



Appeal Decision

Site visit made on 15 January 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.02.2024

Appeal Ref: APP/J0350/W/23/3323648

The Myrke, Datchet, Slough SL3 9AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Malwinder Panesar against the decision of Slough Borough Council.
 - The application Ref P/20027/000, dated 2 August 2022, was refused by notice dated 20 December 2022.
 - The development proposed is the erection of two new three bedroom dwelling houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Slough Borough Council against Mr Malwinder Panesar. This application is the subject of a separate decision.

Procedural Matters

3. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2024 states that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Council and by interested parties at the application stage
4. In this case, as part of his appeal, the appellant has submitted amended Block Plan Rev B (02-06-2023), and drawing nos KL/1327-12 Rev B and T-1002. Compared to the drawings the Council based its decision on, these depict alterations to the site boundary, changes to the siting of the proposed dwellings, revisions to the proposed car parking, and a swept path analysis based on that revised layout.
5. These amendments clearly amount to a very substantial difference compared to the scheme which was considered by the Council and interested parties at application stage. My acceptance of those drawings would therefore be unfair to all other parties, including consultees whose views and comments were about the original proposals, and this matter could not be addressed by a planning condition. I have therefore based my decision on the same drawings that the Council considered at application stage.
6. A revised National Planning Policy Framework was published on 19 December 2023 ('the Framework'). In the interests of fairness, I gave the principal parties an opportunity to comment on it in relation to this appeal.

7. Finally, in its decision notice, the Council refers to, amongst other things, Policy EN2 of The Local Plan for Slough (2004) ('SLP'). However, as it addresses the design of extensions it is of no relevance to my decision.

Main Issues

8. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the safety and convenience of highway users;
- whether the scheme would provide appropriate living conditions for the future occupants of the proposed dwellings, with particular regard to outdoor amenity space;
- the effect of the proposal on adjacent occupiers' living conditions; and
- the effect of the proposal on surface water drainage and flood risk.

Reasons

Character and appearance

9. The site comprises a roughly triangular, largely hard surfaced, parcel of land. It includes a block of garages which would be demolished. To the west it borders the long rear gardens of dwellings on The Myrke, and a pair of semi-detached houses and a detached house which are under construction to the rear of Nos 43 and 45 ('the new dwellings'). To the south, beyond a second garage block which is accessed from the appeal site and which would be retained, are Nos 83 to 89 (odds) The Myrke.
10. The proposed dwellings would be located fairly centrally within the site, with hardstanding separating them from two proposed car parking spaces and the second garage block to the south, and with a strip of hardstanding leading to an adjacent occupier's garage just beyond its north-western corner.
11. The new dwellings are set slightly back from, but directly face, the driveway at the end of The Myrke. As they have a reasonably clear frontage, their siting broadly reflects most nearby dwellings, including Nos 83A and 83B The Myrke, which are also located at the end of the long rear gardens of other properties.
12. In contrast, the proposed dwellings here would appear isolated and marooned within the site. Their siting would bear little regard to the pattern and grain of development in the area. Moreover, the proximity of their front faces to the second garage block would give the scheme a cramped appearance. The proposed properties, particularly the westernmost one, would be largely surrounded by driveways and garages, resulting in an awkward and visually incongruous juxtaposition of development.
13. The scheme would therefore conflict with SLP Policies EN1 and H13, and Core Policy 8 of the Slough Core Strategy 2006-2026 (2008) ('SCS'). Considered together, and amongst other things, these require a high standard of design, which improves the quality of the environment, and is compatible, or in keeping, with its surroundings in terms of matters such as layout, siting, visual impact and relationship to nearby properties.

14. It would also conflict with the Framework's requirement for well-designed development which is visually attractive as a result of matters including layout, and which is sympathetic to local character.

