



Appeal Decision

Site visit made on 26 July 2022

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal Ref: APP/J0350/C/22/3297657

Land at 15A and 15B Oatlands Drive, Slough SL1 3EH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bashir Ahmed against an enforcement notice issued by Slough Borough Council.
 - The notice, numbered 2020/00683/ENF, was issued on 5 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of outbuilding to form a self-contained dwelling and facilitating works (shown edged blue and including the wooden addition to the outbuilding shown edged green on the Plan).
 - The requirements of the notice are to: 1. Cease the use of the outbuilding as a self-contained dwelling. 2. Remove the kitchen and bathroom from the outbuilding. 3. Remove the internal walls incorporating the bathroom. 4. Remove all plumbing, boiler and associated pipework in connection to the kitchen and shower room within the outbuilding. 5. Demolish the wooden addition. 6. Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
 - The period for compliance with the requirements is: 6 (six) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (d)

2. In an appeal on ground (d), the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control. Section 171B(1) of the Act sets out the relevant time period for taking enforcement action.
3. The council has determined that the building is in use as a single dwelling house and the appellant's case is that this use has been continuing for some years. For the development to be immune from enforcement action the appellant must demonstrate that the outbuilding has been in use as a single dwellinghouse for at least four years before the date the notice was issued. In this instance, that date is 5 April 2018.
4. The plan which accompanies the notice includes the property to the front which has been subdivided into 2 flats (15a and 15b Oatlands Drive), which I am led

to believe, are owned by the appellant. It is noted that the primary address for the appellant is 518 Barking Road, London although he says that he spends every Saturday and Sunday staying at the appeal property and has been doing so for more than five years.

5. As part of the appeal the appellant says that he moved into the outbuilding in 2017. However, I note the email from the appellant to the council dated 9 February 2017 advising them that 'Mr Ahmad' had moved into the property on 1 August 2016. The email further informs the council of the 'flat' behind '15 Oatland Drive, Slough' having 'water and electricity'¹ and which is lived in from 'time to time' by the appellant to 'look after my tenants'. A copy of an email from the council tax department dated 2 March 2017 advises the appellant of the request made for an inspector to visit the premises to establish whether banding is required. The appellant says that they had further correspondence with the council tax department. However, I have not been provided with such or indeed any evidence of council tax banding or payments. The appellant has provided a copy of a visual structural assessment of the outbuilding which was surveyed on 1 April 2021. This document provides that the internal floor area is approximately 20sqm and consists of an open plan living room and kitchen, a bathroom and a bedroom. There is no information referring to how long the building has been occupied on a residential basis.
6. Photographs provided by the council dated 2 August 2021 show the building with sparse facilities and no real sign of the property being lived in. Furthermore, photographs which accompany the structural report show a similar situation and at the time of my site visit, the inside of the building was in a similar state. Although the building may provide the facilities for domestic use, I find that the information provided does not paint a clear picture to show how the property has been occupied. While the appellant claims intermittent, if regular use, on the limited information provided it is far from clear that the building was in use as a separate dwellinghouse for a continuous 4 year period within which the council could have taken enforcement action at any time. Therefore, on the balance of probabilities, the evidence provided is not sufficiently precise and unambiguous to justify a finding that the use of the building to the rear of 15a and 15b Oatlands Drive, Slough, SL1 3EH as a separate dwellinghouse has been sustained for the requisite period.
7. The alleged breach of planning also refers to the wooden addition to the front of the building which appears to have been constructed to provide a second access. The extension was clearly erected to facilitate the unauthorised use and can be required to be removed on that basis, but in any case, there is no evidence to suggest that it was substantially completed more than 4 years before the notice was issued and might have acquired immunity in its own right.
8. Consequently, I cannot be certain that the alleged breach of planning control is not immune from enforcement action. The appeal on ground (d) therefore fails.

¹ Supplied by the flat to the front

The appeal on ground (a) and the deemed planning application

Main issues

9. This part of the appeal seeks planning permission for the development enforced against. The main issues concern the effect of the development on: i) the living conditions of occupants of neighbouring properties with regard to amenity space, privacy, noise and disturbance; ii) whether the use of the outbuilding as a dwelling is acceptable for its current and future occupants in terms of space, privacy, outlook, accessibility and design iii) the character and appearance of the area; and iv) car parking provision.

