

## SLOUGH BOROUGH COUNCIL

REPORT TO: PLANNING COMMITTEE

DATE: September 2022

### PART 1

### FOR INFORMATION

#### Planning Appeal Decisions

Set out below are summaries of the appeal decisions received recently from the Planning Inspectorate on appeals against the Council's decisions. Copies of the full decision letters are available from the Members Support Section on request. These decisions are also monitored in the Quarterly Performance Report and Annual Review.

#### **WARD(S)**

**ALL**

<b>Ref</b>	<b>Appeal</b>	<b>Decision</b>
P/04670/014	17-31, Elmshott Lane, Slough, Berkshire, SL1 5QS  Revised Outline planning application with all matters reserved for the demolition of existing retail/residential buildings. Construction of three storey plus mansard building, over basement, consisting of associated parking at basement level, retail/storage at ground floor level and the formation of 9 no. three-bedroom flats, 19 no. two-bedroom flats and 56 no. one-bedroom flats at first, second, and mansard floor levels. Associated landscaping and realigned access to Elmshott Lane	Appeal Dismissed  12 <sup>th</sup> May 2022
2019/00237/ENF	7, Moat Drive, Slough, SL2 5TG  Self contained outbuilding on rent	Appeal Dismissed / Notice Upheld  13 <sup>th</sup> May 2022
Y/17291/004	29, New Road, Slough, SL3 8JJ  The erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 6m, with a maximum height of 3.21m, and an eaves height of 3m	Appeal Dismissed  27 <sup>th</sup> May 2022
P/03147/004	13, York Avenue, Slough, SL1 3HP  Change of use from C3 to C4 (6 person 6 bedroom HMO)	Appeal Dismissed  27 <sup>th</sup> May 2022
P/19123/003	10, Cheviot Road, Slough, SL3 8UA  Variation of condition 1 (approved drawings) of planning permission P/19123/002 dated 10/09/2021 for the construction of a single storey rear extension with 2 no rooflights following the demolition of part of the existing extension that is 3.65m in depth. The proposed variation of condition seeks to extend the rear extension to 5.6m in depth.	Appeal Dismissed  27 <sup>th</sup> May 2022

2020/00038/ENF	63, Beaumont Road, Slough, SL2 1NG Self Contained Outbuilding	Appeal Dismissed / Notice Upheld  10 <sup>th</sup> June 2022
2020/00660/ENF	58 Long Readings Lane Self Contained Outbuilding	Appeal Varied / Dismissed  15 <sup>th</sup> June 2022
Y/07960/004	104, Blumfield Crescent, Slough, SL1 6NJ Prior approval for an additional two storeys to dwellinghouse	Appeal Dismissed  24 <sup>th</sup> June 2022
P/14557/001	138 Spackmans Way Construction of a three storey side extension.	Appeal Dismissed  30 <sup>th</sup> June 2022
P/00066/006	37 Cranbourne Close Construction of a part single/part two storey side and rear extension following demolition of the existing outbuilding  <ul style="list-style-type: none"> <li>- The proposal was for Construction of a part single/part two storey side and rear extension following demolition of the existing outbuilding.</li> <li>- The footprint of the original house as measured from the Plotting Sheets is about 52 sq metres, consist of an outbuilding measuring about 34 sq metres, which extends lengthwise along the Northwestern boundary</li> <li>- The proposal as originally applied for, had a footprint of 140 sq metres at ground floor level, and extended along the footprint of the outbuilding, subsuming the outbuilding and infilling the space between the dwellinghouse and the outbuilding and which would result in a in a poorly designed enlargement and appear discordant, out of keeping with the host dwelling and would be detrimental to the character and appearance of the surrounding area formed a jarring, out of character development. While the design was not acceptable, the development was not refutable, hence, the negotiation was based on purely design terms.</li> <li>- However, the inspector was of the opinion that the development proposed, while substantial, is nonetheless of a scale, design and form that has due regard to the character and appearance of the host dwelling. The two-storey elements are proportionate to its scale, with the more prominent side extension having a notable set back from the front elevation and a set down from the main roof. Due to the shape of the plot, the most prominent aspect of the</li> </ul>	Appeal Granted  5 <sup>th</sup> July 2022

	ground floor side extension would be tapered to a narrow width to the front. The remaining single storey extensions are sizeable, but they are subordinate to the host dwelling, proportionate to the large plot size and mostly contained to the rear.	
Y/19485/000	106 Blumfield Crescent Prior approval for an additional two storeys to dwellinghouse	Appeal Dismissed 7th July 2022
P/19414/001	5 Severn Crescent Construction of a single storey side and rear and a part first floor rear extension	Appeal Granted 2 <sup>nd</sup> August 2022
Y/05383/002	Victoria Court & Eastbridge, Prior approval application for the proposed development which includes the creation of two additional storeys above principal elevation to provide 28 additional flats	Appeal Dismissed 8 <sup>th</sup> August 2022
2020/00683/ENF	2020/00683/ENF unauthorised outbuilding	Appeal Dismissed / Notice Upheld 13 <sup>th</sup> September 2022

