



Appeal Decision

Site visit made on 31 August 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday 30 September 2022

Appeal Ref: APP/J0350/W/21/3288411
141, High Street, Slough SL1 1DN

- 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
 - The appeal is made by Mr Chhokar (Binfield Property Investment Trust Ltd) against Slough Borough Council.
 - The application Ref P/00662/022, is dated 11 December 2020.
 - The development proposed is new additional floors comprising of 6no self-contained units with refuse and cycle storage at ground floor level and amended access stairs to basement level.
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Decision

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

Preliminary Matters and Main Issues

2. I note the reasons for refusal submitted with the Council's Statement of Case. While this is not the application decision as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.
3. In view of the above, the main issues are:
 - Whether the proposed development would provide adequate accommodation for future occupants, with regard to the internal size of the units as well as light, outlook and external space.
 - The effect of the proposed development on public open space.

Reasons

Accommodation for future Occupants

4. 141, High Street is located within a commercial high street in Slough. No 141 is single storey vacant retail unit and is adjoined to the right by unit of a similar scale. To the left is a 4-storey brick-built building with commercial at ground floor and a mix of uses above. The site faces a pedestrianised area and a vacant development plot. To the rear of the site is an elevated parking and storage area for a large shopping centre. From what I saw on site, this parking and storage area adjoins at around first floor level, but it is not a publicly accessible car park for the shopping centre.
5. The proposed development would extend the ground floor upwards to form a 3-storey extension to accommodate six flats. Three flats are proposed to the front

of the extension, and three to the rear, with a central staircase and courtyard. The flats would be accessed via the front, and a cycle store and bin storage are proposed to the rear ground floor.

6. Core Policy 8 of the Slough Borough Council Local Development Framework Core Strategy 2008 (CS), which amongst other things, sets out that all development should be of a high-quality design that is practical, attractive, safe, accessible and adaptable, respect its location and surroundings and provide appropriate public space, amenity space as an integral part of the design.
7. The Slough Space Standards for residential development Developers Guide Part 4 – supplement Supplementary Planning Document 2018 (Space Standards SPD) provides detailed guidance on space standards for new residential development. Based on the gross internal floor areas set out in Table 1 of the Space Standards SPD, Flats 2 and 4 are 5m² below the minimum standards. Due to its open arrangement Flat 6 is described as a 'studio flat', however, the Space Standards SPD does not differentiate between 1 bed studios and 1 bed flats. As such, I have considered Flat 6 as a two-person one bedroom flat, which would be 7.5m² below the minimum space standards.
8. In addition to three units being below the minimum space standards, the window and door openings facing the internal courtyard would result in the flats receiving poor levels of light and outlook. Whilst no technical evidence was provided with the appeal relating to light, it appears to me having considered the plans, that there would be poor levels of daylight having regard to the configuration of the living space, the surrounding buildings, and the location and size of the windows. I acknowledge that the rear and front facing windows would provide a better level of outlook and light to the proposed flats than in other parts of the proposed development. However, this would not be sufficient to overcome the substandard internal space and the poor level of outlook and light from the remaining windows.
9. Policy H14 of the adopted Slough Local Plan 2004 (LP) sets out criteria for consideration when determining whether outdoor space is appropriate for a proposed development. This includes having regard to the character of the area, the type of development, the qualities of the outdoor space being proposed, the provision of balconies and the proximity of public open space. The policy does not set out any size requirements, but paragraph 2.8 of the supplementary text states that in smaller schemes, such as one-bedroom flats, space is required only for drying clothes, the siting of waste bins and the provision of a sitting out area in an appropriate setting for the scheme.
10. I have had regard to the type of accommodation proposed, its location within the city centre and the bin and cycle storage being proposed in a separate area. However, the proposed internal courtyard would be a small space, with a poor outlook and access to light. All occupants of the flats would also need to journey through this space to access their flat. The outdoor space for flat 2 is more private, but again this could be accessed by anyone within the building as well as being small and enclosed by a high wall.
11. Having regard to the above, the proposed outdoor spaces are small with a poor outlook and access to natural light. They also appear as a more circulatory or functional space to access the flats, rather than a separate area where occupants may privately relax or hang out clothes. The proximity of leisure, and

other facilities and services would not be adequate compensation for the lack of usable private, albeit communal, space in this instance. As such, despite the type of development and its central location, the outdoor space would not be sufficient to serve the future occupiers of the proposed development.

12. Accordingly, in view of the poor internal space standards, outlook, light and access to basic outdoor space, the proposed development would result in a substandard level of accommodation, which would undermine the quality of life of future residents.
13. I therefore conclude that the proposed development would fail to provide adequate living conditions for future occupants of the proposed flats with particular regard to internal space standards, light, outlook and the provision of outdoor space. The proposed development would be contrary to Core Policy 8 of the CS, Policy H14 of LP and the advice and guidance set out within the Space Standards SPD. These policies and guidance seek to ensure living accommodation for future occupants is a high level of design and not substandard in space, outlook, light and external space.
14. The proposed development would also be contrary to paragraphs 130 (f) and 134 of the National Planning Policy Framework (the Framework). Paragraph 130 (f) of the Framework states that decisions should ensure that developments create places with a high standard of amenity for existing and future users. Paragraph 134 of the Framework also states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Public Open Space

15. Policy OSC15 of the Slough LP states that all new residential development will be required to make appropriate provision, by way of direct provision or as a financial contribution, for educational (including libraries) and community and leisure facilities to meet the needs arising from such new development.
16. The Developer Contributions and Affordable Housing (Section 106) Developer's Guide Part 2017 (Developer Contributions) is an interim document, which provides more detailed guidance on developer contributions in the absence of an adopted Supplementary Planning Document. I attach moderate weight to this document when making my decision. Section 6 of the Developers Contributions document states that for high density residential schemes in or near the town centre, which have inadequate private amenity space, a financial contribution of £300 per dwelling for the enhancement of existing nearby public open space would need to be paid prior to commencement of the development.
17. The proposed development is located within the town centre and would fail to provide adequate private outdoor space. Although I accept that the density is likely to be high, Appendix 1 of the Contributions SPD has a table that refers to the type of contribution and when it is required for different types of residential development. Having regard to the table, it is not clear whether there is a requirement for a contribution for off-site POS given the number of proposed units. However, even if there was, I have found harm to living conditions relating to internal space standards, outlook and daylight, and this harm is sufficient for the appeal to be dismissed in any event.

Other Matters

18. The Council indicate that appeal site lies within 5km of the Burnham Beeches Special Area of Conservation (SAC), and this is not disputed by the appellant. This is protected as a Special Area of Conservation and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Given the distance of the proposal from the SAC, and the proposed use, the proposal is likely to have a significant effect on the integrity of the SAC, either alone or in combination with other plans or projects. This is due to a potential increase in recreational activity on the SAC.
19. I am the competent authority for the purposes of this appeal. As the competent decision-making authority, if I had been minded to allow the appeal, it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, I have already identified harm to the living conditions of future occupants, such that undertaking my own Appropriate Assessment would not alter the outcome of the appeal. On that basis, there is no need to examine this matter further for the purposes of making my decision.
20. Similarly, the Council has outlined that the application does not propose net gains in biodiversity. While biodiversity enhancements should be considered as part of the planning process, I have no detailed ecology information from the appellant or the Council on this matter. Furthermore, as I have already identified harm to the living conditions of future occupants, to consider this matter further would not change the outcome of the appeal. For that reason, there is no need to consider this matter further for the purposes of making my decision.
21. I acknowledge that the delay in the determination of the application and the lack of communication by the Council on the matters raised in the Statement of Case would have been frustrating to the appellant. However, the conduct of the Council and any previous discussions or decisions on the acceptability of the proposed development is not a matter that affects my findings on the main issues in this case.

Planning Balance and Conclusion

22. The Council has set out that it cannot demonstrate a five-year supply of deliverable housing land. Paragraph 11 of the Framework states that where policies which are the most important for determining the application are considered out of date, which includes where a five-year supply of deliverable housing land cannot be demonstrated, planning permission should be granted unless the application of the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
23. Footnote 7 of the Framework includes policies regarding land designated as Special Areas of Conservation. As such, due to the lack of sufficient information on the effect of the proposed development on the SAC, the Council indicate that the proposal is contrary to these policies in the Framework, and thus, paragraph 11d is not engaged. However, even if paragraph 11d was engaged, allowing the proposed development would conflict with the policies of the development plan and the Space Standards SPD, which seek to ensure living accommodation for future occupants is a well-designed and not substandard in space, outlook, light and external space.

24. I therefore give significant weight to the conflict with Policy 8 of the CS, Policy H14 of the Slough LP and the Space Standards SPD, which are consistent with the aims of paragraph 130 (f) and 134 of the Framework. In terms of benefits, the provision of six flats would make a contribution towards the supply of housing, in an area with an under supply. There would also be social and economic benefits arising from the construction period and the potential future spending of occupants. However, the construction benefits would be short term and six flats would provide only a small uplift to the supply of housing, as well as support to services and businesses in the area. I give these benefits only limited weight.
25. As such, even in the event that paragraph 11d is engaged when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development would not apply.
26. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

M. P. Howell

INSPECTOR