Safety and convenience of highway users

15. Vehicular access to this site, and to the new dwellings, is via a narrow driveway between Nos 83/85 The Myrke and the structures at the end of the long rear gardens of the properties to the west. The Council states that The Myrke experiences high levels of on-street parking, and that the proposal would lead to additional obstruction and congestion, and would provide insufficient space for manoeuvring.
16. According to the appellant, the site is around one mile from the town centre. It does not appear to be well served by services and amenities within easy walking distance. Consequently, although each dwelling would be provided with a cycle store, I agree with the appellant's general sentiment that they would be 'best served by car'.
17. Whilst it represents just a snapshot in time, I observed a moderate amount of on-street parking on The Myrke at the time of my visit. I have no reason to doubt that there is considerably greater demand in the evenings and at weekends, when more residents are likely to be at home.
18. The Council maintains that the proposed parking would fall short of its standard of two spaces for each three bedroom dwelling. I have not been provided with those standards, but I note that SLP Policy T2 and SCS Core Policy 7 require that, outside of the town centre, residential development should provide a level of parking appropriate to its location, taking account of matters such as local parking conditions, and the need to overcome road safety problems.
19. In my view, having regard to its context, the two proposed parking spaces would be inadequate to serve these three bedroom houses, which could be occupied by families, and the scheme would therefore be likely to lead to additional on-street parking, in an area which already experiences parking congestion, to the inconvenience of highway users.
20. My concerns on this matter are exacerbated by the proposed layout, as drivers using the private garage beyond the north-western corner of the site would need to reverse a significant distance to access it. Additionally, given the location of the proposed parking, and the narrow gap between the front of the proposed dwellings and the front of the second garage block, I am not satisfied that there would be adequate space for vehicles to conveniently turn and manoeuvre within the site without reversing a significant distance.
21. Moreover, even if an appropriate location could be found for 'strategic bin placement' on collection day as claimed, as the future occupants of the proposed dwellings would be likely to receive deliveries of groceries, white goods or other merchandise, the appellant's assertion that there will be no requirement for service vehicles to load, unload or manoeuvre on site is implausible. As well as space for service vehicles, there would also be a need for emergency vehicles to conveniently access the site. From the available evidence, I am not satisfied that those needs could be met.
22. Whilst the two proposed car parking spaces would be next to a gateway and gardens, it is unclear from the evidence before me whether it currently serves

as a vehicular access. Nevertheless, for all the above reasons the scheme would cause significant harm to the safety and convenience of highway users. It would therefore conflict with SLP Policy T2 and SCS Core Policy 7, along with SCS Core Policy 8's more general requirement for high quality design that is safe, practical and accessible.

23. It would also conflict with the Framework's requirement at paragraphs 114 and 116 for development proposals to ensure that safe and suitable access can be achieved for all users, to minimise the scope for conflicts between pedestrians, cyclists and vehicles, and to allow for the efficient delivery of goods, and access by service and emergency vehicles.

Living conditions of future occupants

24. Based on drawing no. KL/1327-12 Rev A, the proposed westernmost dwelling would have a short and irregular shaped rear garden, with an area of 43 sqm. It would be below the minimum 9 metre depth or, where that cannot be achieved, 50 sqm area, recommended where rear extensions are proposed in the Council's Residential Extensions Guidelines Supplementary Planning Document 2010 ('SPD').
25. As the SPD refers to extensions, and this scheme is for new dwellings, it provides an indicative measure, but is not directly applicable to this proposal. However, given the limited depth and small area of the rear garden serving the westernmost dwelling, and that it would share its western border with a driveway, I consider that it would not provide a suitably sized private area for the future occupants of that three bedroom dwelling to sit outside, garden, or undertake typical outdoor domestic tasks and hobbies. The small, separate side garden would add incidental landscaping, but in this location, it would not provide any meaningful value as private amenity space.
26. SLP Policy EN1 does not refer to living conditions, and is of limited relevance on this specific issue. However, for the above reasons, the scheme would conflict with that part of SCS Core Policy 8 which requires high quality design which provides appropriate amenity space, and with the broad thrust of the SPD.

Adjacent occupiers' living conditions

27. The westernmost proposed dwelling would include a first floor window in its flank which would roughly face the new dwellings, at a distance calculated by the Council of approximately 13 metres. However, that window would serve a bedroom which is not a space where occupiers would typically dwell to enjoy an outlook. Moreover, the front faces of the new dwellings address parking and manoeuvring areas, and they have more private areas to the rear.
28. Turning to Nos 83 to 89 (odds) The Myrke, the Council calculates that there would be around 19.5 metres between the rear of those dwellings and the front face of the proposed dwellings. At first floor the proposed front facing windows would serve bedrooms. Neither SCS Core Policy 8, nor SLP Policy EN1, which are cited in the Council's second reason for refusal, include minimum separation distances between dwellings, but given the use of those rooms, I am satisfied that there would be an adequate separation between them in this case.
29. The relationship between the proposed dwellings and surrounding properties would be acceptable and the scheme would not cause a harmful impact on

adjacent occupiers' living conditions as a result of overlooking; nor, based on the available evidence, would it cause them a significant loss of daylight or sunlight. On this issue, the scheme would not therefore conflict with SCS Core Policy 8, or SLP Policy EN1.

Surface water drainage and flood risk

30. SCS Core Policy 8 sets out at 4) that development will only be permitted where it is safe and it can be demonstrated that there is minimal risk of flooding to the property, and that it will not impede the flow of floodwaters, increase the risk of flooding elsewhere or reduce the capacity of the floodplain. It continues that development must manage surface water arising from the site in a sustainable manner which will also reduce the risk of flooding and improve water quality.
31. As part of the appeal, and to address the Council's seventh reason for refusal, the appellant has submitted a Flood Risk Assessment by Shaw Savage Limited ('the FRA'). This confirms that the site falls within Flood Zone 2, which is an area at medium probability of flooding. However, applying policies in the Framework, including its footnote 60 and Annex 3, whilst the exception test is not required for 'more vulnerable' development such as this within Zone 2, the sequential test needs to be applied. There is no evidence that a sequential test has been undertaken.
32. Additionally, in the absence of precise details, including evidence of existing and proposed ground and floor levels, I cannot be sure what the flood risk to the future occupiers would be, nor whether there would be safe access and escape routes in times of flood, as claimed. Finally, the FRA states that a sustainable surface water drainage system is recommended, but no persuasive details have been provided.
33. Consequently, it has not been credibly demonstrated that the scheme would not have an unacceptable impact on surface water drainage and flood risk. The proposal thus conflicts with SCS Core Policy 8 and Section 14 of the Framework.

Other matters

34. The appellant sought pre-application advice from the Council. That was for a different scheme, but the Council set out in its advice letter that the principle of residential development here was unacceptable, and detailed a number of specific concerns, as well as highlighting the need for a site specific flood risk assessment with sequential test.
35. In its favour, the scheme would provide family housing, for which the Berkshire Strategic Housing Market Assessment identifies a particular need. That housing contribution is particularly important at a time when the Council is unable to demonstrate a 5 year supply of deliverable sites, thus triggering Framework paragraph 11d). The provision of additional dwellings would also have economic benefits stimulating work and trade during construction, and future occupants would support services in the wider area.
36. However, the contribution to housing supply, and to the local economy and support for services, from two additional houses would be modest. These benefits therefore carry moderate weight in favour of the proposed development.

Planning Balance and Conclusion

37. I have found that the proposal would not harm adjacent occupiers' living conditions. However, it would significantly harm the character and appearance of the area, and it would have a moderate adverse impact on the safety and convenience of highway users. Additionally, it would provide unsuitable living conditions for the future occupiers, and it has not been demonstrated that it would not have an unacceptable impact on surface water drainage and flood risk.
38. As a result, the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The scheme does not therefore benefit from the Framework's presumption in favour of sustainable development, and there are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Consequently, having regard to all other matters raised, the appeal is dismissed.

Chris Couper

INSPECTOR