



Appeal Decisions

Site visit made on 8 September 2022

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th SEPTEMBER 2022

Appeal A Ref: APP/J0350/C/21/3280562

Appeal B Ref: APP/J0350/C/21/3280563

Land at 19 Salt Hill Avenue, Slough SL1 3XP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Pritam Singh (Appeal A) and Mrs Surinder Kaur Jandu (Appeal B) against an enforcement notice issued by Slough Borough Council.
 - The notice, numbered 2018/00174/ENF and SLGH-RTR001-062779, was issued on 30 June 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised construction of an additional single storey rear extension added onto an existing rear and side extension on the land shown edged in green on the annexed plan¹.
 - The requirements of the notice are to:
 - 1) Demolish all of the unauthorised development as shown edged green on the plan.
 - 2) Remove from the land all materials, debris, plant and machinery resulting from compliance with step 1 above.
 - The period for compliance with the requirements is four calendar months after the notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 as amended (the 1990 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 1990 Act.
 - Appeal B is proceeding on the grounds set out in section 174(2)(d) and (f) of the 1990 Act.
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Summary Decision: Appeal A and Appeal B are dismissed, the enforcement notice is upheld and planning permission is refused.

Ground (d)

1. An appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by the matters stated in the enforcement notice. To succeed the appellants must show that a period of four years has passed beginning with the date on which the development alleged in the enforcement notice was substantially completed. The test in this regard is the balance of probability and the burden of proof is on the appellants. It is worth noting that the date 4 years prior to the issue of the enforcement notice was 30 June 2017.

¹ Reference in the header to the 'annexed plan' or 'plan' is to the plan attached to the enforcement notice subject to this appeal.

2. The development subject of these appeals is an extension to the rear of the property occupying the appeal site. I will refer to it in this decision as the appeal extension. It has a framed construction and spans the width of the appeal site. The appeal extension is an addition to a previously constructed single storey, flat roof side and rear extension, as referred to by the parties. The height of the appeal extension is comparable to that of the previous single storey extension.
3. The appellants say that the appeal extension was built in 2014. To support this claim they have provided an undated letter from the company they say constructed the appeal extension. Whilst not particularly detailed, the letter indicates that the appeal extension was constructed in early 2014. The appellants have also provided a petition type document signed by residents of Salt Hill Avenue, which also gives the early 2014 date for the construction of the 'glass room'. A series of receipts have been provided for various building supplies, including concrete slabs, an air vent, screws, nails, sockets, etc. These date from 2014 and 2015.
4. Whilst the claim is that the appeal extension was constructed in 2014, there is little additional detail from the appellants themselves to support this. For example, the appellants have not stated themselves when in 2014 the works commenced or when the works were completed. They have instead relied on the evidence of interested parties and a series of receipts.
5. The letter from the construction company is briefly stated and has not been supported by any other documentation from this company that is likely to have been produced for the work they carried out; an invoice or payment receipt, for example. As for the list of signatures, whilst I can see that the signatories have signed to the generic statement at the start of the list, none have provided any detail to substantiate their claims. For example, none have stated how long they have lived in the street and, more importantly, how they would have known when the appeal extension was constructed. Indeed, there do not appear to be any views of the rear of the appeal site from Salt Hill Avenue or any other public vantage points, and the address of some of the signatories is some distance along Salt Hill Avenue from the appeal site.
6. In addition to the above, despite the claim that the appeal extension was constructed in 2014, the vast majority of the receipts provided are dated July, August and September 2015. Of the few receipts from 2014, these date from January, April, June and December. Notwithstanding the dates of the receipts, in the evidence there is little explanation of the type or purpose of the items listed in the receipts. Indeed, the June 2014 receipt is for a single door and a single window, whereas there are two doors and a number of windows within the appeal extension. In all, I do not have sufficient evidence to be satisfied that the items referred to in the receipts were, on the balance of probability, used in the construction of the extension.
7. Notwithstanding the above, in responding to the ground (d) appeal the Council refer to two sets of aerial photographs. It dates the first of these from June 2013, March 2014, March 2017, June 2018 and April 2020. The second set are dated by the Council as 2012, 2015 and 2019.
8. Having compared the most recent with the earliest aerial photographs, there is a clear contrast between the two. In the 2012 photographs I can see the flat roof of the previous single storey addition, which wraps around to the side of

the property. Behind this I can see the garden of the appeal site, which comprises what appears to be a hard surfaced area (a path or patio) to the rear of the previous extension. This connects to a path to the side and across the back of the lawn, as I had observed it on my site visit. This hard surfacing links the main property with the outbuilding to the rear of the site.

