



Appeal Decision

Site visit made on 3 January 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/J0350/W/24/3347180

119 Farnham Lane, Slough, SL2 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mohammad Farooq against the decision of Slough Borough Council.
 - The application Ref P/19247/002, dated 13 December 2023, was refused by notice dated 18 June 2024.
 - The application sought planning permission for the construction of a rear extension and detached outbuilding without complying with conditions attached to planning permission Ref P/19247/001, dated 21 June 2021.
 - The conditions in dispute are No 2 which states that: The development hereby approved shall be implemented only in accordance with the following plans and drawings hereby approved by the Local Planning Authority:(a) Location plan (undated), received 31 March 2021;(b) Proposed Outbuilding Plans dated March 2021, received 31 March 2021;(c) Proposed Outbuilding Elevations dated March 2021, received 31 March 2021;(d) Drawing no. NM119FL01 rev. B dated 25/05/2021, received 15 June 2021; and (e) Drawing no. NM119FL02 rev. B dated 25/05/2021, received 15 June 2021 and No 5 which states that: 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 detached outbuilding hereby permitted shall be used only for domestic purposes ancillary to the enjoyment of the main dwelling, with no cooking facilities installed, and 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: No 2 - 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 and to comply with the Policies in the Development Plan; and No 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.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a rear extension and detached outbuilding at 119 Farnham Lane, Slough SL2 2AT in accordance with the application Ref P/19247/002, without compliance with condition numbers 2 and 5 previously imposed on planning permission Ref P/19247/001, dated 21 June 2021 and subject to the following conditions.
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos: (a) Location plan (undated), received 31 March 2021;(b) Drawing no NM119FL03 ;(c) Proposed Outbuilding Elevations dated March 2021, received 31 March 2021;(d) Drawing no. NM119FL01 rev. B dated 25/05/2021, received 15 June 2021; and (e) Drawing no. NM119FL02 rev. B dated 25/05/2021, received 15 June 2021.
 - 2) Notwithstanding the terms and provisions of Schedule 2, Part 1 Classes A-E and Part 2 Class A of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional extensions, buildings or enclosures other than expressly authorised by this permission shall be constructed within the rear garden of the site, and no additional window(s) or door(s) shall be formed in a flank wall(s) of the rear extension, or in the flank or rear elevations of the detached outbuilding without the prior written approval of the local planning authority.

- 3) 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 with or without modification), the detached outbuilding hereby permitted shall be used only for domestic purposes ancillary to the enjoyment of the main dwelling and shall not be used as a separate self-contained residential dwelling or for any industrial, commercial or business use.

Background

2. Planning permission for the construction of a rear extension and detached outbuilding at the appeal property included a condition that prohibited cooking facilities being installed in the outbuilding. A condition requiring compliance with the approved plans was also imposed. The development has already taken place at the time of the site visit. I observed at the site visit that cooking facilities have been installed in the outbuilding which are not shown on the approved plans.
3. In addition to the inclusion of cooking facilities, there are some other differences between the development constructed on site and the approved plans. These include some differences between the fenestration and rooflights. Also, the Council has raised the possibility that the garage door is false and does not allow access to the outbuilding which I was unable to establish at the site visit. However, for the avoidance of doubt, I have determined the appeal based on the approved plans and the revised plan of the outbuilding which shows the kitchen in situ.

Main Issue

4. The main issue is whether or not the retention of conditions 2 and 5 in their current form are necessary to ensure that the implemented changes to the dwelling do not conflict with development plan policies that deal with the construction of outbuildings.

Reasons

5. At the time of my site visit the outbuilding was vacant. I note that the Council have indicated that the outbuilding has previously been used as a self-contained dwelling and issued an enforcement notice for that use to cease which took effect in December 2023.
6. However, going forward the appellant has confirmed that it will be used to provide accommodation for a close family relative who has physical and developmental challenges. I have no reason to doubt that will be the case. Consequently, I am satisfied that the future occupier would receive care from the occupants of the main house, there would be a familial relationship and there would be significant comings and goings between the main house and the outbuilding.

7. The outbuilding is located at the rear of a relatively small garden and is subservient in size to the main dwelling, has a close relationship with it and is compatible in terms of its mass, scale, bulk and architectural design. As a result, the outbuilding does not harm the character and appearance of the area.
8. Although there is a gate providing pedestrian access to a rear garage area, that is a communal area that serves the appeal site and neighbouring houses, as a result I am satisfied that any facilities such as access, parking, the garden and services/utilities would be shared.
9. I have had regard to the enforcement appeal decisions¹ that have been brought to my attention, but I do not agree that these provide conclusive support that the installation of a kitchen results in a material change of use from an annexe to a separate residential unit or the installation triggers such a change of use. Rather, each case needs to be considered on its own individual merits and although the outbuilding does have a kitchen, shower room and living/bedroom space as a matter of fact and degree I am satisfied that given the factors set out above, the outbuilding is not a separate dwelling house, but rather is a residential annexe that will be used as part and parcel of the main property's normal facilities as an integral part of the ordinary residential use as a dwelling-house.
10. So, even if the outbuilding has been used in the past as a separate dwelling and could be used for such use in the future, there is no separate dwelling before me and if the outbuilding is not used as proposed or if there is a material change of use in the future to create a separate dwelling than a separate grant of planning permission would be required and the building would be at risk of further enforcement action if such permission is not granted.
11. Given that the outbuilding is part and parcel of the main property's normal facilities and is not a separate dwelling it would not harm the living conditions of neighbouring residents, nor would it result in an unacceptable impact on highway safety as a result of unacceptable parking pressure.
12. I therefore conclude that the retention of conditions 2 and 5 in their current form are not necessary as, for the reasons set out above, the implemented change to include a kitchen in the outbuilding would not result in any material harm and would not conflict with Core Policies 4, 7 and 8 of the Slough Local Development Framework Core Strategy December 2008 and saved Policies T2 and EN1 of the adopted Slough Local Plan 2004 (LP), which among other things seek to ensure that there is no net loss of family accommodation, that new development is sustainable and is located in the most accessible locations, that development is of a high-quality design which is compatible with its surroundings and provides appropriate parking.

Conditions

13. By allowing this appeal a new planning permission is created. In this case it is necessary to ensure that I restate the conditions imposed on the earlier permission that continue to have effect.

¹ APP/J0350/C/19/3234833 & APP/J0350/C/23/3326045

14. As the development appears to have been completed it is unnecessary for me to attach the commencement of development condition. Similarly, it is unnecessary to attach a matching materials condition.
15. A condition is needed to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning. In the interests of proper planning, it is necessary to impose conditions to ensure the outbuilding is used for domestic purposes and is not used as a separate self-contained residential dwelling. I have also amended the previous wording of this condition to remove reference to kitchen facilities and in the interests of precision and enforceability. In the interests of the character and appearance of the area and the living conditions of neighbours it is necessary to impose a condition restricting further extensions, buildings or enclosures in the rear garden and preventing the introduction of any additional windows or doors in the approved extension or outbuilding.

Conclusion

16. For the reasons given above I conclude that overall, the removal of a restriction on the installation of kitchen facilities in the outbuilding would not conflict with the development plan and therefore the appeal should be allowed. I will therefore grant a new planning permission which does not include such a restriction but subject to other specified planning conditions.

S Rawle

INSPECTOR