



Appeal Decision

Site visit made on 28 March 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/J0350/W/23/3330715

Rear of Chiltern House, 337 Bath Road, Slough SL1 5PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by BMR London Ltd against the decision of Slough Borough Council.
 - The application Ref is P/02069/021.
 - The development proposed is construction of a three storey residential terraced block to provide 3x residential units, including undercroft parking with associated refuse, parking and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have taken the revised Framework into account as part of the determination of this appeal.
3. This appeal which affects land to the rear of Chiltern House, was submitted alongside another appeal¹, that proposes an extension to Chiltern House itself. Whilst the red line boundaries are the same, there are significant differences between the proposals, and they were refused on different grounds. Therefore, I consider it appropriate to write two separate decisions.
4. A number of the Council's reasons for refusal cite conflict with Policy EN2 of the Local Plan for Slough (Local Plan) (adopted 2004). However, as this policy relates to extensions to existing buildings, it is unclear how this policy would be applicable to the proposals before me now. Therefore, any alleged conflict would not be determinative in these circumstances, and I will not refer to Policy EN2 in my decision.

Main Issues

5. There are 4 main issues. These are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the existing occupants of 1 and 3 Brook Path, in regard to outlook;

¹ APP/J0350/W/23/3330713

- whether the proposal provides satisfactory living conditions for future residents, in regard to external amenity space, sunlight/daylight and outlook; and
- the effect of the proposal on highway safety, with specific regard to a) parking provision and whether b) servicing arrangements and c) pedestrian access would be adequately provided for.

Reasons

Character and Appearance

6. The appeal site consists of part of the car park which serves Chiltern House, a former office block, which has been granted prior approval to change to 13 residential flats², situated to the north. Chiltern House is a brick built 3 storey structure with the third storey in a mansard roof, which is hung in slate. The shape of the car park tapers slightly at its southern end.
7. The character of Bath Road and the surrounding area is a mixture of residential and commercial uses. The residential properties along Bath Road are generally 2 storey detached or semi-detached dwellings. Whilst there are other buildings over 2 storeys in height, these tend to be the commercial premises, which are much larger, bulkier buildings, suitable for their purpose. There is also a two and a half storey terrace opposite which have commercial uses at ground floor, with residential above.
8. The character to the south becomes more predominantly residential, including those properties along Brook Path and Lewins Way. The character of the properties is varied, including groups of small terraces, semi-detached and detached 2 storey dwellings, and detached bungalows. However, the predominant dwelling height is 2 storey, and they generally have their frontage facing the road. This includes the properties on Brook Path, which are also oriented to front the highway that serves them.
9. The proposed dwellings, by virtue of their mews style, height, backland siting and position perpendicular to the highway, would be incongruous to the more established character and appearance of the area. It would be a contrived design in order to try and avoid harm to the living conditions of existing neighbouring occupants, whilst also trying to accommodate the required level of parking and outdoor amenity space. This would result in a cramped development which would almost be wedged on to the site, resulting in an overdevelopment of the area. Whilst it would be subordinate in size to Chiltern House, due to its incongruous design, it would result in an uncomfortable juxtaposition between the design of Chiltern House to the north and the more established traditional residential area to the south.
10. The scale and massing would be kept low through the inclusion of flat roof areas to accommodate the 2nd floor rooms in the roof space. However, this design feature only emphasises the incongruity of the proposal. I observed the other flat roofed dormers in the area that the appellant has brought to my attention. However, no application details of these other dormers are before me. Nevertheless, the circumstances of each proposal are likely to be different. In any event, the fact that similar dormers exist in the area is not a reason, on its own, to allow unacceptable development in the above context. They would

² F/02069/01.

also not be directly comparable to the linked flat roof dormers that would be incorporated into the proposal. I have considered this appeal on its own merits and concluded that it would cause harm for the reasons set out above.