9. In the 2018 and 2019 aerial photographs I can see what appears to be the white frame of the appeal extension. The structure visible in the photograph spans the width of the site and is in the location of the appeal extension, as I had observed it on site, and as indicated on the plan attached to the notice. It covers (or is in the place of) the hard surfacing at the rear of the previous extension, described above.
10. With regard to the 2015 aerial photograph, I acknowledge that the quality of this is not as good as the others, and that there is a shadow cast over the land to the rear of the two storey element of the appeal property. I cannot, however, see the white frame of the appeal extension in the photograph. I can also make out the line of the path or patio area to the rear of the previous extension, suggesting that the appeal extension was not in place at the time the photograph was taken. Furthermore, the appeal extension is not visible in either of the March 2017 aerial photographs, in which I can clearly see the flat roof of the previous extension and the path or patio to the rear of this.
11. Having carefully considered the appellants' evidence, I have been unable to discern from this when the appeal extension is more likely than not to have been substantially completed. The evidence points to various dates from early 2014 to as late as September 2015². Whilst the claim is that the appeal extension was built in 2014, most of the receipts for builders' materials are dated after this date and do not, therefore, support this claim. In this regard I find the appellants' evidence imprecise and ambiguous.
12. Added to the above is the evidence of the Council. Although this is limited, it is consistent. The appellants suggest that it is unclear as to when the Council's photographs were taken, but have provided no reason for me to conclude that the dates given are not correct, other than to maintain that the appeal extension was in place in 2014. Accordingly, the Council's evidence is sufficient to demonstrate that the appellants' version of events is less than probable.
13. All things considered, I cannot be satisfied that the appellants have discharged the burden of proof in this case, particularly as the Council's evidence makes their version of events less than probable. I find it more likely than not that the appeal extension was substantially completed sometime after March 2017. Whilst this is prior to the date 4 years before the notice was issued (30 June 2017), there is nothing before me that leads me to conclude that, on the balance of probability, on the date the enforcement notice was issued no enforcement action could be taken in respect of the breach of planning control alleged in the notice. For this reason the ground (d) appeals should fail.

² The date of some of the receipts provided.

Ground (a) and the deemed application for planning permission

Main Issues

14. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
15. I note the substantive reasons for issuing the enforcement notice and from these I have identified the main issues as being the effect of the development on:
 - the character and appearance of the appeal site and the surrounding area;
 - the living conditions of the occupiers of the appeal site; and
 - the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

16. The appeal extension comprises a single storey lean to structure across the width of the appeal site. The extension is part enclosed and part open to the rear garden of the property. It has a timber frame and plastic roof. The elevations of the enclosed section include a concrete blockwork plinth, as well as doors and windows (predominantly UPVC) of varying sizes and styles.
17. The extension has a particularly ad hoc appearance. Its design is organic, and the varying style and size of window openings adds to the makeshift character of the extension. The development fails to reflect the otherwise neat appearance of the main property.
18. As noted above, the appeal extension has been added to a previous flat roofed extension. Although the appeal extension has a fairly shallow depth, the combination of the two extensions results in a significant expanse of low pitched or flat roofed additions to the host property. This dominates the appeal site and causes detriment to the character of the property. In this regard the Council point to conflict with the guidance provided in the Slough Local Development Framework Residential Extensions Guidelines adopted January 2010 (SPD). At EX20 of the SPD it suggests a maximum depth of 4.25 metres for a semi-detached property. Whilst I note the appellant's comments in this regard, I find the excessive depth of the single storey additions to the property add to the inappropriate design and appearance of the appeal extension.
19. I acknowledge that there are other flat roofed or shallow pitched extensions to the adjoining properties. There may also be others in the area. However, none have been drawn to my attention that compare with the extent, design and appearance of the development at the appeal site. Indeed, I note the comments of the adjoining occupier with regard to the effect of the appeal extension on the character and form of the adjoining properties.
20. Notwithstanding my findings above, I acknowledge that the appeal extension is not widely visible from public vantage points. Indeed, it may only be visible from adjoining properties and their gardens. However, it does not necessarily follow that the appeal extension does not cause harm in the wider context of

the appeal site. A judgement on the effect of development on the character and appearance of the surrounding area is not confined to what can be seen from public vantage points.

21. I have found that the extent of development at the appeal site that results from the appeal extension causes harm to the host property, and that the scale and appearance of the development is not comparable to other properties within the area that have been drawn to my attention. Being at odds with other development in the area, I can only conclude that the appeal extension has an unacceptable effect on the character and appearance of both the site and the surrounding area.
22. For the reasons given above, the development conflicts with Core Policy 8 (Sustainability and the Environment) of the Slough Local Development Framework Core Strategy 2006 - 2026 Development Plan Document dated December 2008 (SCS), as well as saved Policy ENV1 (Standard of Design) and saved Policy H15 (Residential Extensions) of the Local Plan for Slough adopted 22 March 2004 (SLP) which require, amongst other matters, that development be of a high quality design that improves the quality of the environment, and is in keeping with both the existing property and the identifiable character of the surrounding area. The development also fails to accord with saved Policy ENV2 (Extensions) of the SLP, which requires extensions to be, amongst other matters, compatible with the design, fenestration, architectural style and proportions of the original structure. The reasons given above also mean that the development conflicts with the guidance provided in the relevant sections of the SPD.

