



Appeal Decision

Site visit made on 1 February 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Appeal Ref: APP/N0410/W/21/3276113 74 Slough Road, Iver Heath SL0 0DY

- 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 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 John Ely against Buckinghamshire Council.
 - The application Ref PL/21/1329/VRC is dated 31 March 2021.
 - The application sought planning permission for the demolition of existing dwelling and construction of new building comprising of six flats, with associated parking, communal garden, refuse storage and cycle storage without complying with a condition attached to planning permission Ref PL/20/0177/FA, dated 5 October 2020.
 - The condition in dispute is No 11 which states that: The windows at first floor level and above in the side elevations of the building hereby permitted shall be of a permanently fixed, non-opening design, unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall be fitted and permanently maintained with obscure glass.
 - The reason given for the condition is: To prevent overlooking and loss of privacy in the interests of the amenities of the adjoining neighbours (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
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Decision

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

Procedural Matters

2. The Council failed to give notice within the prescribed timescales but subsequently gave reasons under the appeal why they would have refused permission, which have informed the main issue in dispute.
3. In some instances, 66 Slough Road is incorrectly identified as 72 Slough Road. This has been considered under the appeal.
4. The appellant submitted late evidence, however in the absence of exceptional circumstances being demonstrated in accordance with guidance¹, and in the interests of procedural fairness, the late evidence cannot be accepted.

¹ Procedural Guide: Planning Appeals – England 2021

Main Issue

5. The main issue is whether the condition is necessary to protect neighbouring occupiers from harmful levels of overlooking.

Reasons

6. The site is located at 74 Slough Road, which shares a side on side relationship with 66 Slough Road to the west. Both dwellings and garden areas are sited on similar building lines. It also shares a side on side relationship with 76 Slough Road to the east, albeit with greater separation due to an access drive between the dwellings and garden areas.
7. The Council set out that the proposal's first floor window on the western elevation would be around 1.7m from the boundary with 66 Slough Road. Similarly, the second floor roof light would be around 2.5m from the same boundary. The appellant has not provided any evidence to demonstrate that the proposal would not generate direct levels of overlooking of the dwelling or associated garden space. Similar direct levels of overlooking, albeit with a slight increase in separation distances, would also likely occur in respect of 76 Slough Road.
8. Aside from providing some details relating to a previous planning permission at the site, the relevance of which I have dealt with in my other matters, the appellant has not demonstrated that the removal of the condition would avoid direct levels of overlooking from the proposal or that the separation distances and physical characteristics of the area would provide mitigation.
9. Altogether, there is insufficient evidence to determine that the condition is not necessary to protect neighbouring occupiers from harmful levels of overlooking and removing it would conflict with Local Plan Policy EP3 of the South Bucks District Local Plan 1999, which among other things requires that the fenestration of buildings should be safeguarded against the loss of privacy to residential properties by reason of overlooking.

Other Matters

10. The two storey side extension subject to an earlier planning permission is of a different nature compared to the development subject to the most recent planning permission at the site. Consequently, matters relating to overlooking are materially different and the earlier planning permission has carried limited weight in favour of the appeal.

Conclusion

11. For the reasons given above, the appeal is dismissed, and planning permission refused.

Liam Page

INSPECTOR