11. It is noted that the proposal would use red and dark brick which would be sensitive to its surroundings. However, alongside the lack of visibility from Bath Road, these matters would not be sufficient to outweigh the harm to the character and appearance identified. Furthermore, whilst there are other outbuildings to the rear of other buildings along Bath Road, these appeared to be of a much smaller scale, in the form of single storey workshops or garaging type buildings. Their presence would not be comparable to the scale of the proposal before me now.
12. The appellant has also drawn my attention to 2 dwellings which have been recently constructed to the rear of 73-75 Lewins Way to the south³. I have been provided with the relevant Decision Notice and Officer's Report, as well as a comparison of the site before and after. I acknowledge that this development has resulted in a pair of semi-detached residential homes on a backland site, close to the appeal site. However, the circumstances in each proposal are likely to be different. I note that this earlier proposal related to a pair of 2 storey semi-detached dwellings which was seen as appropriate in its context and is a notable different to the mews style terrace of 2 and a half storey dwellings before me now, which would result in an awkward relationship with the design of Chiltern House. The Lewins Way decision, on its own, would not be a carte blanche to allow unacceptable development in a backland location. I have considered this appeal proposal on its own merits and have found harm to the character and appearance of the area.
13. Consequently, the proposal would harm the character and appearance of the area. It would be contrary to Policy EN1 of the Local Plan and Policy 8 of the Slough Local Development Framework Core Strategy (Core Strategy) (adopted 2008). These policies, in combination, seek to ensure that development proposals are of a high quality design, and must be compatible with their surroundings in terms of, amongst others, scale, height, layout, siting and building form and design. Poor designs which are not in keeping with their surroundings and schemes which result in over-development of a site will be refused. It would also conflict with the principles within Chapter 12 of the Framework which seek good design sympathetic to the local area.

Living Condition of Existing Occupants

14. As noted above, the site narrows towards its southern end. The rear gardens of 1 and 3 Brook Path abut the south-western boundary of the site. The most southern point of the proposal would be approximately 5m from the rear boundary of No 1.
15. By virtue of the scale and massing of the proposal, with the front gable facing Nos 1 and 3, and its proximity to the rear garden boundaries of the Brook Path properties, the proposal would have an unacceptable overbearing effect upon the outlook from the modest external garden space to the rear of Nos 1 and 3. The proposed close boarded fence and landscaping would do little to alleviate this harm, given the scale of the proposal.

³ Granted planning permission under application ref. P/11487/003)

16. The proposal would be approximately 20 metres from the rear windows of Nos 1 and 3. It is noted that No 5 Brook Path is situated immediately adjacent to the boundary with No 3 and that, as stated by the appellant, it is not 'uncommon for built form to be sited close to, or adjacent to boundaries'. However, by virtue of its terraced bulk and scale, it would increase the sense of enclosure felt by the occupants of both Nos 1 and 3 from their east facing windows, which would be dominated by the proposal. This is particularly so as the unit closest to Nos 1 and 3 would have a predominately solid brick gable end. The proposal would again have an unacceptable overbearing effect on the Brook Path properties.
17. Whilst it is appreciated that Nos 1 and 3 have an outlook in other directions, it is highly likely that some of the rooms within Nos 1 and 3 only have an outlook out towards the east.
18. Therefore, for the above reasons, the proposal would harm the living conditions of the existing occupants of 1 and 3 Brook Path, in regard to outlook. It would be contrary to Policy EN1 of the Local Plan and Core Policy 8 of the Core Strategy which, in combination, seek to ensure that development proposals are compatible with their surroundings in terms of their relationship to nearby properties, respecting the amenities of adjoining occupiers.

Living conditions of Future Occupants

19. In regard to external space, each 2 bedroomed unit would have private outdoor space in the form of a 7sqm balcony. The Council's Residential Extensions Guidelines Supplementary Planning Document (the SPD) (adopted 2010) states that a 2 bedroom dwelling should have a minimum garden depth of 9 metres and where this cannot be achieved a minimum area of 50sqm.
20. The proposal would have a significant shortfall of private garden space. The appellant refers to a communal space which is 'proposed to the rear of the building'. However, whilst it might relate to the 'garden lawn area with mixed border planting', it is unclear from the evidence where this area is. Furthermore, I have not been provided with any dimensions of the communal area so I cannot be satisfied that it would make up for the shortfall of private garden space. Therefore, the proposal would fail to provide satisfactory external garden space, resulting in unacceptable living conditions for future occupants.
21. The appellant has drawn my attention to other examples in Slough where balconies have been approved by the Council, albeit apart from a photograph, I have not been provided with any further details on these approvals. Whilst these might demonstrate that the proposed balconies would benefit from more sunlight due to their orientation and not being enclosed from above, this would not be sufficient to allow the shortfall in garden space. Therefore, whilst a balcony may be acceptable, this does not make up for their shortfall in size.
22. I acknowledge that the proposed balcony space would be private, with 'low levels of noise and having a positive outlook and that size alone isn't the only consideration with regards to quality of amenity space'. However, as the proposal would be 2 bedroom dwellings, they could attract families. A small balcony would not be a suitable size or type of amenity space for a family home. The appellant has referred me to the Cippenham Recreation Ground, which is located approximately 250m away from the appeal site and provides a