Living conditions – occupiers of the appeal site

23. Saved Policy H15 of the SLP informs that extensions will only be permitted provided, amongst other matters, that an appropriate level of rear garden amenity space is maintained. This policy is supported by advice at DP9 of the SPD. I note that the Council has pointed to the requirements of the SPD for the provision of amenity space given at EX48. However, neither the Council nor the appellant have provided an indication of the area of garden space remaining at the site, such that I can conclude that this does not comply with the SPD standards.
24. Notwithstanding this, at the site visit I noted that the remaining garden space at the appeal site is useful in terms of its shape and relationship to the main property. Its purpose is to serve a property that is the size of a family home. Although the garden space is not large, there is sufficient space for the external activities associated with such a property. These include space for external storage, drying clothes, growing vegetables, relaxation and children's play.
25. Having regard to the above, I have been given no reason to conclude that the garden space remaining to serve the property is such that the development has an unacceptable effect on the living conditions of the occupiers of the appeal site. For this reason, I do not find the development in conflict with saved Policy H15 of the SLP or the SPD.

Living conditions – adjoining occupiers

26. It is suggested that the extension encloses and over dominates the garden of neighbouring properties. In this regard I note that the properties on both sides

have been extended and that these extensions are similar in their depth, size and proportions to the previous extension to the appeal site. As such, only the depth of the appeal extension along the boundaries (and not the full depth of the appeal extension and previous extension) can be appreciated from the adjoining properties. As noted above, the pitch of the roof of the appeal extension is shallow and I do not regard it as being excessively tall. Whilst it may result in a degree of enclosure of the adjoining gardens, this is not along a significant length of the boundary.

27. Although there are clear plastic sections in the side elevations of the appeal extension, the height of these are such that any overlooking is limited. Indeed, the Council suggests that there is only a perceived loss of privacy. Whilst the appeal extension is visible from neighbouring properties, I cannot find it unacceptable with regard to its effect on the garden space or privacy of neighbours.
28. All things considered, I cannot conclude that the development has an unacceptable effect on the living conditions of adjoining occupiers. I do not, therefore, find the development in conflict with saved Policy ENV1 or H15 of the SLP, or the guidance provided within the SPD. These inform, amongst other matters, that development is required to be of a high quality design that improves the quality of the environment in terms of its relationship with neighbours, and that extensions will only be permitted if there is no significant adverse impact on the amenity of adjoining occupiers.

Other Matters

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. Whilst I have concluded that the development subject of this deemed planning application is acceptable with regard to its effect on the living conditions of the occupiers of the appeal site and adjoining properties, I have not concluded the same with regard to its effect on the character and appearance of the appeal site and the surrounding area. The development is, therefore, contrary to the development plan. In these circumstances it is necessary for me to consider whether there are any material considerations of sufficient weight to indicate that my determination should be made otherwise than in accordance with the development plan.
30. In this regard, the appellant has provided particular details regarding his health, which is supported by a letter from his medical practitioner. Having considered this evidence, it may well be the case that the appellant is regarded as being a person sharing a protected characteristic, which is relevant to my decision. Under the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, I must have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
31. From the correspondence provided by the appellant I can see that he has suggested to his medical practitioner that the development benefits his health. As such, his medical practitioner suggests that he continue to use and enjoy

the development. Clearly, the benefit the appellant derives from the development adds weight in favour of the grant of permission. However, as noted by the Council, I have no reason to conclude that similar benefits cannot be derived from an alternative form of development. The Council does not discount the prospect of it finding an alternative scheme acceptable.

Planning Balance and Conclusion

32. Even having due regard to the benefits of the development, I conclude that the harm to the character and appearance of the appeal site and surrounding area, resulting from the poor design, form and scale of the development, tips the balance against the grant of planning permission. I have considered whether conditions would overcome the harm caused in this case, including those suggested by the appellant, but conclude that they would not. I have no reason to conclude that my determination of the appeal should be made otherwise than in accordance with the development plan. As such, planning permission ought not to be granted and the ground (a) appeal should fail.

Ground (f)

33. For the appeal to succeed on this ground, I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach. Having regard to the requirements of the notice, the purpose of the notice must be to remedy the breach of planning control that has occurred.
34. I note the appellants have suggested alterations to the appeal extension, including the removal of the canopy on the western portion. I have not, however, been provided with any details of the development that would remain, nor any details of the works and materials necessary to make good the remaining structure.
35. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the steps required in the notice are necessary. For these reasons, the appeals under ground (f) should fail.

Overall Conclusions

36. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

37. The appeals are 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.

J Moss

INSPECTOR