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## Appeal Decision

Site visit made on 14 July 2025

by **C J Leigh BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 07 August 2025**

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**Appeal Ref: APP/J0350/W/25/3363108**

**Tithe Barn, Tithe Court, Slough, SL3 8AS**

- 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 Tithe Barn Estate against the decision of Slough Borough Council.
  - The application Ref is P/00738/032.
  - The development proposed is described as 'retrospective application for change of use of former office B1A into 8 residential flats C3'.
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### Preliminary matters

1. The appeal concerns a building that was formerly in office use and has been converted to residential accommodation. Although the application form stated this was to eight flats, the drawings, the assessment by the Council, and the submissions by the appellants show there are seven dwellings. Works have also been undertaken to alter the fenestration of the building and provide parking. Permission is thus sought to retain the residential use as seven dwellings, external alterations to the building and the provision of parking, and I have determined this appeal on that basis.

### Decision

2. The appeal is dismissed.

### Main issues

3. In light of the above, the main issues in this appeal are:
  - Whether the development provides an adequate standard of living accommodation for occupants with regards to outlook and privacy;
  - Whether the development is safe from potential sources of contamination;
  - The effect of the proposed development on the setting of a listed building.

### Reasons

#### *Standard of living accommodation*

4. Core Policy 8 of the Slough Core Strategy (2008) (CS) requires all development to be of a high quality design, with reference made to a requirement to provide appropriate amenity space and landscaping. Policy H11 of the Slough Local Plan (2004) (LP) states that proposals for the conversion of commercial properties to

residential use will be permitted where, amongst other matters, satisfactory minimum room sizes and internal layouts are achieved, and where appropriate amenity areas are provided. Policy H14 of the Local Plan further requires an appropriate level of amenity space in new development.

5. The National Planning Policy Framework requires developments to provide a high standard of amenity for existing and future users, and states that the Technical Housing Standards – Nationally Described Space Standard (NDSS) may be used within policies; I am informed by the Council that the NDSS are incorporated into the Slough Developers Guide – Supplement (2018). This is a material consideration in this appeal.
6. The drawings refused permission by the Council show four of the dwellings at the appeal building (Units 1-4) are two storey dwellings. The NDSS states that two storey dwellings should be for a minimum of one bedroom with 2 bedspaces and a minimum gross internal floor area of 58m<sup>2</sup>. The development shows 1 bedspace for each of these dwellings and a floor area significantly less than 58m<sup>2</sup>. The drawings show Unit 5 as a two storey dwelling with two bedrooms and for 4 bedspaces. The NDSS states that for such dwellings the minimum floor area should be 79m<sup>2</sup>; Unit 5 is significantly below that.
7. The shortfalls in floorspace to these dwellings are significant, and are manifested through constrained internal layouts whereby rooms in each dwelling at first and ground floor are given over to circulation space for and around staircases, and areas by the access into the dwellings. This creates dwellings of cramped scale and layout.
8. The outlook from the front of all the dwellings in the building is directly onto an area of hardstanding. At my site visit I saw this area was heavily parked, which led to cars parked and manoeuvring directly outside windows. The hardstanding and communal circulation area also allowed for people to stand and pass very close to windows. As those windows variously serve private living rooms and bedrooms, I consider there to be a very poor outlook for existing residents. There would also be a direct intrusion and loss of privacy for occupants of the dwellings.
9. The ground floor windows to the rear of the dwellings look towards a narrow passageway, beyond which is a boundary fence. This is a very constrained outlook to windows which serve habitable rooms. Together with the poor outlook and loss of privacy at the front of the building, I consider the outlook at the rear means occupants of the dwellings have a living environment of unsatisfactory standard.
10. The dwellings do not have private or communal amenity space. Although there is a public park around 8 minutes walk away, I do not consider this adequately mitigates against the poor living conditions of the dwellings the fact that they open directly onto a parking and circulation area with poor outlook and lack of privacy means that there is no immediate respite to the living conditions which an on-site amenity space would provide. The absence of amenity space thus reinforces my view that the dwellings are of a poor standard of accommodation.
11. On the first issue it is therefore concluded the dwellings do not provide an adequate standard of living accommodation for occupants, by virtue of poor outlook, lack of privacy and absence of amenity space. This would be contrary to the policies of the

development plan referred to earlier. It would also not be consistent with the NDSS, the Framework and the Slough Developers Guide.

#### *Contaminated land*

12. The appeal site is partly located within an area mapped by the Council's Potentially Contaminated Sites due to a former factory/industrial works which was later infilled within unknown materials, and due to a nearby petrol filling station. The Council consider it likely there is a prevalent pollution pathway of the inhalation of ground gases and/or hydrocarbon vapours, migrating and accumulating into the development.
13. The appellants have not provided any firm evidence to dispute the Council's position. I therefore see no reason to disagree with the Council. Core Policy 8 of the CS states that development shall not be located on polluted land, unless the development incorporates appropriate mitigation measures to limit the adverse effects on occupiers and other appropriate receptors.
14. The Framework states that planning decisions should ensure a site is suitable for its proposed use taking account of any risks arising from contamination, including risks arising from former activities, with there being a necessity for adequate site investigation. The Framework continues to say that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
15. The appellants have not provided any detailed evidence to show that the development was undertaken in a manner that resulted in no residual potential risk to human health receptors, or with any appropriate mitigation measures. Thus, there is conflict with Core Policy 8 and the Framework.
16. The appellants suggest this matter could be addressed through the imposition of a planning condition. No such suggested condition has been put forward by either the appellants or the Council. In any event, the use of a condition to address this matter would not be appropriate. There is currently no information regarding possible contamination, and so there is no information relating to any necessary remediation or mitigation (if so required). And hence there is no indication as to whether any necessary remediation or mitigation would be achievable or viable to be undertaken within the development that has already taken place. Thus, there is no certainty that the requirements of Core Policy 8 and the Framework could be satisfied.
17. The development plan and the Framework are clear in ensuring that development is not undertaken where there is polluted land, unless there is adequate investigation and mitigation undertaken. On the evidence presented to me I am not reassured that this requirement can be satisfied within the development. Thus, there is conflict with Core Policy 8 and with the Framework.

#### *Setting of the listed building*

18. The subject building stands close to The Granary, which is a Grade II listed building. The Council's Heritage Advisor has confirmed Tithe Barn itself is not listed, nor is the building listed by virtue of lying within the curtilage of The Granary. I see no reason to disagree with that conclusion.
19. Under s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to have special regard to the desirability of preserving the setting of a

listed building. The special interest of The Granary derives from its original form and design as a traditional agricultural building.

20. The works undertaken to Tithe Barn has seen changes to windows and doors. Whilst these have altered the original design of the barn building, these changes do not affect the special interest of The Granary.
21. On the third main issue I therefore conclude that the proposal would comply with Core Policy 9 of the CS, which requires development to protect the historic environment.

#### *Other considerations*

22. I am informed the Council cannot demonstrate a five year supply of deliverable housing sites. The development results in additional dwellings in a sustainable area, which would contribute to addressing this shortfall and to the Government's broader objective of significantly boosting the supply of homes, and so is a matter in support of the proposal.
23. I am aware that the refusal of permission may lead to action by the Council regarding the use or occupation of the existing dwellings, or pre-emptive action by the appellants. Although I am not aware of any proposed action, a possible outcome might be the future loss of someone's home.
24. Article 1 of the First Protocol to the European Convention on Human Rights (ECHR), as incorporated into the Human Rights Act 1998, states that every person is entitled to the peaceful enjoyment of his possessions, and that no one shall be deprived of his possessions except in the public interest. Article 8 of the ECHR provides that everyone has the right to respect for their private and family life and their home. Articles 1 and 8 are qualified rights and interference may be justified where that is lawful and in the public interest. The provision of living accommodation that is of satisfactory standard and is not at risk from contamination is established in the development plan and the Framework. For the reasons given above, I consider the interference with Articles 1 and 8 is justified as it is in the public interest to provide living accommodation that is of satisfactory standards and not at risk from contamination.
25. I have also had regard to the Public Sector Equality Duty (PSED) that may arise with the engagement of s149 of the Equality Act 2010, which requires public authority decision makers to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with a protected characteristic and other parts of the community. s19 of the Act provides that specified forms of discrimination are not unlawful if it is '*a proportionate means of achieving a legitimate aim*'. Such a '*legitimate aim*' may be set out in planning policy and legislation. My earlier conclusions have found the development conflicts with the development plan and the Framework. I am therefore satisfied that refusal of permission is proportionate as a means to achieve the legitimate aims of the Council and the Government, as set out in the development plan and in the Framework.

#### **Conclusions**

26. The support for the development through the provision of additional housing is countered by the dwellings not providing a satisfactory standard of accommodation,

and the absence of evidence that demonstrates occupants are not at risk, or can be made safe, from contaminated land. These are matters enshrined in the development plan and the Framework. The adverse impacts of granting planning permission would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Hence, the proposal would not comprise sustainable development.

27. My overall conclusion is therefore that the proposal would conflict with the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. The appeal is dismissed.

*C J Leigh*

INSPECTOR