grass field, a children's play park and sport facilities. However, this would not be sufficient to outweigh the significant shortfall of on-site amenity space.

23. In regard to sunlight and daylight, the kitchen/living/dining rooms of the dwellings would be served by 2 slit windows that are offset from the room by 90 degrees, as well as an additional large window which would open out on to the balcony.
24. A Daylight and Sunlight Assessment has been submitted with the application⁴. This concluded that the new residential unit would benefit from daylight levels in excess of the requirements of BS EN 17037:2018 recommendations. It continues to state that from a planning perspective, 'the proposed development is entirely acceptable for planning, in daylight and sunlight terms'.
25. The Council has criticised the assessment on the basis that the report chooses to use a Target Daylight Factor method of calculation (the DfT method). However, as the appellant confirms, the updated BRE guidance now gives two alternative methods for assessing daylight within new dwellings. The first is the illuminance method and the second is the DfT method, which was used in the submitted assessment. The DfT method is not an alternative method; rather it is one of the two allowable approaches in the BRE and BS EN guidance.
26. Therefore, given the findings of the Daylight/Sunlight Assessment, and given that the Council has not provided any calculations to counteract the findings of the assessment, I am satisfied that the proposal would be served by sufficient daylight and sunlight.
27. However, the master bedroom on the unit furthest north would only be served by 2 rooflights and would not be served by any windows that provide an outlook at eye level. Whilst the rooflights are of a relatively good size, their position would be set at 1.7m above finished floor level⁵. It is considered that this would result in a restricted outlook in the master bedroom of this unit, creating an enclosing and oppressive effect in this room.
28. Therefore, whilst I am satisfied that the proposal would benefit from adequate sunlight and daylight, the proposal would fail to provide satisfactory living conditions for future occupants, with regard to outlook and external amenity space. It would be contrary to Policy EN1 of the Local Plan and Core Policy 8 of the Core Strategy. These policies, in combination, seek to ensure that development proposals provide appropriate amenity space as an integral part of the design, as well as being of a high standard of design, in terms of the layout, building form and design, so that it would be practical, attractive and accessible.

Highway Safety

a) Parking

29. Policy T2 of the Local Plan states that residential development will be required to provide a level of parking appropriate to its location and which will overcome road safety problems, protect the amenities of adjoining residents, and not result in an adverse visual impact upon the environment.

⁴ Prepared by T16 Design, dated September 2022

⁵ As set out in the Design Strategy in the Design and Access Statement.

30. Bath Road is a busy two way road which is subject to a speed limit of 40mph. The appeal site is situated to the south of the Bath Road and Burnham Lane signal junction. As noted earlier, Chiltern House itself has been granted prior approval for 13 flats. At the time of the consideration of this prior approval, the Council found no adverse impact on highways grounds partly because the prior approval provided 25 spaces to serve the 13 flats. The proposal before me now would reduce the parking available for the prior approval scheme to 8 spaces.
31. The appellant argues that the 25 car parking spaces could be considered an overprovision as between 13-26 spaces are required under the Transport and Highway Guidance SPD (2008) within 'predominantly residential' areas depending upon how many spaces are allocated to units. The current provision therefore sits at the highest end of this. I also acknowledge the date of both Policy T2 and the Transport and Highway Guidance, which was prepared in 2008. It is also noted that the Framework encourages more sustainable methods of transport such as public transport, walking and cycling and that 'tackling congestion on Slough's roads' is identified as a key challenge Slough faces.
32. However, all 13 units within the existing building would be 1-bedroom flats, in a mix of 12no. studios (1-bed/1-person) and 1no. 1-bed/2-person units. The appellant has provided the 2011 Census Data in their Transport Statement. This shows that the average car ownership ratio for the site is 0.864 cars per flat, maisonette or apartment. When this ratio is applied to the 13 flats granted under the prior approval, this would equate to 11 car parking spaces. When the 4 units that are proposed under the concurrent appeal⁶ are included, this would result in the need for 14 car parking spaces.
33. Therefore, even based on the lower level of parking supported by the Census Data, the proposal would result in a under provision of parking for the conversion scheme and that there would be a pressure for parking in the surrounding area. Given the nature of Bath Road and the double yellow lines alongside the road, I consider that there would be limited locations nearby to accommodate any shortfall in parking, without any harm to highway safety. The suggestion in the Transport Statement that the car park at the Bath Road Shopping Park is a public car park which could accommodate any visitor or shortfall in parking is unreasonable given that it is controlled by UKPC Parking Control Ltd with parking restrictions in place.
34. The site is close to some local services and amenities, albeit future occupants may have to travel further for employment opportunities. Nevertheless, the site benefits from sustainable modes of transport, including Burnham train station approximately 0.5 miles away, along with a number of bus routes along Bath Road, including Burnham Lane bus stop located less than 100 metres from the site. I also acknowledge the network of pedestrian and cycle routes, and that the approved development includes policy compliant levels of secure cycle parking. It is also agreed that the future occupants of the conversion scheme are highly unlikely to own more than one car, and therefore the as approved 25 car parking spaces are unlikely to be fully utilised at its current capacity.
35. However, by virtue of the proposal reducing the parking for the conversion scheme, taking into account the car ownership ratio provided by the appellant and the lack of alternative parking, the residual cumulative impact of the

⁶ APP/J0350/W/23/3330713

proposal would have an unacceptable impact on highway safety. Future occupants of the conversion scheme could park in unlawful places that would impinge on the free flow of traffic and pedestrians to the detriment of highway safety. Consequently, it would be contrary to Policy T2 of the Local Plan. It would also conflict with paragraphs 114 and 116 of the Framework which require a safe and suitable access to the site can be achieved for all users and that development should minimise the scope for conflicts between pedestrians, cyclists and vehicles. Furthermore, paragraph 115 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

b) Servicing Arrangements

36. The Transport Statement sets out that the existing site arrangement comprises on-street refuse collection. Refuse vehicles would be unable to access the rear of Chiltern House due to the narrow under-croft access on the western side of the building. Therefore, the proposal would continue to use the existing on-street refuse collection, with the future occupants moving the bins to the front of Chiltern House for collection, dragging the bins approximately 36-40m to the public highway. However, this would greatly exceed the preferred maximum drag distance of 15m and the absolute maximum of 25m, as set out in Slough's Guidance: Refuse and Recycling for New Dwellings. Whilst the principle of an additional 3 residential units using the existing on-street refuse collection could be acceptable, it is the distance between the bin store for the future occupants and the on-street collection point which would be too far to be acceptable. Therefore, the proposed refuse collection arrangements would be unacceptable.
37. Any further servicing or delivery vehicles would utilise the visitor drop off and delivery turning bay proposed to the front of the Chiltern House. As the proposal would only be for 3 dwellings, the likely level of delivery and servicing activity would be unlikely to be significantly higher than the servicing and deliveries associated with the previous use of the site as offices or in comparison to the permitted 13 flats on the site. I also note that additional swept path drawings were submitted during the course of the application⁷, which demonstrated that panel vans and long wheelbase vans would be able to safely enter and exit the delivery turning bay to the front of the site.
38. However, whilst it may be possible for servicing vehicles to enter and exit the site safely, servicing the units at the front of the site then requires walking to the properties at the rear, including the loading and unloading of deliveries, which would not always be feasible. This situation would also not be directly comparable with either the previous office use or the granted conversion scheme as these uses could both be accessed from the front door of Chiltern House. Therefore, by virtue of the fact that servicing and delivery vehicles may not be able to access the rear of the site due to the narrow nature of the under-croft access to the rear, the proposed dwellings would not be served by efficient servicing and delivery arrangements.
39. Furthermore, in regard to access for fire engines, I note that Manual for Streets (Mfs) states that there should be vehicle access for a pump appliance within 45m of every dwelling entrance for flats/maisonettes and that there should be a minimum carriageway width of 3.7m between kerbs, but that the access

