
Appeal Decision

Site visit made on 22 June 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Appeal Ref: APP/J0350/W/20/3253821

Land rear of 33-43 Baylis Road, Slough, Berkshire SL1 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Steve Cripps (ABC Developments) against the decision of Slough Borough Council.
 - The application Ref P/08499/006, dated 23 December 2019, was refused by notice dated 24 February 2020.
 - The development proposed is 8no. two bedroom flats over two floors, 16no. car parking bays, cycle and refuse storage areas and alterations to access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal is for a permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. This consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle, and the second ('technical details consent') stage is when the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme in terms of location, land use and the amount of development¹. The submitted drawings are for indicative purposes only and I have considered the scheme on the basis of the amount of development sought being a maximum of 8no dwellings.
3. The proposal follows a previous planning application at the appeal site for the construction of 6no 3-bedroom terraced houses, which was dismissed at appeal on 24 October 2019². Whilst I have had regard to the previous appeal decision as a material planning consideration, I have determined the current appeal scheme on its own merits.

Main Issues

4. The main issues are whether the proposed development would be appropriate in principle with regard to its effect on (i) the character and appearance of the area; and, (ii) the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

² Appeal reference: APP/J0350/W/19/3232021

Reasons

Character and appearance (Location/Land use/Amount of Development)

5. The appeal site comprises land that was formerly part of the rear gardens of Nos 33-43 Baylis Road but has been partitioned. It is in a backland location and accessed through the sizeable gap between Nos 39 and 41. Baylis Road comprises 2 storey semi-detached dwellings that have uniformity in siting, scale and form. The dwellings are sited on a consistent building line and are set back from the road behind small front gardens. Many of the properties in the street have converted the gardens to provide on-site parking. The gaps between the buildings and the generous length of the rear gardens provide a degree of openness to the area. Some of the properties have single storey outbuildings in the rear gardens, which are generally modest in scale and therefore maintain the largely open aspect to the rear of the dwellings. The appeal site is vegetated and includes a group of single storey outbuildings that are of modest scale. Whilst the land is not part of any residential property, it contributes to the open aspect to the rear of the dwellings.
6. There is a 4 storey development at Pickfords Gardens behind the dwellings and the appeal site, which is visible through the gaps between the houses in Baylis Road, including the large gap between Nos 39 and 41. It can also be seen from Pool Lane when viewed in a southerly direction. Whilst this development is of a greater scale than the 2 storey houses, it maintains a considerable degree of separation. The upper floor windows of the flats at Pickfords Gardens afford views across the appeal site and the neighbouring gardens. There is also a public footpath that runs adjacent to the rear of the gardens.
7. The application has been made for a maximum of 8no dwellings. The indicative drawings show a proposed 2 storey building designed with a flat roof that would contain 8no 2-bedroom flats. The space to the front of the building is indicated as hard-surfacing, providing 16no parking spaces of which most would be covered by a timber pergola. Small private outdoor amenity spaces are indicated to the rear of the 4no ground floor units, and a communal outdoor amenity space is shown to the western side of the building. The appeal site is in a built-up residential area, therefore the location of the appeal site and the use of the land for residential development would be acceptable in principle.
8. The indicative footprint of the proposed building, combined with the access road and large parking area, would cover a disproportionate amount of the site, which would limit the opportunity for effective soft landscaping. The public realm of the proposal would be dominated by the access road and parking area, which would fail to provide a high quality environment. The private outdoor amenity areas for the ground floor units would be very constrained, and the communal outdoor amenity area sited adjacent to parking spaces and the blank side wall of the building displays the attributes of a left over dead space that would be poorly related to the residential accommodation.
9. The indicative drawings show that the proposed building would be of considerable width, resulting in a slab-like form that would neither respect nor respond to the form and proportions of the dwellings in Baylis Road. The incongruous nature of the proposal would be visible in the public realm through the gaps between Nos 33-44, including the large opening between Nos 39 and 41, as well as the public footpath to the rear of the appeal site. The scale of the

proposed building in this rear garden setting, close to the rear of the dwellings in Baylis Road and rising significantly above the neighbouring domestic outbuildings, would erode the characteristic open aspect to the rear of the properties. In order to grant permission in principle, I must be satisfied that the proposal is capable of accommodating the maximum number of dwellings sought. Taken together, the above factors indicate that the amount of development would be cramped on the site and would not respect the prevailing pattern of development and the open characteristic to the rear of the dwellings. There is little before me to indicate that an appropriate alternative arrangement to the illustrative drawings could be achieved for the amount of development proposed on the site.

