



Appeal Decision

Site visit made on 31 May 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd JUNE 2023

Appeal Ref: APP/J0350/C/21/3289352

Land at 32 Knolton Way, Slough, SL2 5TB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr J Singh against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 19 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a self-contained outbuilding on the land as shown edged in blue on the plan attached to the notice ('unauthorised development').
 - The requirements of the notice are: (i) Demolish the unauthorised development in its entirety. (ii) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirement.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. 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. It is directed that the enforcement notice be corrected by in paragraph 3 substituting 'outbuilding' with 'building'. Subject to this correction the appeal is dismissed and 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.

Preliminary Matters

2. The allegation in the enforcement notice refers to the erection of a 'self-contained outbuilding...' However, the term outbuilding is commonly understood as applying to a smaller separate building which is subordinate to a dwelling, rather than something which is a dwelling in its own right. As the allegation is that the structure is self-contained, what has been erected cannot also be an outbuilding. Therefore, I shall exercise the power available in s176 (1) of the 1990 Act to correct the notice by substituting 'outbuilding' with 'building' in the allegation. In doing so, I am satisfied that there would be no injustice to the appellant or the Council.
3. The 1990 Act at s177 (1)(a) only provides for the granting of planning permission in respect of the whole or part of the matters alleged in the notice. The notice alleges the erection of a self-contained building, i.e., a structure for use as primary living accommodation. The notice does not allege the erection of a building for a purpose or purposes incidental to the enjoyment of the dwelling as such. A use incidental or secondary to that of a dwelling is not in itself a dwellinghouse use and is materially different in character to the use

alleged in the notice. Consequently, use of the building for purposes incidental to the dwelling is not part of the matters alleged in the notice and it cannot fall within the scope of the deemed planning application arising from the ground (a) appeal.

4. The building could not be accessed during my visit. However, I consider that the appeal can be determined on the basis of the information already available and from what I was able to view from adjoining land.

Ground (a) appeal

Main Issues

5. The main issues in this ground of appeal are:
 - The effect of the building on the character and appearance of the area.
 - Whether suitable living conditions are provided for occupiers of the building, having regard to internal floorspace, outlook, privacy and outdoor amenity space.
 - The effect on the living conditions of occupiers of adjoining residential property, having regard to privacy and noise and disturbance.
 - The effect on highway safety, having regard to the provision made for vehicle parking.

Reasons

Character and appearance

6. The appeal property contains a two-storey, mid-terrace dwelling. The dwelling is located in an area where development is largely comprised of residential properties exhibiting considerable similarity in terms of their age, architectural style, form and materials. The dwellings are neatly arranged in rows and occasionally in pairs, the principal elevations facing towards wide, tree-lined streets. The properties occupy rectilinear plots and have ample-sized front and rear gardens. These factors contribute significantly to the pleasantly spacious and well-ordered suburban residential character and appearance of the locality.
7. The notice attacks a single storey building with partly rendered masonry walls and a monopitch roof form. The building is of modest scale compared to the more substantial proportions of dwellings in the surrounding area. It occupies a site which is constrained in size when compared with the more generously proportioned plots occupied by most dwellings in the locality. This has meant that the building is adjacent to the property boundaries, leaving little space around the built form within the plot and affording limited opportunity for providing outdoor amenity space or for softening landscaping. The building also occupies a significant portion of the rear garden, reducing the garden size considerably compared to other properties in the vicinity.
8. Furthermore, being located towards the end of the rear garden the building sits well behind the dwelling and neighbouring built forms fronting the street and is alongside the rear gardens of adjoining property. The building has no street frontage and it occupies a 'backland' location, with no obvious means of access from the street other than via the dwelling at the front. As far as I am aware, no other dwellings in the vicinity are similarly located. As a result, the building

appears cramped and restricted on its plot and has created a more built-up and enclosed feel in the environs. This is entirely at odds with the prevailing pattern of local development identified above. The failure to integrate with the surroundings is emphasised by the external wall materials and roof form, which do not reflect the brick/pebbledash finished walls and pitched tiled roof forms of dwellings in the vicinity and contribute further to the building being viewed as an alien feature in the surroundings.

9. For the above reasons, the building causes unacceptable harm to the character and appearance of the area, failing to accord with Policy EN1 of the Slough Local Plan (LP). This requires development to reflect a high standard of design compatible with the surroundings and seeks to resist poor designs. By not being of a design, scale and density in keeping with the existing residential area and not providing appropriate access, amenity space and landscaping, the building also fails to accord with criteria in LP Policy H13. Additionally, the building fails to accord with Policies 1 and 4 of the Slough Core Strategy (CS) as it is not related to the character and surroundings, whilst by not being of high-quality design which improves the environment the building fails to accord with CS Policy 8.

Living conditions-occupiers of the building

10. According to the submitted drawing, the building contains a living room and kitchen, with a separate bedroom and bathroom. The Council's photographs dated June 2021 show a dining table and chairs in the living room, with worktop units, a sink and drainer, a cooker, hob and extractor and an upright fridge/freezer in the kitchen. The bedroom contains a double bed frame, bedside drawers and a fitted wardrobe, whilst there is a walk-in shower with a WC and vanity unit in the bathroom. More recent photographs supplied by the appellant show that the cooker, hob and extractor together with the bed frame have been removed and there are other items in the building including a treadmill, weights and a games console, screen, desk and chair. However, the internal layout is similar.
11. The building has a modest footprint. Everyday items of furniture such as sofa chairs and a coffee table are likely to occupy a considerable part of the floor area in the living room. In the bedroom little floor area was left after accommodating a double bed and drawers. There would be a limited floor area in these spaces for circulation, keeping personal effects or for storing other basic household items. Similarly, there is little floor area left in the kitchen for providing other common household appliances such as a washing machine or dishwasher. Therefore, it is likely that the building would provide an uncomfortably cramped and congested living space for occupiers. Moreover, the building is unlikely to meet the 50m² gross internal floor area (GIA) minimum space standard for a one-bedroom, two-person single storey dwelling, set out in the Government's Nationally Described Space Standard¹. The deficiency in GIA when assessed against the minimum standard reinforces my misgivings over the restrictive size of the building in terms of the suitability of the living conditions for its occupiers.
12. The building has a single aspect, the living room and bedroom each being lit by a two-light window. These two windows provide the principal source of outlook from habitable rooms in the building, the external entrance doors being

¹ Technical Housing Standards-Nationally Described Space Standard DCLG March 2015.

obscure glazed. The kitchen has no direct source of outlook. From the living room window, it would be possible to look directly over the rear garden of the front dwelling, towards its rear elevation a relatively limited distance away. Due to the proximity of the rear garden of the front dwelling and windows in its rear elevation, without any intervening screening it is highly likely that occupiers of the building would keep curtains or blinds drawn in the living room at most times for privacy purposes. Otherwise, the occupiers would be directly overlooked at close quarters from the front dwelling and its rear garden, resulting in poor privacy levels. There is an outbuilding directly in front of the bedroom window, restricting outward views. The consequential constraints on natural lighting in habitable rooms means that occupiers of the building are likely to be reliant on artificial light sources for long periods. As a result, occupiers of the building are likely to experience a significant and unrelieved sense of enclosure when using habitable rooms.

13. As the rear garden is overlooked from the front dwelling and used by occupiers of that property, it cannot also provide a suitable outdoor private amenity space for occupiers of the building. In the absence of a separate private amenity space, little opportunity is afforded to occupiers for undertaking activities generally associated with a residential garden, such as informal relaxation, cultivating plants, drying washing and waste/recycling storage. The lack of a private outdoor space in which to undertake the above or similar activities reinforces the sense of a restrictive living environment.
14. Consequently, a suitable living environment for occupiers has not been provided having regard to the building's restricted size and outlook, poor privacy levels and the absence of private outdoor amenity space. The failure to make provision for appropriate amenity space does not accord with criterion in LP Policy H13 and LP Policy H14, nor does it accord with criterion in CS Policy 8. Not providing a high standard of amenity for existing and future users is inconsistent with the National Planning Policy Framework.

Living conditions-occupiers of adjoining residential property

15. The living room window and external doors to the building face towards the rear garden and rear elevation of the front dwelling at close quarters. Also, comings and goings through the rear garden by occupiers of the building and their visitors results in an increase in opportunities for direct overlooking at the property. This has significantly and harmfully eroded the previously high levels of privacy and corresponding appreciable sense of seclusion enjoyed by occupiers of the front dwelling. Additionally, the increase in day-to-day activity and comings and goings arising from a self-contained building is likely to result in considerable extra noise and disturbance being experienced by occupiers of adjoining residential property in their rear gardens, where previously they would have enjoyed relatively high levels of peace and quiet.
16. Therefore, the building has also caused unacceptable harm to the living conditions previously enjoyed by occupiers of adjoining residential property. This fails to accord with criterion in LP Policy EN1, which requires development to be compatible with the surroundings in terms of the relationship to nearby properties. It also fails to accord with criterion in LP Policy H13, which seeks to ensure that existing residential properties do not suffer from overlooking and loss of privacy. Furthermore, there is failure to accord with criterion in CS

Policy 8, which requires development in residential areas to respect the amenities of adjoining occupiers.

Highway safety

17. There are two parking spaces at the property, adjacent to the street. These spaces are likely to be used by occupiers of the front dwelling. There is insufficient space to accommodate additional off-street parking. As a result, occupiers or visitors to the building are likely to have to park any private motor vehicles at the roadside.
18. There are few restrictions on roadside parking in the vicinity. I observed a significant number of opportunities for parking a vehicle at the roadside in this and adjacent streets. Whilst there might be more incidences of roadside parking at other times this is unlikely to approach capacity, given that several properties in the locality have made provision for off-road parking. In general, the surrounding streets are of sufficient width for vehicles travelling in opposite directions to pass with ease, they are well-aligned, there is good visibility at junctions and vehicle speeds are relatively low. For the most part, existing incidences of roadside parking do not significantly impair the free flow of traffic or restrict forward visibility available to drivers, cyclists and pedestrians. Based on the building being occupied by up to two persons having regard to its restricted size, there is unlikely to be a requirement to access more than one vehicle. As a result, any additional roadside parking arising from occupation of the building is likely to be absorbed without leading to a significant reduction in the vicinity of the carriageway width available for vehicles to pass freely, or to the forward visibility available to road users.
19. In any event, there is a bus stop nearby from which it is possible to access frequent services to the town centre and other local destinations. A parade of local shops is a relatively short, level walk away. Provision of secure cycle parking could have been secured by a suitable planning condition, had I been minded to allow the appeal and grant permission. It is not unreasonable to conclude that with the convenient availability of alternative modes of transport for accessing work opportunities, services and facilities occupiers of the building do not need to rely solely on private vehicles. To my mind, the above casts further doubt on the necessity of making provision for off-street parking at the property.
20. Consequently, the building has not had an unacceptable effect on highway safety, the level of parking being appropriate to the location and scale of the development taking account of local parking conditions and road safety problems, in accordance with CS Policy 7. However, my findings on this matter do not outweigh those on the other main issues set out above.

Conclusion-Ground (a)

21. The building causes unacceptable harm to the character and appearance of the area, it provides an unsuitable living environment for occupiers and there is unacceptable harm to the living conditions of adjoining occupiers, all of which fails to accord with the Development Plan. Therefore, the ground (a) appeal does not succeed.

Ground (f) appeal

22. The ground of appeal is that the requirements of the notice are excessive.

23. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring land to its condition before the breach took place, or it can remedy any injury to amenity which has been caused by the breach. The notice requires the building to be demolished. The notice does not require the building to be modified or altered in some way, for example by reducing its size. Therefore, although the notice does not state as such, its purpose must be to remedy the breach of planning control by restoring the property to its condition prior to the breach taking place.
24. The GPDO² at Article 3, Schedule 2, Part 1, Class E grants planning permission for erecting an outbuilding within the curtilage of a dwelling. However, due to the provision of a kitchen and bathroom the building has the facilities required for independent day-to-day private existence, i.e., the defining characteristics of a dwellinghouse. The Government's Technical Guidance³, which assists in interpreting the GPDO, advises that a purpose incidental to a dwelling would not cover normal residential uses, such as separate self-contained accommodation or primary living accommodation such as a bedroom, bathroom, or kitchen. Accordingly, the building cannot have been erected for an incidental purpose, even if it had been the appellant's intention to remove the kitchen and use the structure as a gym once works on the front dwelling were completed. In any event, it was not disputed that the building is taller than 2.5 m within 2 m of the boundary, thereby exceeding the relevant height limit in Class E. Also, there is no firm evidence that a structure of similar floor area would be required at the property for an incidental purpose. Development which exceeds the GPDO limits is entirely without planning permission.
25. Due to the above factors, any step which led to the building remaining in situ would sustain the breach and so would not restore the property to its condition prior to the breach taking place. This would not achieve the purpose of the notice. I am not persuaded that there is a realistic 'fallback' position in terms of erecting a building with a similar footprint at the property within the GPDO limits following compliance with the notice. Therefore, retaining the building for incidental purposes, removing the kitchen and reducing the overall height does not represent an obvious alternative to the notice requirements. No other alternative to those requirements was suggested and to my mind none would remedy the breach.
26. Accordingly, the notice requirements are not excessive; they are a proportionate remedy involving the minimum works necessary to restore the land to its condition before the breach took place. The ground (f) appeal fails.

Conclusion

27. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

³ MHCLG 2019.