⁷ Drawing ref. 2021/6256/006 P4.

route maybe reduced to 2.75m over short distances. The existing access to the rear of the site would be narrower than the 2.75m minimum in MfS. The proposal would also be located more than 45 metres from the public highway. Therefore, as I have not been provided with any alternative arrangement, the proposal would be unable to be accessed by a fire engine.

40. Therefore, for the reasons set out above, the proposal would not be served by adequate provision for the loading, unloading, and manoeuvring of service vehicles. Consequently, it would be contrary to Core Policy 7 of the Core Strategy which states that development proposals will either individually or collectively have to make appropriate provisions for improving road safety. It would also be in conflict with Paragraph 116 of the Framework which states that development should allow for the efficient delivery of goods, and access by service and emergency vehicles.

c) Pedestrian Access

41. In regard to pedestrian access, the proposed development would increase the number of vehicles using the dropped kerb which provides both vehicular access to the site and also the pedestrian crossing at the traffic signals which are positioned to the front of the site along Bath Road. At present, there is not a push button at the traffic signals. Therefore, I note that the Council's Highways and Transport Officer required the appellant to enter into a Section 278 Agreement to make improvements to the pedestrian crossing of the A4 Bath Road immediately outside the site. These would include the addition of push buttons to the existing traffic signals and amendment of the dropped kerb would be required to separate the crossing kerb from the access kerb. This would help to minimise the scope for conflicts between pedestrians, cyclists, and vehicles.
42. The appellant queries the requirement for the pedestrian safety measures as they argue that there would be a reduction in the number of people that will visit the site for the new residential use in comparison to the existing office use which has the potential for a much higher density of occupants. However, by virtue that the appellant is advocating the sustainability benefits of the location and the fact that future occupants could walk to the nearby bus stop, train station and local shops, the pedestrian safety measures would be a reasonable and necessary requirement in order to make the proposal acceptable in regard to a safe, pedestrian access.
43. As off-site works to the highway would be required, it would be necessary for the developer to enter into a Section 278 agreement with the Council. A Grampian condition could be used to tie the Section 278 agreement to the planning permission to ensure the off-site highway works are in place prior to occupation in order to provide safe pedestrian access.
44. Given the above, I conclude that the proposal would provide adequate pedestrian access. It would be in accordance with Core Policy 7 of the Core Strategy which requires development to improve road safety and to widen travel choices, making travel by sustainable means of transport more attractive than the private car. It would also be in accordance with paragraph 116 of the Framework which states that development should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Planning Balance and Conclusion

45. The main parties agree that the Council is unable to demonstrate a five-year, supply of deliverable housing sites. Therefore, Paragraph 11 of the Framework is engaged, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted.
46. The proposal would make a small contribution towards the provision of housing, consistent with the Government's stated aim in the Framework of significantly boosting the supply of homes. There would also be economic benefits contributing to building a stronger, responsive and competitive economy, supporting growth with construction and post-construction benefits. The proposal would encourage development and associated economic growth with future occupants contributing to the local economy and continued viability of services in the local area. Together these benefits carry moderate weight in favour of the development.
47. However, the proposed development would give rise to harm in regard to the character and appearance of the area. It would also harm the living conditions of the existing occupants of 1 and 3 Brook Path, in regard to outlook, and would fail to provide satisfactory living conditions for future occupants, with regard to outlook and external amenity space. There would also be harm to highway safety, by virtue of the proposal reducing the parking for the conversion scheme and an inadequate provision for the loading, unloading, and manoeuvring of service vehicles. It would lead to conflict with elements of the Framework, specifically where it recognises that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment. The Framework also requires a high standard of amenity for existing and future users and supports the refusal on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The harms would be significant and long lasting. They would accordingly attract substantial weight.
48. With the above in mind, it is sufficiently clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.
49. Therefore, in conclusion, whilst acceptable in some regards, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

Laura Cuthbert

INSPECTOR