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# Appeal Decision

Site visit made on 21 March 2022

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 May 2022**

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## **Appeal Ref: APP/J0350/W/21/3276198 17 to 31 Elmshott Lane, Slough SL1 5QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Joe Mirenpass Limited against the decision of Slough Borough Council.
  - The application Ref P/04670/014, dated 31 August 2020, was refused by notice dated 11 December 2020.
  - The development proposed is described as 'Revised Outline planning application with all matters reserved for the demolition of existing retail/residential buildings. Construction of three storey plus mansard building, over basement, consisting of associated parking at basement level, retail/storage at ground floor level and the formation of 9 no. three bedroom flats, 19 no. two-bedroom flats and 56 no. one-bedroom flats, including 20% affordable housing on site, at first, second, and mansard floor levels. Associated landscaping and realigned access to Elmshott Lane.'
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### **Decision**

1. The appeal is dismissed.

### **Applications for costs**

2. An application for costs was made by Joe Mirenpass Limited against Slough Borough Council. An application for costs was made by Slough Borough Council against Joe Mirenpass Limited. These applications are the subject of separate Decisions.

### **Preliminary Matters**

3. The original application was made in outline with all matters reserved for future determination. I have had regard to the existing and proposed site plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative.
4. The application form gave the address as '17 Elmshott Lane'. The address in the banner heading above is taken from the appeal form and the Council's decision notice. This more accurately reflects the address of the appeal site.
5. The appellant has submitted a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). This is dated 23 November 2021. This includes financial contributions towards education and recreational infrastructure as well as transport obligations. It also includes the provision of on-site affordable housing. I return to this later in my decision.



6. As part of the appeal, the appellant has sought to revise the provision of affordable housing. At the time the application was determined, the scheme proposed the delivery of 30% affordable housing, 16 units (20%) to be provided on-site in an 'independent' block within the development and 10% to be provided through financial contributions to off-site provision. The revision to the scheme proposes 25 units with the additional units dispersed within the market housing block. In total this would represent just under 30% on-site provision.
7. The *Procedural Guide to Appeals - England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority. I have also had regard to the Wheatcroft principles<sup>1</sup> including whether amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity.
8. In my view, the provision of all the affordable housing within the development would be materially different to what had previously been proposed. I also have limited evidence of this having been consulted on and therefore that interested parties have been given the opportunity to comment. I have therefore proceeded to base my decision on the proposals before the Council when it made its decision.

### **Main Issues**

9. The main issues are:
  - the effect of the proposed development on the character and appearance of the area;
  - whether the proposed development would provide an appropriate mix of housing;
  - whether the proposed development would make adequate provision for affordable housing;
  - whether the proposed development would make adequate provision for infrastructure;
  - the effect of the proposed development on the living conditions of neighbouring occupiers at 33 Elmshott Lane, with particular regard to its effect on outlook and whether it would appear overbearing; and
  - whether there are any material considerations which mean that the decision should be made otherwise than in accordance with the development plan.

### **Reasons**

#### *Character and appearance*

10. The appeal site is located within a mixed use area which forms part of a neighbourhood shopping centre. Surrounding development is a mix of single and 2-storey properties, including a primary school, library, churches and

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

shops as well as residential properties located along Elmshott Lane and within the surrounding streets. The school is also a locally listed building. To the rear of the site, there are short terraces of 2-storey residential development on Patricia Close whilst a more substantial 3 to 4-storey block of flats, Charlcot Mews, is located on the southern boundary of the site.

11. Development along Elmshott Lane tends to be set back from the road behind front gardens, driveways and forecourts, which given its modest scale, gives the area an open and spacious character and make a positive contribution to the local environment.
12. The appeal site occupies an area of approximately 0.5 hectares with a long frontage to Elmshott Lane. It is currently occupied by 2 buildings both of which are 2-storeys in height and an area of surface car parking. These are commercial units with residential above. The scheme proposes the demolition of these buildings and their replacement with a 4-storey building with basement parking, indicated to be over 12m high. This is a revised scheme to a previous proposal for the redevelopment of the site with a 5-storey building of 119 flats, dismissed on appeal<sup>2</sup>.
13. Although the drawings are indicative, the proposed building would include 84 apartments and a sizeable building such as shown on these drawings would inevitably be required to accommodate the proposed quantum of development. The proposed building would be substantially larger than the existing development both along Elmshott Lane and in the surrounding residential streets. It would extend across much of the width of the Elmshott Lane frontage at a height of 4-storeys, stepping down to a single-storey building adjacent to its boundary with 33 Elmshott Lane (No 33).
14. The proposal would be reduced in height compared to the previously dismissed scheme and the top floor would be set back from the front elevation. It would nevertheless appear significantly larger and bulkier than surrounding development although to a lesser extent than that previously proposed.
15. I observed that Charlcot Mews is a taller building within the locality and a similar height to the proposed building. It is however atypical of surrounding development. This building also incorporates various pitched roof elements and lower sections, which makes it appear less bulky. Therefore, despite the similarities in height, the scale, mass and form of the proposed building would be more substantial due to its extensive width, plot coverage and flat roof. This would make it appear much more bulky than this neighbouring development. Furthermore, Charlcot Mews is not immediately visible on Elmshott Lane and does not form the character along this road.
16. The presence of this building on an adjacent street, does not therefore alter my view that the proposed development would appear visually dominant and overbearing within the Elmshott Lane streetscene, unrelated to its context and harmful to the character and appearance of the local area.
17. The illustrative drawings indicate that the upper floors of the building would project rearwards in a U-shape, enclosing an area of communal garden at first floor. In comparison to the existing development, the building would be more visually prominent in views from the adjacent properties on Patricia Close and

