



Appeal Decision

Site Visit made on 27 July 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2021

Appeal Ref: APP/J0350/W/21/3273097

88 & 90 Quinbrookes, Slough SL2 5RU

- 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 S Kaur against the decision of Slough Borough Council.
 - The application Ref P/11562/005, dated 21 August 2020, was refused by notice dated 4 December 2020.
 - The application sought planning permission for 'erection of pitched roof and single storey front extension and single storey rear extension with flat roof to 88 Quinbrookes and amendments to planning permission reference P/11562/001 to include the erection of a single storey rear extension with pitched roof and front bay window' without complying with a condition attached to planning permission Ref P/11562/003, dated 27 August 2004.
 - The condition in dispute is No 9 which states that: 'Notwithstanding the terms and provisions of the Town & Country Planning General Permitted Development Order 1995, Schedule 2, Part 1, Classes A, B, C, D, E, & F, no further extension(s) to the house hereby permitted or buildings or enclosures shall be erected constructed or placed on the site without the express permission of the Local Planning Authority.'
 - The reason given for the condition is: 'The rear garden(s) are considered to be only just adequate for the amenity area appropriate for houses of the size proposed and would be too small to accommodate future development(s) which would otherwise be deemed to be permitted by the provision of the above order.'
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Decision

1. The appeal is allowed and planning permission is granted for 'erection of pitched roof and single storey front extension and single storey rear extension with flat roof to 88 Quinbrookes and amendments to planning permission reference P/11562/001 to include the erection of a single storey rear extension with pitched roof and front bay window' at 88 & 90 Quinbrookes, Slough SL2 5RU in accordance with application ref P/11562/005 dated 21 August 2020, without compliance with condition 9 set out in planning permission ref P/11562/003 dated 27 August 2004 but otherwise subject to the following conditions:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be formed in the flank elevation of the development.
 - 2) No access shall be provided to the roof of the extension by way of window, door or stairway and the roof of the extension hereby approved shall not be used as a balcony or sitting-out area.
 - 3) Visibility splays of 2.4 metres by 2.4 metres at the junction of the access and the adjoining public footpath (to be measured along the edge of the

drive and the back of the footway from their point of intersection) shall be kept free of all obstructions to visibility above a height of 600mm.

- 4) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C or E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no further extensions or additions to the dwelling known as 88 Quinbrookes or buildings or enclosures shall be erected, constructed or placed on the site.
- 5) Notwithstanding the provisions of Schedule 2, Part 1, Classes A or E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no further extensions or additions to the dwelling known as 90 Quinbrookes or buildings or enclosures shall be erected, constructed or placed on the site.

Procedural Matter

2. In the period since the appeal was submitted, the Government published a revised National Planning Policy Framework 2021 (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am therefore satisfied that no prejudice would be caused by my consideration of the appeal against the revised Framework.

Background and Main Issue

3. Planning permission was granted on the appeal site for the erection of a two bedroom attached house (application reference P/11562/001). Permission was subsequently granted for extensions to the existing dwelling at 88 Quinbrookes and an amended attached house (application reference P/11562/003) ('the Original Permission').
4. Condition 9 of the Original Permission restricted a range of householder permitted development rights under Classes A, B, C, D, E and F of the Town and Country Planning (General Permitted Development) (England) Order 1995. This Order has since been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'), but the specified Classes relate to the same form of development under both iterations. The appeal relates to an application seeking to amend Condition 9 in order to reinstate permitted development rights under Classes B (the enlargement of a dwellinghouse consisting of an addition or alteration to its roof) and C (any other alteration to the roof of a dwellinghouse) of the GPDO.
5. Having regard to the above and the evidence before me, the main issue is whether or not Condition 9 is reasonable and necessary in the interests of the living conditions of occupiers of the development in respect of the provision of private amenity space.

Reasons

6. The reason for imposing Condition 9 refers to the rear gardens as only just adequate for the amenity area appropriate for houses of the size proposed. Guidance within the Council's Residential Extensions Supplementary Planning Document 2010 (SPD) on roof extensions/dormer windows/roof lights does not refer to effects on amenity space. Nevertheless, Policy H15 of the

Local Plan for Slough 2004 (LP) sets out that extensions to dwellings will only be permitted where certain criteria are met, including that an appropriate level of amenity space is maintained. Core Policy 8 of the Core Strategy 2008 (CS) further includes a requirement that development provides appropriate amenity space and landscaping.

