



Appeal Decision

Site visit made on 31 January 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/J0350/W/23/3326184

89 Burnham Lane, Slough SL1 6JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Pradeep Kololgi against the decision of Slough Borough Council.
- The application Ref P/01596/007, dated 7 February 2023, was approved on 19 April 2023 and planning permission was granted subject to conditions.
- The development permitted is internal alterations and insertion of 3no roof lights to side elevation.
- The conditions in dispute are Nos 5 and 6 which state that:
Condition 5:
'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification), the dwelling hereby permitted shall not be used in multiple occupation, including any use within Class C4 of The Town and Country Planning (Use Classes) Order 1987 (as amended) or such other legislation as may subsequently supersede it.'
Condition 6:
'Notwithstanding the terms and provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), the side extension hereby permitted shall only be retained and continue to be used for domestic purposes ancillary to the enjoyment of the main dwelling, with no cooking facilities installed, unless otherwise agreed in writing by the Local Planning Authority. The side extension shall not be used as separate self-contained residential accommodation or for any industrial, commercial or business use.'
- The reasons given for the conditions are:
Condition 5:
'To ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area, which may occur if the property is sub-divided or used in multiple occupation in accordance with the provisions of Policy H20 of The Adopted Local Plan for Slough 2004'.
Condition 6:
'To protect the amenities of the adjoining occupiers and the character of the area in accordance with Core Policies 4 and 8 of the Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008 and the Slough Local Development Framework, Residential Extensions Guidelines, Supplementary Planning Document, January 2010'

Decision

1. The appeal is allowed and the planning permission Ref P/01596/007 for internal alterations and insertion of 3no roof lights to side elevation at 89 Burnham Lane, Slough SL1 6JY granted on 19 April 2023 by Slough Borough Council, is varied by deleting conditions 5 and 6.

Background and Main Issues

2. Planning permission was granted for 3 roof lights and internal alterations to an existing single storey side projection at the appeal property, subject to 6 conditions.
3. Condition 5 and 6 sought to remove permitted development rights, firstly by removing the right to a change of use from C3 to C4, and secondly by seeking to ensure that the extension is only used for domestic ancillary purposes.
4. The appellant considers that there are no justifiable reasons why the Council have imposed a condition restricting permitted development rights for the property, and that condition 6 is unnecessary.
5. The main issues in this case therefore are whether or not the conditions are reasonable and necessary in order to preserve the character and appearance of the area and to protect the living conditions of neighbours.

Reasons

Condition 5

6. The above planning approval did not grant permission of the side extension, which was existing. The Council assert that due to a side door and layout, that a condition is necessary to prevent any sub-division of the property, however the side door was existing, and it is unclear why the internal alterations or roof lights would make the sub-division of the property or its use as a house in multiple occupation any more likely.
7. Condition 5 refers to Policy H20 of The Adopted Local Plan for Slough (2004) (LP), which relates to applications for the use of houses for multiple occupation. The approved application was not for such a proposal, and as such this policy has little relevance in this instance.
8. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances.
9. The change of use from C3 to C4 does not normally require planning permission. Whilst the surroundings are mostly characterised by detached single dwellings, there is no substantive evidence before me why such a change of use would not preserve the character and appearance of the area, or that such a change of use is likely due to the approved development.
10. No exceptional circumstances are therefore put forward by the Council, and I do not consider that this condition is necessary or reasonable. It does not therefore meet the tests set out in PPG.

Condition 6

11. Any formal subdivision and use as a '*separate self-contained residential accommodation or for any industrial, commercial or business use*' would require separate planning permission.

12. As such, again, a condition preventing such potential development is not necessary, and would not therefore meet the test in the PPG.
13. The removal of this condition would not therefore result in conflict with Policies 4 and 8 of the Slough Local Development Framework Core Strategy 2006 – 2026 (2008) which relate to type of housing and sustainability and the environment, or the general design and protection of living conditions advice set out in the Supplementary Planning Document Residential Extensions Guidelines (2010).

Conclusion

14. For the reasons given above, I find that the disputed conditions are unnecessary and unreasonable. The permission should therefore be varied by deleting the disputed conditions.

B Phillips

INSPECTOR