

Appeal Decisions

Hearing Held on 18 March 2025

Site visit made on 18 March 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 15 April 2025

Appeal A: Ref APP/J0350/C/24/3355026

Appeal B: Ref APP/J0350/C/24/3355027

Appeal C: Ref APP/J0350/C/24/3355028

Appeal D: Ref APP/J0350/C/24/3355029

Appeal E: Ref APP/J0350/C/24/3355030

Land at 30-32 Wexham Road, Slough SL1 1UA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Ramandeep Singh Purewal (Wexham Constructions Limited), Appeal B is made by Mrs Amrita Kaur Purewal, Appeal C is made by Mr Gian Singh Purewal, Appeal D is made by Ms Mandeep Kaur Aujla and Appeal E is made by Mr Raman Deep Singh Purewal against an enforcement notice issued by Slough Borough Council.
 - The enforcement notice, numbered 2024/00245/ENF, was issued on 9 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a part six/part five/part three-storey building ("the Unauthorised Development").
 - The requirements of the notice (in Section 5) are to:
 - 5.1. Demolish the Unauthorised Development (part six/part five/part three-storey building); or by making the Unauthorised Development comply with the terms of the planning permission referenced P/19443/000 or its subsequent non material amendment approval P/19433/003) and the conditions attached thereto;
 - 5.2. 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 6 calendar months.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) (f) (g) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended (the Act) falls to be considered.
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Decisions

1. It is directed that the enforcement notice be corrected and varied by:
 - replacing "or its subsequent" with "(as subsequently amended by" in Section 5.1; and
 - replacing "Six (6)" with "Twelve (12)" in Section 6.
2. Subject to this correction and variation, the latter being due to the appeals succeeding on ground (g), Appeals A, B, C, D, and E are otherwise dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Costs Applications

3. At the Hearing, costs applications were made by the appellants in Appeals A, B, C, D and E against Slough Borough Council. These applications are the subjects of separate Decisions.

Procedural Matters

4. As was uncontroversial at the Hearing, I am correcting the notice in Section 5.1 for the purposes of clarity and without prejudice caused to any party.
5. The appeal development, as built, is uncompleted due to construction ceasing upon receipt of the notice. The proposed flattened development when completed is largely consistent with refused planning application P/19443/009¹ save for some minor alterations including the positioning of some windows and winter balcony materials, with specific materials to be agreed. It is a nuanced point but, as the deemed planning application is concerned with the breach of planning control, then it is the uncompleted building structure which is its subject. However, as the proposed scheme can also be regarded as falling within the description of the breach, I will consider it due to the interplay between grounds (a) and (f) – both of which are being put forward by the appellants. My assessment and findings are to be seen within that context.
6. On 6 January 2022, the Council granted planning permission (P/19443/000) for demolition of the existing two-storey Victorian dwellings on the land and redevelopment to create 18 new residential units with associated parking and landscaping. That consent approved a part three, part four-storey building. It is common ground that this permission is extant, having been lawfully implemented by the clearance of the site and demolition of the pre-existing buildings. Therefore, in all my considerations, it forms an important fallback position against which the merits of the appeal development are assessed².
7. I have received a signed Planning Obligation (PO), in the form of a Planning Agreement under section 106 of the Act. It is common ground that the provisions it makes for highway works³ and for education, affordable housing, and the Burnham Beeches Special Area of Conservation (SAC) would successfully mitigate the development's impact on highway safety and off-site infrastructure and therefore satisfactorily address those reasons for issuing the notice (Section 4.2). Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that a PO may only constitute a reason for granting planning permission for a development if the obligation is: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Having considered all of the evidence before me, including the contents of Section 9 of the May 2024 officer report on P/19443/009, I agree that those 3 tests have been met as regards the submitted PO.
8. Were I not dismissing the appeal for other reasons, I would have carried out an Appropriate Assessment regarding the SAC as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

¹ "Demolition of the existing buildings and redevelopment of the site at 30-32 Wexham Road, Slough, SL1 1UA to create 27 new residential units (11no. 1 beds, 14no. 2 beds and 2no. 3 beds) with associated parking and landscaping"; Refused on 11 June 2024.

² As subsequently amended by non-material amendment approval P/19443/003.

³ A speed table to reduce vehicle speeds on Wexham Road and a build out to ensure appropriate visibility.

Ground (a) and the deemed planning application (DPA)

Main Issues

9. The main issues in the DPA are the effect of the development upon:
- the character and appearance of the area; and
 - the living conditions of the occupiers of neighbouring dwellings, particularly 28 Wexham Road (No 28) and 136 Wellington Street (No 136).

Reasons

Character and appearance

10. The appeal site is a corner plot of land at the junction of Wexham Road and Wellington Street (A4). Adjacent residential development, that to the north across the A4 and that to the south and east of the site, is predominantly of 2 and 3-storeys. Slightly further afield to the south-west is a 4-storey residential building known as Neo Apartments. The consented development, being part 3/part 4-storeys, respects and responds to this established character.
11. The appeal development, on the other hand, is considerably greater in scale, height and massing than the consented flatted development and of the nearby dwellings. The result is a striking, incongruous building which towers over its neighbours. The juxtaposition of the imposing, albeit stepped, structure with the closely situated elevations and rooflines of its 2-storey neighbours creates a jarring and aesthetically harmful impact.
12. Even were I persuaded by the appellants' argument that a larger structure in this location is desirable for waymarking and highlighting the town centre (albeit that the land is not, as a matter of fact, within the town centre), marking the junction with such an example of adverse overdevelopment wholly unsympathetic with its surroundings is not a positive or desirable outcome. And, indeed, an overly dominant building in this location may well stymie attempts to effectively mark the start of the town centre should that be an objective of future development on the land to the west of Wexham Road (including that currently occupied by the Royal Mail sorting office and car park forming part of a site allocation in the Local Plan for comprehensive mixed-use development).
13. I accept that the existing townscape at this junction could be improved. But, for the above reasons (and unlike the consented fallback scheme), the appeal development would itself cause substantial harm to local character and appearance by reason of its adversely incongruous scale, height and massing within the context of the site environs. As such, it is contrary to Policy CP8 of the Slough Local Development Framework Core Strategy 2006 – 2026 Development Plan Document (2008) (CP) and Policy EN1 of the Local Plan for Slough (2004) (LP) which together seek to ensure high quality design which improves the quality of the environment and is compatible with and/or improves the surroundings. For the same reasons, it is also contrary to the design principles of the National Planning Policy Framework (the Framework) in these respects. There is nothing in the appellants' submissions, including the Townscape and Visual Impact Assessment, which changes those findings.

Living conditions of neighbours

14. It is acknowledged that the appeal development is 3 storeys when closest to the neighbouring properties at No 28 and No 136, as in the case of the consented fallback scheme. However, shortly beyond and notwithstanding the stepped design features, the built form rapidly climbs to its full height by reason of the space limitations of this corner site and the intensity of the development. As a result, the building towers and looms over the 2 storey neighbouring properties creating an unacceptable sense of oppressive enclosure. While this impact is curtailed to a degree by the limited fenestration on the flank walls of the affected properties, the overwhelming bulk of the development is heavily experienced within their external amenity spaces.
15. While I accept that adverse impacts associated with overlooking, and perceived overlooking, might be satisfactorily mitigated by the design features (such as screens and barriers) put forward for consideration by the appellants (and which might be imposed by way of condition(s)), for the reasons I have set out above I find that the appeal development would cause substantial harm to the living conditions of the occupiers of No 28 and No 136 due to reduced outlook and the psychological effects of the close overbearing development of significant scale, height and mass. I place very limited weight on the fact that the current occupiers have made no representations upon the appeal scheme, since the Framework is clear (at paragraph 135) that developments should create places which promote health and well-being, with a high standard of amenity for *existing* and *future* users. As such the development is in conflict with the Framework as well as with the development plan – again, as regards Policy CP8 of the CP and Policy EN1 of the LP.

Other Matters and Planning Balance

16. As set out in the appellants' Statement of Case (6.49 - 6.52), the appeal development would deliver a range of benefits and mitigations including:
- Arguably efficient use of a previously developed site⁴ in an accessible location supporting the promotion of sustainable transport trips by reducing reliance on private cars. Located adjacent to Slough Town Centre and within walking (and cycle) distance to local shops, services and Slough railway station;
 - The provision of 27 high-quality new homes, a net uplift of 9 homes over the consented fallback scheme, helping to boost the supply of new housing in Slough where there is a shortfall in supply and delivery;
 - An agreed substantial in-lieu financial contribution towards off-site affordable housing delivery (of £311,078, based on viability assessment) – noting that the consented fallback scheme provided no affordable housing contribution;
 - A unit mix that reflects the site's sustainable location and market demand;
 - Well-designed homes meeting minimum space and private amenity standards, providing good quality living conditions;

⁴ The Framework (at paragraph 125c) says that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. However, I have found that substantial harm would be caused.