7. I note that in recommending that permitted development rights be removed for No 88, the commentary in the Council's officer report for the Original Permission referred particularly to ensuring that no other structures are built in the rear garden. Nevertheless, in considering whether or not amenity space is provided and maintained at an appropriate level, it seems to me that it would be necessary to consider the amount of space that is available in the context of factors including the number of occupiers reliant on it. In this regard, I note guidance at part 11 of the SPD which outlines minimum guidelines for usable rear garden areas which vary according to the number of bedrooms within a dwelling. I acknowledge that these guidelines are expressed as the sizes of gardens to be retained following rear extensions. Even so, they offer a useful indication of the level of private amenity space that would be considered generally appropriate to meet the needs of occupiers of different sized dwellings.
8. Development under Classes B or C of the GPDO would not reduce the area of the existing amenity spaces to 88 or 90 Quinbrookes. However, it would enable the provision of further habitable accommodation within their roofs. I accept that such accommodation may be used for purposes such as a home office which would not increase the occupation of the dwellings, but it could equally include additional bedrooms, and this could not be controlled.
9. At No 88, this could reasonably result in a dwelling with four bedrooms or more. The evidence before me indicates that while the area of No 88's garden meets the level suggested by the SPD for the existing three-bedroom dwelling, it is some way below the 100sqm that the SPD suggests would be necessary for a four-bedroom dwelling where the garden is less than 15m deep. Should No 88 be occupied as a four or more bedroom dwelling, I consider that the large shortfall in amenity space against the level that the SPD suggests would be appropriate for a dwelling of this size would be detrimental to the living conditions of the occupiers. Accordingly, I find for No 88 that a continued restriction on permitted development rights under Classes B and C of the GPDO would be justified and necessary to enable proper consideration of such effects in order to avoid unacceptable harm being caused.
10. Turning to consider No 90, I note that the rear garden is around 6m deep. However, there is additional space to the side of this dwelling, and the Council indicates that the total area of garden is around 107sqm. This is in excess of the minimum size which the SPD suggests would be necessary to allow a relaxation of suggested garden depths for four or more bedroom dwellings, as well as the lesser requirement for smaller dwellings. On this basis, I see no reason from the evidence before me that there would be inadequate private amenity space to meet the needs of occupiers of No 90, even if development under Classes B or C of the GPDO were to result in an increase in the number of bedrooms from the two existing.
11. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do

so. For the above reasons, I conclude that there is such a justification at No 88 where a restriction on development under Classes B and C of the GPDO would be necessary to ensure adequate private amenity space in the interests of the living conditions of the occupiers. However, there is no compelling evidence that development under Classes B or C of the GPDO would be detrimental to the living conditions of the occupiers of No 90 in conflict with Core Policy 8 of the CS or Policy H15 of the LP, or guidance within the SPD. I am therefore satisfied that the condition restricting these permitted development rights at No 90 is unreasonable and unnecessary.

Conditions

12. The Planning Practice Guidance makes clear that permission granted under Section 73 of the Act should restate the conditions imposed on the earlier permission that continue to have effect. Where conditions of the Original Permission are still relevant, I have amended them where necessary having regard to the tests set out at paragraph 56 of the Framework or for the sake of consistency, brevity or clarity.
13. Because I have found that a restriction on Classes B and C of the GPDO is only necessary in the case of No 88, I have deleted the disputed Condition 9 and imposed two substitute conditions relating to No 88 and No 90 individually. These continue to restrict other permitted development rights under Classes A and E of the GPDO. I consider this is necessary and reasonable in the interests of the living conditions of occupiers given the constrained space around the dwellings which could be harmfully reduced by extensions or alterations increasing the footprint of built development within the rear gardens. The Original Permission also restricted permitted development rights under Classes A and F. However, these Classes relate to porches and to the provision or replacement of a hard surface for purposes incidental to the enjoyment of a dwellinghouse which would not diminish the amenity area available to occupiers. Although the appellant did not seek removal of the restrictions on Classes A and F, with regard to the stated reason for imposing the condition on the Original Permission, I do not therefore find that it is necessary or reasonable to restrict rights under these Classes, and I have not done so.
14. The development has been completed. Accordingly, conditions specifying the time limit and approved plans for implementation and concerning the materials to be used and formation of access to the site from the highway are not necessary. Nor is it necessary to restrict use of garages because none are present on the site. I have however reimposed a modified condition to require that visibility splays provided at the access are maintained free of obstruction in the interests of highway safety. I have also repeated conditions preventing the addition of flank windows and access to and use of the extension roof as a balcony or sitting out area which are necessary to safeguard the living conditions of neighbouring occupiers.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR