasons for me to deviate from the conclusions reached in that decision and I agree with them.
7. A condition must also be reasonable in all other respects. Condition 5 does not impose a restriction or limitation on the use of the site as a single-family house. It does, however, mean that planning permission is required to change the site from a single-family house to an HMO. If the appeal before me were to succeed, it would not cause such a change to come into effect, merely restore the permitted development right that has been removed. Given the above, I do not consider that it is unreasonable, in this case, and on this site, to require a planning application for such a change. As such, I consider that the condition is reasonable in all other respects.
8. The appellant has given examples of houses which have been licensed as HMOs in the surrounding area. I do not consider that these examples are directly comparable to the appeal before me, as they do not involve the prior imposition of a relevant condition. In any event, HMO licensing and planning decisions are separate functions of the Council. I also do not consider that the condition is inconsistent with the overarching aim of the Council in providing safe and good quality housing for all residents.
9. In light of the above, I consider that the condition meets the tests set out in the Framework and PPG, and is clearly justified by the submissions of the Council, supported by the content of adopted and saved development plan policies, including Core Policy 8 of the Slough Local Development Framework, Core Strategy 2006-2026 Development Plan Document, 2008, and saved policies H15, EN1 and EN2 of The Local Plan for Slough, 2004. These policies seek, amongst other things, to ensure that development respects its location and surroundings, their character and context, and protects the amenities of adjoining occupiers and that of the wider area.

Conclusion

10. For the reasons given above I conclude that condition 5 meets the tests in the Framework and the PPG. The appeal should therefore be dismissed.

S Dean

INSPECTOR

¹ Appeal Ref: APP/J0350/X/19/3228684