- Encouraging a healthy lifestyle for residents through a high level of accessibility to services and facilities including Lascelles Park and Upton Court Park;
 - High quality landscaping proposed including the planting of two additional trees;
 - Direct, indirect and induced jobs during the construction phase;
 - Additional new residents with spending power thereby supporting the vitality and viability of shops and services in the locality; and
 - Additional fiscal benefits including an education contribution (£87,185) and a contribution to mitigation of the Burnham Beeches SAC (£15,390) - neither of which were attached to the consented fallback scheme.
17. These are clear benefits and mitigations in respect of the appeal development (including as compared to the consented fallback scheme) and overall I give them significant weight. However, they do not outweigh the substantial harm I have found on the main issues. Further, conflict with policies CP8 of the CP and EN1 of the LP as regards the main issues constitute a failure of the development to accord with the development plan as a whole due to the relevance and importance of those policies and the substantial conflicts with them.
18. The Council and the appellants agree that the housing supply and delivery policies of the development plan are out-of-date with the Framework, since the Council cannot demonstrate a 5-year housing land supply (2.2 years) and because housing delivery is low (stated by the Council at the Hearing to be 44% based on the December 2024 Housing Delivery Test results). Accordingly, the 'tilted balance' in Paragraph 11d)ii. of the Framework is engaged as an important material consideration. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
19. As set out above, I have carefully considered and weighed all of the numerous benefits of the appeal development. The delivery of 27 homes (with an in-lieu secured affordable housing contribution), on previously developed land in a sustainable location, are significant benefits of the appeal scheme given the Framework's policies on boosting the supply of housing (which the Council are not doing given the serious extent of the supply and delivery shortfalls) particularly by the provision of affordable homes, particularly on brownfield land and particularly in sustainable locations.
20. However, the development (as built and proposed) causes substantial harm to local character and appearance and to the living conditions of neighbours. This is contrary to the Framework's policies in these regards, particularly paragraphs 129 and 135. Overall, the adverse impacts of the development are of a magnitude which weigh heavily against the grant of planning permission.

21. Consequently, and even given the extent of the housing supply and delivery shortfalls, the adverse impacts of the appeal development significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This does not indicate that planning permission should be granted.
22. The appeal development does not accord with the development plan as a whole, and there are no other considerations which outweigh this finding. Accordingly, ground (a) fails and I will not grant planning permission for the development (as built or as proposed). There are no conditions I could reasonably impose (suggested or otherwise) to make it acceptable.

Ground (f)

23. For an appeal to be successful under this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose.
24. It is clear to me from the way the notice is drafted, as confirmed by the Council at the Hearing, that the purpose of the notice is to remedy the breach of planning control. It legitimately does that by offering 2 routes to compliance, essentially either by restoring the land to its condition before the breach took place (by demolishing the unauthorised building) or by making the development comply with the terms of the planning permission which has been granted in respect of the land (P/19443/000 as subsequently amended by non-material amendment approval P/19433/003).
25. The appellants argue that only the latter requirement should be an option within the notice. However, it seems to me that offering 2 routes to compliance is very reasonable, giving the notice recipients a choice as to how the purpose of the notice might be achieved.
26. For these reasons, I am not satisfied that the notice requirements are excessive and ground (f) does not succeed.

Ground (g)

27. For success on this ground, I must be satisfied that the compliance period falls short of reasonable.
28. It seems to me that much physical work must be done on site, through either route to compliance, to meet the requirements of the notice. Given the extent of works necessary, I find that 12 months would be reasonable. Therefore I am satisfied that the 6 months stipulated within the notice falls short of reasonable, and I am using my powers to vary the notice to provide a 12 month compliance period. Ground (g) accordingly succeeds to that extent.

Conclusion

29. For the reasons given above I conclude that Appeals A, B, C, D and E should not succeed, except to the extent I have indicated on ground (g). I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Andrew Fraser-Urquhart KC (instructed by Aston Brooke Solicitors)
Lucy Markham (Montagu Evans)
Alfie Yeatman (HGH Consulting)

FOR THE LOCAL PLANNING AUTHORITY (LPA):

Daniel Ray (Director of Planning Services and Chief Planning Officer)
Neetal Rajput (Head of Development Management)
Ammad Malik (Senior Planning Enforcement Officer)
Allan Jones (All About Place)

INTERESTED PERSONS: none

DOCUMENTS provided after the opening of the Hearing

- 1 *Visual Representation of Development Proposals*
(Landscape Institute Technical Guidance Note 06/19)
- 2 Folder of documents in support of the appellants' costs applications:
Minutes of Planning Committee held on 26 July 2023;
Decision of Extraordinary Planning Committee held on 6 September 2023 in relation to 46-56 High Street, Slough;
Officer Report to Planning Committee dated 27 March 2024 on current status of s106 Agreement;
Chronology 26 July 2023 – 20 May 2024;
Emails between HB Public Law and Aston Brooke Solicitors 25 October 2023 – 20 May 2024;
Emails between GAA Design and LPA on 28 and 29 May 2024
- 3 Officer Report to LPA Cabinet dated 17 October 2022 – Mitigation Strategy regarding Burnham Beeches and Upton Court Park masterplan (and Appendices A, B, C, D)
- 4 Consultation response from Natural England dated 28 May 2024 in relation to planning application P/19443/009