Reasons

Living conditions of neighbouring occupants

10. The appeal building is situated within the yard area to the rear of the flatted properties No.15A and 15B ("the flats"). There are two entrance doors to the building. One is positioned on the side of the building. The other to the front and access to this door is through the yard which, at the time of my visit was occupied by bicycles, a trampoline, children's toys and items of a domestic nature.
11. The front windows and entrance door of the outbuilding and the rear elevation of the flats directly face each other across the hard surfaced yard area. There is no physical barrier to subdivide the area. Given the restricted area a physical barrier would likely be impracticable and would result in a claustrophobic setting for the flats and the outbuilding. Taking into account the layout of the appeal site, the normal activities associated with residential occupation of the outbuilding and of the flats, including comings and goings by occupiers, would be likely to cause mutual disturbance and mutual loss of privacy between the properties. This would be exacerbated by the proximity of the outbuilding to the ground floor of the flats where there would be direct views into internal private space.
12. Access to the outbuilding can be gained through a side entrance off a vehicular-width track which provides access to some neighbouring buildings beyond. If this access were to be used, disturbance to occupiers in the flats would be less than if the yard between the two were used. However, there is no guarantee that occupiers of the outbuilding would always use the side entrance. Furthermore, the use of the outbuilding as a dwelling means that neither the outbuilding nor the main house has any usable outside space which is private to the occupants.
13. The use of the outbuilding for residential purposes in these circumstances would be harmful to the occupants of the existing flats in terms of general disturbance and loss of privacy. In this respect there is conflict with Policy EN1 of the Local Plan for Slough (March 2004) (the LP) which requires development to be compatible with and/or improve their surroundings in terms of, amongst other things, relationship to nearby properties.

Current and future occupants

14. The council considered in its reasons for issuing the notice that the outbuilding fails to provide a good level of amenity for existing or future occupiers and is substandard in terms of its floorspace, outlook, privacy and its amenity space

provision in terms of area, depth, orientation, attractiveness, usefulness and inadequate accessibility. I am not aware of the council's internal space standards for such accommodation. Nevertheless, from my inspection of the building, I found it to be a cramped and low quality living environment. The design of the outbuilding is basic due to its intended use as a subsidiary domestic garage/store which does not lend itself naturally to independent residential use.

15. Furthermore, the outbuilding is positioned close to the rear of the flats with windows allowing for unrestricted views directly towards the existing flats and their outdoor space. This results in a poor outlook and a compromised area of private outdoor space which would be harmful for current and future occupiers of the appeal development. The use of the building is thus found to conflict with Policy H13 of the LP which requires backland development to be, amongst other things, designed to have appropriate access, amenity space and landscaping; be designed so that existing residential properties retain appropriate garden areas and do not suffer from overlooking or loss of privacy. The appeal development also conflicts with Policy ENV1 of the LP which requires development to be compatible with and/or improve their surroundings in terms of, amongst other things, relationship to nearby properties.

Character of the area

16. Core Policy 1 of the Core Strategy Development Plan Document 2006-2026 (December 2008) (the DPD) requires all development to take place within the built up area with the scale and density related to the site's current accessibility, character and surroundings. The pattern of buildings in this neighbourhood is typical of many residential areas, with houses fronting the street and outbuildings in some back gardens. There are also some garages reached by rear accesses. While there may be similar buildings to the rear of properties within the area, as far as I am aware, they are used for purposes incidental to the main residential use of the house and not as a separate dwellinghouse.
17. In this respect, the physical presence of the 'outbuilding' at the appeal site does not detract from the area's general character. However, 'backland development' for residential purposes is not a principal component of the area's character, particularly where the area occupied is within the modest sized rear private space of a domestic property. This has also resulted in an increased density with three residential properties within the appeal site and this is not reflective of the immediate surroundings. Accordingly, the appeal development is considered harmful to the character of the area and this conflicts with Core Policies 4 and 8 of the DPD and Policy H13 of the LP.

Car parking provision

18. Whilst there is parking provision to the front of the flats, there appears to be no dedicated space for a vehicle to park off the public highway for any occupant of the outbuilding. The vehicular track which leads from Oatlands Drive to the rear of the outbuilding provides access to neighbouring properties. Policy H13 of the LP requires backland development to be provided with appropriate car parking provision to accord with the aims of the integrated transport strategy. However, I have not been provided with a copy of this document.

19. While the lack of dedicated car parking for the self-contained residential unit located in the outbuilding may result in on street parking, I do not consider that this would be harmful to highway safety. Most residential properties nearby benefit from off-road parking leaving available room to park along roads where there are no parking restrictions. Furthermore, the appeal site is close to the town centre and the train station and there are several bus stops close by allowing for a choice of transport options. Therefore, I consider that the development complies with the essence of Core Policy 7 of the DPD which requires new development to be sustainably located in the most accessible locations and thereby reduce the need to travel by private means.

Other matters

20. I note the frustration of the appellant due to their perceived lack of support and advice by the council in dealing with the planning matters. However, my assessment of the appeal development is based on an impartial appraisal of the planning merits regarding relevant planning policies. Dissatisfaction with the Council's procedure should appropriately be made in the first instance through the authority's own complaints procedure.

Conclusion on ground (a) and the deemed planning application

21. Although I have found that the absence of private parking for the occupants of the appeal building would not have a harmful effect on highway safety, I have identified harm to the character of the area and to the living conditions for the occupants of the flats and for existing and future occupants of the outbuilding. There are no material considerations that indicate the deemed planning application should be determined other than in accordance with the Development Plan. For the reasons given, the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission.

S A Hanson

INSPECTOR