



Appeal Decision

Site visit made on 29 August 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 25 September 2023

Appeal Ref: APP/J0350/C/22/3308371

Land at 147 Granville Avenue, Slough SL2 1JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Mohammad Farzan Khan against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 13 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission the construction of an outbuilding at the Land in the approximate location shown edged blue on the Plan.
 - The requirements of the notice are to:
 - 1) Demolish the outbuilding (as outlined in blue)
 - 2) 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 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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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Summary of Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Slough Borough Council against Mr Mohammad Farzan Khan. This application is the subject of a separate Decision.

The appeal on ground (a) and the deemed application

2. 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. With a ground (a) it is incumbent on me to consider whether planning permission should be granted for the whole or part of the matters stated in the notice in accordance with S177(1) of the Act.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area; and
 - The living conditions of the occupiers of 145 and 149 Granville Avenue, with particular regard to outlook.

Reasons

Character and appearance

4. The appeal site forms part of a terrace of properties. Several have outbuildings to the rear that generally are of a more limited depth than the appeal scheme, leaving some open space between them, the dwellings they serve and those adjacent. This retains an element of spaciousness at the rear of properties that contributes positively to the character and appearance of the area.
5. In contrast, filling almost the full width of the garden of the appeal site and being of considerable depth, the outbuilding subject to this appeal occupies a considerable area of the outdoor space. Its footprint and height create a bulky and dominant feature that is of greater depth than other outbuildings in nearby rear gardens that it is seen with. Moreover, at my visit I did not see any other outbuildings that had the same combination of height and footprint as the appeal scheme. The incongruity of its scale and cramped rear garden space as a result is obvious from nearby properties and the street behind.
6. Therefore, the development harms the character and appearance of the area. It fails to accord with Policy EN1 of the Local Plan for Slough and Core Policy 8 of the Core Strategy¹ where they state that proposals are required to reflect a high standard of design and respect their location. It is also contrary to the SPD² where it states outbuildings should be of acceptable size and scale.

Living conditions

7. The outbuilding is located very close to both side boundaries with the adjacent properties. Given the depth of the outbuilding and its height, it appears as a prominent feature above the boundary treatments and planting. As a result, and due to the somewhat limited size of the gardens either side of the site the outbuilding dominates the outlook from them.
8. Furthermore, there is limited separation between the outbuilding and the openings in the rear elevation of 149 Granville Avenue. While views would be angled to a degree, the scale of the building at such close-range results in an oppressive and uninviting outlook from the room they serve over the planting and fence.
9. As such, the development unacceptably harms the living conditions of the occupiers of 145 and 149 Granville Avenue with regard to outlook. It is contrary to Policy EN1 of the Local Plan for Slough and Core Policy 8 of the Core Strategy where they say development should respect the amenity of adjoining occupiers and have a compatible relationship to nearby properties. In addition, it is contrary to the SPD where it states outbuildings should be of acceptable size and scale with regard to the siting of them relative to site boundaries.

Other Matters

10. A fallback position of the erection of an outbuilding under permitted development rights has been put forward by the appellant in relation to ground (f). However, it is relevant to my considerations under ground (a). Were the appellant to comply with the whole of the notice, at that stage they could

¹ Slough Local Development Framework Core Strategy 2006 - 2026

² Slough Residential Extension Guidelines

pursue an outbuilding under permitted development rights. However, there is no certificate of lawful development in place or plans before me of such a scheme. Even if any future building were incidental to the use of the dwellinghouse at the appeal site, and given concerns raised by the appellant over the cost of demolition works, I cannot be certain there would be a greater than theoretical possibility that the development would take place. Moreover, while said to be of a similar size, it is indicated that a building under permitted development would be smaller, and therefore more desirable than the appeal scheme. As such, I give this fallback little weight.

11. Imposing a condition requiring a scheme is submitted for a building that meets permitted development rights has also been suggested by the appellant. The appeal process should not be used to evolve a scheme and there are no plans showing what works this would entail. As such, from the evidence before me I cannot be certain the works involved would be part of the matters stated in the notice and it is not within my powers to consider this option under ground (a).

Conclusion on ground (a) and the deemed planning application

12. The previous Inspector found the development to be unacceptable and from the evidence before me I have reached the same conclusion. The development is contrary to the development plan as a whole and there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan.
13. I conclude that planning permission should not be granted for the matters stated in the notice and the appeal fails on ground (a).

The appeal on ground (f)

14. Ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
15. Since the notice requires the removal of the extensions and restoration of the land, the purpose of the notice is to remedy the breach. An alternative scheme which retained elements of the existing building requiring a scheme with a new design to be submitted is proposed by the appellant. However, amending the requirements of the notice to an alternative design, of which there was none before me, to within the scope of permitted development rights, would not remedy the breach. The fallback position raised has been considered above under ground (a).
16. Consequently, the appeal fails on ground (f) as the steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control.

The appeal on ground (g)

17. Ground (g) is that any period specified in the notice for compliance with the requirements of the notice falls short of what should reasonably be allowed. The notice gives 4 calendar months while the appellant seeks 6 months.

18. The appellant suggests that the additional time is required to raise funds and arrange a contractor. Nonetheless, no detailed evidence has been provided in regard to the availability of either of these factors or why the further time is needed. Therefore, it has not been shown that the period given on the notice is too short, not feasible or falls short of what should reasonably be allowed.

19. The appeal on ground (g) therefore fails.

Conclusion

20. For the reasons given above, I conclude that the appeal 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 as amended.

Formal Decision

21. 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.

Stuart Willis

INSPECTOR