10. For these reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the area. The proposal would therefore be contrary to Policies CP1, CP4 and CP8 of the Slough Local Development Framework Core Strategy 2006-2026 (the Core Strategy) and Policies EN1 and H13 of the Slough Local Plan Adopted 2004 (the Local Plan). Amongst other things, these policies seek to ensure that development respects and is compatible with its surroundings in terms of design, scale and density. The proposal would also be contrary to Chapter 12 of the National Planning Policy Framework (the Framework) which, amongst other things, requires development proposals to be sympathetic to local character.

Living conditions (Location/Land use/Amount of Development)

11. Vehicular access to the proposed development would be through the gap between Nos 39 and 41, which would serve 16no on-site parking spaces. This is 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.
12. The Inspector for the previous appeal scheme stated that the vehicular movements associated with 6no new dwellings are anticipated to be low over a 24 hour period, nevertheless vehicle noise would be expected to be characterised by engines starting, revving, doors opening and closing, and drivers and passengers talking. Further, the gated access would require vehicles to wait with their engines running at locations very close to the windows and garden areas of Nos 39 and 41; and some noise would be 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. The Inspector found 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. It was concluded that the proposals for planting and fencing along the side boundaries of neighbouring dwellings would not adequately mitigate the noise and disturbance that could arise.
13. In respect of the current appeal scheme, the appellant has submitted a noise assessment³ regarding noise from car movements and use of the car park, which is calculated on the basis of attenuation being provided by a 2 metres tall imperforate fence on the car park boundary to the rear of the dwellings. Furthermore, the entrance gates proposed in the previous appeal scheme are not indicated in the current proposal.

³ Prepared by Venta Acoustics Ref VA3029.191113.L1, dated 15 November 2019

14. Regarding vehicular movements, the noise assessment shows that the internal noise level of the rooms served by the nearest windows overlooking the driveway would be below the recommended daytime level of 35dB(A) and the night-time level of 30dB(A) set out in BS8233:2014⁴. Furthermore, the maximum noise level arising from car door slamming would be 42dB, which would be below the World Health Organisation⁵ recommended maximum noise level of 45 dB L_{Amax} . In respect of noise from residents talking in the parking area and using the bin storage area, I find that this would be sporadic and would not be likely to be at a level that would itself cause significant disturbance to the occupiers of neighbouring dwellings. Consequently, on the basis of the evidence before me, I am satisfied that the location, land use and amount of development would not be likely to cause significant disturbance to the occupiers of neighbouring residential properties.
15. For these reasons, I conclude that the proposed development would not be harmful to the living conditions of the occupiers of neighbouring properties at Nos 33-43 Baylis Road, with particular regard to noise and disturbance. The proposal would therefore accord with Policies H13 and H14 of the Local Plan, which, amongst other things, require development proposals to protect the amenity of existing and future occupiers. It would also accord with paragraph 127 of the Framework, which, amongst other matters, states that planning decisions should ensure that developments provide a high standard of amenity for existing and future users.

Planning balance and conclusion

16. The Council is unable to demonstrate a deliverable 5 year housing land supply. The appellant indicates that the Council has a housing land supply of 2.1 years, which is a significant shortfall. In these circumstances, the most important policies for determining the application are out-of-date in accordance with footnote 7 of the Framework. Paragraph 11(d) ii of the Framework is therefore engaged.
17. The Framework does not prescribe the weight that should be given to any conflict with the most important policies, and this is a matter for the decision-maker. Decision-makers are not legally bound to disregard policies of the development plan when applying the tilted balance.
18. Paragraph 59 of the Framework sets out the Government's objective of significantly boosting the supply of housing. In the context of the significant shortfall in housing supply, the proposed development would provide a modest contribution of a maximum of 8 dwellings, making efficient use of underused and derelict land. Small sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, as indicated in paragraph 68 of the Framework. It would create some employment at the construction stage, although this would be relatively short lived and so a relatively limited benefit. The occupiers of the proposed dwellings would help to support local facilities and services, although the economic contribution arising therefrom would be limited again by the scale of the proposals.

⁴ BS8233:2014 Guidance on sound insulation and noise reduction for buildings

⁵ World Health Organisation Guidelines for Community Noise (1999)

19. I am mindful that occupiers of the proposed development would be within an existing built up area with good accessibility to various modes of transport, services and facilities. Taking the benefits together, and for the reasons I have given, I would afford them modest weight.
20. The Framework sets out the importance of achieving well-designed and attractive places, and to ensure that developments are sympathetic to local character. Whilst the Framework supports the efficient use of land and states that appropriate change such as increased densities should not be prevented, it says that the desirability of maintaining an area's prevailing character should be taken into account. In this regard, I have found that the amount of proposed development would cause significant harm to the character and appearance of the area and so the environmental role of sustainable development would not be achieved. Consequently, I afford significant weight to the harm to the character and appearance of the area and the associated conflict with the development plan.
21. Overall therefore, whilst I have given weight to the benefits of the development, I find that the harm to the character and appearance of the area, and the associated conflict with the development plan, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR