



Appeal Decision

Hearing Held on 20 June 2023

Site visit made on 20 June 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal Ref: APP/J0350/W/22/3313789

19 Stoke Road, Slough SL2 5AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Silver Hey Properties Ltd against the decision of Slough Borough Council.
 - The application Ref P/04557/012, dated 24 February 2021, was refused by notice dated 28 July 2022.
 - The development proposed is outline planning permission for the demolition of existing commercial buildings and erection of an 8-storey residential building at the corner of Stoke Road and Stoke Gardens to provide up to 29 new dwellings with associated cycle and car parking. Access, layout, appearance and scale to be determined with landscaping reserved for future consideration.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing commercial buildings and erection of a 7-storey residential building at the corner of Stoke Road and Stoke Gardens to provide up to 24 new dwellings with associated cycle and car parking, with access, layout, appearance and scale to be determined with landscaping reserved for future consideration at 19 Stoke Road, Slough SL2 5AH under the terms of the application Ref P/04557/012, dated 24 February 2021, and subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application was made in outline with only the matter of landscaping reserved. I assessed the appeal on that basis.
3. Before planning permission was refused, the proposal was revised reducing the number of units to up to 24. This necessitated the main parties agreeing a revised description of development, which I have used in my decision above.
4. After the hearing the appellant submitted a completed planning agreement (the S106) to secure obligations relating to education, transport, the Burnham Beeches Special Area of Conservation (the SAC) and affordable housing. At the hearing the Council had withdrawn its fifth reason for refusal which relates to the need for these obligations. I have therefore not had further regard to this reason for refusal, but return to the matter of the obligations where necessary.
5. The Building Research Establishment Guide 'Site layout planning for daylight and sunlight' (the Guidance) was updated during the appeal. However, at the hearing the parties agreed that, for the sake of fairness and expediency, I should use the version that prevailed when the application was determined. As this is a matter of guidance, not policy, I agreed it was appropriate for me to do so.

Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the non-designated heritage asset 19 Stoke Road and the setting of the non-designated heritage asset 21 Stoke Road;
- whether or not adequate living conditions would be created for future residents, with reference to sunlight, daylight and outside space; and,
- the effect of the proposal on the integrity of the SAC.

Reasons

Character and appearance

7. The appeal site, 19 Stoke Road, is a former public house, now in separate commercial and residential uses, located at the corner of Stoke Road and Stoke Gardens, immediately to the north of Slough Town Centre. It sits at the end of a parade of two storey 19th Century commercial properties fronting Stoke Road.
8. The immediate and wider area is marked by a state of change, with a multitude of smaller, older buildings replaced, in the process of being replaced, or with permission to be replaced, by larger commercial and residential buildings. This has created a mixed, piecemeal character, with buildings of sometimes highly disparate design and/or scale within close proximity to one another.
9. The scheme would replace the two-storey former pub with a seven-storey apartment block, albeit the upper floor would be slightly set back. Combined with its vertical scale, the Council is concerned about the minimal set back of the building from the public highway, and the consequent lack of opportunity to utilise soft landscaping to soften and assimilate the building into its context.
10. The seven-storey Vanburgh Court, close by to the northeast, is set behind green space, but even so has an immense, sweeping presence that dominates the adjacent stretch of Stoke Road. West Central Apartments, across the road from No 19 to the south, steps down to Stoke Gardens, but only a small element does so, with much of the building presenting six full storeys to Stoke Road at the gateway to the Town Centre. As with Vanburgh Court, its position behind modest landscaping does little to quell its presence. I note that there is a low density and scale residential area close by to the northwest, but the appeal site is not read easily with this area, and there is also an intervening large building west of the site in the process of upward extension.
11. Given such, the proposed building would sit well within the context of other neighbouring tall buildings even with the limited setback proposed. It would provide an adequately sympathetic, albeit fairly strident, bookend to the street corner. There would be a more visually pronounced change in scale between the new building and the adjacent parade to the north, but this would not be incongruous in the wider context of highly differing building heights. Indeed, the parade is already viewed against the direct backdrop of West Central Apartments when one is travelling south towards the Town Centre, and within the direct context of Vanburgh Court when going in the opposite direction.
12. Consequently, the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the relevant design objectives

of Policy EN1 of The Local Plan for Slough (adopted 2004) (the Local Plan) Policies 4 and 8 of the Core Strategy (adopted 2008) and the National Planning Policy Framework (the Framework). The Council also relied upon Policy EN2 of the Local Plan in its reason for refusal, but this policy relates explicitly to extensions to existing buildings and is therefore not relevant.

Non-designated Heritage Assets

13. No 19 and its neighbour to the north, 21 Stoke Road, are late Victorian buildings each included on Slough's local list of non-designated heritage assets, which is within an appendix to the Local Plan. There is little evidence or detail of the standard of the local listing process that took place. Nonetheless, pursuant to the description of a heritage asset given in the glossary of the Framework, their presence on the local list means that Nos 19 and 21 must be treated as non-designated heritage assets in the application of planning policy.
14. No 19 is identified on the local list as the 'Printer's Devil Public House' and was listed in 1995 presumably for its 19th century architectural design and its former historic use as a local public house. Despite this status, a series of unsympathetic physical alterations and its somewhat crude subdivision, much of which appears to have occurred after the building was placed on the local list, have denuded 19 Stoke Road of much of its charm and its integrity.
15. To the casual observer its heritage as a pub is now near illegible. The building, mostly the part that was Rai Solicitors, does maintain a modicum of Victorian detailing, but is also heavily altered in terms of materials, and what survives is not of particular interest. It therefore has little significance, both in its own right and in terms of its weak group value with the rest of the 19th Century parade, which was built much later on in any event. Thus, whilst through its demolition there would be the total loss of 19 Stoke Road's significance, the baseline is low, and therefore the harm that would arise would also be low.
16. 21 Stoke Road (listed as the Former Leopold Coffee House) deserves its place on the list, given the quality of its intricate, moulded red bricked frontage with classical embellishment. In terms of its relationship with No 19, they have very little in common, particularly with their disparate building lines, eaves heights, designs and finish materials. It is quite evident that they were built individually at different times and, despite sharing the broader Victorian era, they do not visually complement one another. Any suggestion that the coffee house was built as a 'counterattraction' to the pub is unduly speculative in my view.
17. As to the new building, there would be an abrupt change in scale. However, the detailing of the building, such as the red brick finish and the adjacent balcony, which attempts to follow the cornice and balustrade lines of No 21's facade, is respectful. Given the sensitivity in seeking to correlate detailing between the new building and the former coffee house, and within the context of an urban environment where sudden changes in height and building epoch are commonplace, I consider that the scheme would not harm the setting of No 21.
18. Drawing this together, whilst I conclude that there would be no harm to the significance that 21 Stoke Road derives from its setting, there would be harm to the significance of 19 Stoke Road through its complete loss. Consequently, the proposal would conflict with the heritage objectives of Policy 9 of the Core Strategy and Policy EN17 of the Local Plan.

Living conditions

19. Paragraph 130 of the Framework, amongst other things, states that decisions should ensure that developments will function well, using the arrangement of space to create attractive, welcoming and distinctive places to live, promote health and well-being, with a high standard of amenity for future users.
20. With reference to sunlight and daylight, several rooms concern the Council. In my view, those from the second floor upwards would have an elevated outlook and would fail the BRE Guidelines to such a modest extent that they would offer an acceptable standard of living accommodation in this urban location.
21. However, bedroom R2 at ground floor and bedroom R10 at first floor would fall well short of the guidance, providing an Average Daylight Factor of 0.61% and 0.52% respectively. Given that these two rooms would also both face north and therefore would not have access to direct sunlight, and further would offer little chance for occupants to see the sky, it is my opinion that they would provide a significant shortfall in living standards. Given that bedrooms often offer home working space and sometimes a private refuge for future occupants, I do not prescribe to the argument that these bedrooms should be treated with less sensitivity than other rooms within their respective residential units.
22. Room R3 passes the sunlight and daylight tests, but the Council make the point that, as its window is directly onto street level, this would be likely to have blackout blinds closed during the day. However, I consider that modest screen planting and/or the use of a less severe type of blinds would ensure privacy without undue loss of light to the room. The Council is also concerned that two of the units would not have private outdoor space, but I note that the scheme would replace two existing flats at the site which also do not have dedicated outdoor space, so the proposal would be neutral in these terms.
23. Consequently, I conclude on this issue that, whilst the proposal would be acceptable with regard to outside space provision, it would fail to create adequate living conditions for future residents with reference to sunlight and daylight. It would therefore conflict with the relevant objectives of Policy 4 of the Core Strategy, Policy EN1 of the Local Plan and the Framework.

Burnham Beeches SAC

24. The appeal site is just within the zone of influence of the SAC. Given such, the Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the SAC.
25. The SAC is designated for its Atlantic acidophilous beech forests and associated beech *Fagus sylvatica* and oak *Quercus*. Surveys have shown it to be one of the richest sites for saproxylic invertebrates in the UK. It also retains nationally important epiphytic communities, including the moss *Zygodon forsteri*.
26. The SAC is also a recreational resource, and it is likely that occupants of the proposed development would visit it. On this basis, there is no dispute between the main parties, nor Natural England (NE), that it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the SAC due to increased recreational use. I have no reason to disagree with this conclusion.

27. It is agreed by the main parties that to mitigate against such effects, financial contributions should be secured towards enhancements to the Upton Court Park Suitable Alternative Natural Greenspace (the SANG) pursuant to the Council's 2022 Mitigation Strategy. Enhancements may include a walking and cycling route, wetlands restoration, and new seating, bins and interpretation boards. NE is satisfied with this approach subject to there being capacity to absorb the recreational activity generated by the development at the SANG. The Council has not indicated that the SANG is unable to accommodate the scheme.
28. As such, I am satisfied on the evidence before me that the S106 is a sufficient mechanism to ensure the delivery of proportionate and relevant mitigation pursuant to the Council's strategy for development which could affect the SAC. I therefore conclude my Appropriate Assessment that, with the mitigation, the proposal would not have an adverse effect on the integrity of the SAC. It would accord with Policies 9 and 10 of the Core Strategy, the Habitats Regulations and the Framework insofar as they seek to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

Planning Obligations

29. Community Infrastructure Levy (CIL) regulation 122 makes clear that it is unlawful for a planning obligation to be taken into account in a planning decision on a development that does not meet all of the following tests. These are that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
30. In addition to the SAC contributions, the S106 would secure the affordable housing, necessary contributions to education, the electric vehicle car club, highway infrastructure and open space provision so as to enable the scheme to comply with Policy 10 of the Core Strategy. The S106 is therefore in compliance with regulation 122 and I can take it into account in my decision.

Other Matters

31. Considering the distances involved, and within this urban environment dotted with tall buildings, the effect on the living conditions of residents within Grays Road with reference to sunlight and daylight would be acceptable. The dwellings meet the nationally described space standards. Given the excellent access to nearby public transport, dedicated onsite parking is not required, save for the disabled access spaces. I have no reason to doubt these spaces would be functional. There is no substantive evidence that any car use related to the development would have a severe effect on the local highway network.

Planning Balance

32. Planning law and the Framework require proposals to be determined against the development plan unless material considerations indicate otherwise. In this context, the failure of the scheme to create satisfactory living conditions for some of its future occupiers, and the harm to the historic environment, draw the proposal into conflict with the development plan when read as a whole.
33. I am also mindful that Paragraph 203 of the Framework states that the effect on the significance of non-designated heritage assets should be taken into account in determining a proposal. In weighing schemes that affect non-

designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the assets.

34. Given that the clear majority of the residential units would benefit from acceptable living conditions, the limited failure of the scheme in this respect attracts moderate weight in the balance. Given the modest actual harm that would arise to the historic environment, I attribute this matter little weight.
35. It is undisputed by the main parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. In the absence of such, Paragraph 11 d) ii) of the Framework is engaged. At the hearing the supply situation was confirmed by the Council to stand at around 2.1 years. This is a big shortfall. I understand that the Council's previous emerging plan led solution was withdrawn, and that the current emerging local plan review is nascent and indeed has now also stalled. It seems to me therefore, that there is little immediate prospect of the shortfall being meaningfully addressed.
36. The government is seeking to significantly boost housing supply. The scheme would reuse brownfield land in a highly accessible location. In doing so, it would make a valuable contribution to addressing the shortfall of housing supply in Slough. A disused amalgam of poorly treated built form would be replaced by an active, vibrant and well-designed building. There would be an economic boost to the area during the construction phase.
37. Given the severe extent of the shortfall in housing supply, I attribute substantial weight to these benefits of the scheme. Indeed, they lead me to the conclusion that the adverse impacts of granting planning permission through the conflict with the development plan, the limited failure to create adequate living conditions, and the limited harm to the historic environment would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework when taken as a whole.
38. Consequently, the other considerations before me compel me to make a decision other than in accordance with the development plan in this case.

Conditions

39. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision. Conditions are required to secure the single reserved matter of landscaping prior to the commencement of the development, and to ensure its timely delivery and retention. In addition to the standard time condition for outline consents, a condition shall confirm the approved plans in the interest of certainty. In the interest of highway safety, conditions shall ensure the delivery of the parking and turning areas, and the access and associated visibility splays.
40. In order to safeguard against surface water flooding, surface water drainage details shall be agreed prior to the commencement of development. To meet the transport objectives of the development plan, cycle storage facilities shall be agreed, delivered and retained. In the interest of design and the public realm, adequate bin storage shall be provided prior to occupation of the housing and thereafter retained.
41. In the interest of highway safety, a Construction Management Plan shall be agreed prior to the development. Given the proximity of below ground public infrastructure, details of any piling work are essential before such work begins.

As the site is in an area of serious water stress, the dwellings will need to be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption.

42. A condition is needed to ensure that any unexpected contamination at the site is appropriately dealt with. Given the importance of the design of the building within the street scene, it is essential that details of the finish materials are confirmed with the Council prior to their installation, and to ensure that these finishes are retained. In order to ensure future residents are not subjected to unacceptable levels of pollution, details of glazing and mechanical ventilation will need to be agreed with the Council prior to the development.
43. To design out crime and also to safeguard the living conditions of existing and future residents, a lighting assessment shall be agreed with the Council prior to the development. I understand that the proposed building would be a 'relevant building' under planning gateway one. A fire safety assessment is therefore a legislative requirement to ensure that the development contributes to the minimisation of potential fire risk in accordance with the Framework. Given that a non-designated heritage asset would be demolished, it is proportionate to require the recording of its architectural and historic features. Lastly, in the interest of the environment, an Energy and Sustainability Assessment shall be submitted to an agreed with the Council before work above slab level begins.

Conclusion

44. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rosalind Gall	Agent
Kevin Scott	Agent
Kaivan Wong	Surveyor, Light specialist
Sabine Meilwes	Architect
Patrick Maguire	Heritage specialist
Manjinder Kang	Appellant
Parmjit Rai	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Alex Harrison	Principal Planning Officer
Allan Jones	Design Specialist
Neetal Rajput	Development Management Lead

DOCUMENTS SUBMITTED DURING THE HEARING

- 1) Extract of report relating to Horlicks site
- 2) Massing Plan

Schedule of Conditions

- 1) Details of the proposed hard and soft landscaping of the site, (hereinafter 'the reserved matter') shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The landscaping shall be carried out no later than the first planting season following completion of the development. Within a five-year period following implementation of the scheme, if any of the new or retained trees or shrubs should die, are removed or become seriously damaged or diseased, then they shall be replaced in the next planting season with another of the same species and size as agreed by the Local Planning Authority.

- 2) Application for approval of the reserved matter referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority no later than the expiration of three years from the date of this permission.
- 3) The development hereby permitted must be begun not later than whichever is the later of the following dates and must be carried out in accordance with the reserved matter approved:
 - i) the expiration of 5 years from the date of this permission: ii) or the expiration of two years from the final approval of the reserved matter referred to in Condition 1 above.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 343-PL-010-01, 343-PL-011-01, 343-PL-012-01, 343-PL-030-00, 343-PL-031-00, 343-PL-100-02, 343-PL-200-01, 343-PL-201-01, 343-PL-202-01, 343-PL-203-01, 343-PL-204-01, 343-PL-205-01, 343-PL-206-01, 343-PL-208-01, 43-PL-300-01, 343-PL-301-01, 343-PL-302-01, 343-PL-303-01, 343-PL-308-01.
- 5) Neither of the affordable housing units shall be occupied until the new means of access, parking and manoeuvring space has been sited and laid out in accordance with the approved plans.
- 6) Neither of the affordable housing units shall be occupied until the visibility splays shown on the approved drawings have been provided and the area contained within the splays shall be kept free of any obstruction exceeding 600 mm in height above the nearside channel level of the carriageway.
- 7) No development shall take place until details of the disposal of surface water have been approved in writing by the Local Planning Authority and no dwelling shall be occupied until the works for the disposal of surface water have been constructed in accordance with the approved details. No surface water from the development shall drain onto the public highway.
- 8) No part of the development shall be occupied until details of the cycle parking provided have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with these details prior to the first occupation of the development and shall be retained for this purpose.
- 9) No part of the development shall be occupied until bin storage has been provided in accordance with the approved plans.

- 10) Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following details:
 1. A site set up plan displaying vehicle and pedestrian access points during construction, provision for storage of materials, waste and recycling facilities/areas, contractor parking, turning space for construction vehicles, unloading area(s) for deliveries and wheel cleaning facilities.
 2. Delivery hours and working hours.
 3. Extent of construction hoardings / fencing and details of security arrangements on site.
 4. Details of traffic management measures to control deliveries to the site and pedestrian movements on footways in proximity to the site to minimise the impact of construction on the safe operation of the highway network.
 5. A vehicle routing plan for HGVs. HGVs shall avoid weight restrictions and Air Quality Management Areas and local schools at collection/drop off time.
 6. Details of noise and dust mitigation during the construction period.
 7. Evidence of inclusion of non-road mobile machinery (NRMM) controls.

The plan shall be implemented as approved before development begins and be maintained throughout the duration of the construction works period.
- 11) No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 12) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 13) The dwellings shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.
- 14) A Watching Brief shall be carried out by an appropriately accredited Competent Person during site works, and they shall prepare the necessary evidence to be submitted to the Local Planning Authority to the presence of any unsuspected contamination encountered during the development. In the event of contamination being encountered, no development or part thereof shall continue until a programme of investigation and/or remedial work to include details of the remedial scheme and methods of monitoring, and validation of such work undertaken has been submitted to and approved in

writing by the Local Planning Authority. None of the development shall be occupied until the approved remedial works, monitoring and validation of the works have been carried out and a full validation report has been submitted to and approved in writing by the Local Planning Authority.

In the event that no significant contamination is encountered, the developer shall provide a written statement, prepared by an appropriately accredited Competent Person, to the Local Planning Authority confirming that this was the case, and only after written approval by the Local Planning Authority shall the development be occupied.

- 15) Prior to their installation, samples of external materials to be used in the construction of the external envelope of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and retained in accordance with the details approved.
- 16) Prior to the occupation of the development hereby approved, details of the Glazing Installations and Mechanical Filtered Ventilation (including overheating assessment) within each flat pursuant to and in accordance with the 'Pre-Planning Noise Impact Assessment from Hawkins ref: R135-540499, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with these details prior first occupation and retained as such at all times in the future.
- 17) No part of the development hereby permitted shall be occupied until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. This shall include details of all the lighting units and any shielding, hours of use, and vertical and horizontal illuminance levels of all lighting including on habitable windows within the site and on neighbouring property. The development shall be carried out in full accordance with the approved details prior to first occupation and shall be retained as such at all times in the future. No lighting shall be provided at the site other than in accordance with the approved scheme.
- 18) The Reserved Matters application shall include the submission of a Fire Safety Assessment for the development hereby approved that is carried out in accordance with guidance under planning Gateway One, to be approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details in the forthcoming assessment and thereafter be retained and maintained in perpetuity.
- 19) Prior to the demolition of 19 Stoke Road, a Level 2 Historic Building Recording and analysis of architectural and historic features of the existing building shall have been agreed in writing by the Local Planning Authority.
- 20) Prior to development above slab level, an Energy and Sustainability Assessment shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details in the forthcoming assessment and thereafter be retained and maintained in perpetuity.