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<sup>2</sup> APP/J0350/W/19/3224244

Charlcot Mews. However, the set back and reduced height close to its boundaries would help to reduce its bulk and visual impact when viewed from these. With additional planting along these boundaries as shown on the indicative plans, the proposal would provide a softer environment and more visual interest compared to the stark appearance of the large area of surface parking. However, this would not overcome the harm that would arise from a building of this scale along Elmshott Lane.

18. The proposal before me is for a scaled down scheme compared to that previously dismissed with a reduction in height by approximately a third and a similar reduction in the overall quantity of development on site. The appeal scheme would nonetheless extend almost entirely across the full width of the Elmshott Lane frontage over 4-storeys, cover nearly 60% of the plot and would be taller, bulkier and out-of-character with surrounding development.
19. I acknowledge that the previous appeal decision is a material consideration. However, whilst I agree that the scheme before me would have a less harmful impact than that previous scheme, I do not find that simply reducing its scale would render it acceptable. I have assessed the scheme before me on its own individual merits and have found it to be harmful.
20. The proposal would provide basement parking. The Council has suggested this is uncharacteristic of the area. Whilst this may be the case, it would provide an effective way of reducing the visual impact of any parking, it would sit unobtrusively beneath the building and would not detract from the character of the area.
21. The appellant has provided an artist's impression of the proposed building which he has argued demonstrates vast improvement to the vitality of the street. I have been presented with no specific evidence that this is a declining centre. Furthermore, the artist's impression shows a building and fully glazed shopfronts and indicates cafes, which to my mind is more reflective of the type of retail units better suited to more destination shopping areas, such as large town or city centres rather than this small neighbourhood shopping area.
22. The Council's decision notice refers to the scheme being of an unacceptably high density outside of the town centre. In this regard, I concur with the previous Inspector that density calculations alone cannot provide an assessment of the effects on character and appearance.
23. There is an expectation with the National Planning Policy Framework (the Framework) that proposals such as this one will come forward on previously-developed land. I am told that the existing density of the area is around 28 dwellings per hectare (dph) and would increase to 153dph, which is a notable decrease from the previous scheme of 238dph. Nevertheless, in the context of surrounding development, this density of development would result in an uncharacteristically large building, occupying a significant amount of the plot, which would predominantly be viewed from Elmshott Lane where buildings are one or 2 storeys in height and of a modest scale.
24. I have been referred to various permitted schemes for much higher density development with greater site coverage in locations outside the town centre than proposed in this scheme. Of particular note, the Council approved 100% site coverage at 3 sites along Stoke Road which would be much higher density than what is being proposed here. However, I do not find Stoke Road to be

comparable to Elmshott Lane due to the presence of a number of other larger and taller buildings, both commercial and residential and a generally busier environment.

25. I have also been made aware of various other developments within the Slough area but outside of any town centre or designated neighbourhood or shopping centres. These are given as examples of high density developments. However, I have limited information about the circumstances for the approval of these developments nor what their local context is. I can therefore only give these very limited weight in terms of the appellant's arguments to justify higher density development.
26. As such, whilst I agree that there are circumstances within neighbourhood centres and also outside of designated shopping areas where larger buildings and a higher density of development has been found to be appropriate, those circumstances do not exist along Elmshott Lane due to the modest scale of development and the open character of the area.
27. I acknowledge that the Council has not found the proposal would harm the setting of the locally listed school building on the opposite side of the road. However, this does not make the scheme acceptable within the wider area.
28. I conclude that the proposed development would cause significant harm to the character and appearance of the area. It would therefore conflict with Saved Policy EN1 of the Local Plan for Slough 2004 (the LP) and Core Policy 1, Core Policy 4 and Core Policy 8 of the Local Development Framework Core Strategy 2008 (the CS) which together require development proposals to be a high standard of design, compatible with their surroundings in scale, height, mass and bulk and at a density related to the character of the surrounding area. It would also fail to accord with the design objectives of the Framework which seeks development sympathetic to local character.
29. Saved Policy EN2 of the LP referred to in the decision notice relates to extensions to buildings which given the proposal is for a redevelopment of the site, would not be applicable in this case.

#### *Housing mix*

30. The Council is seeking to deliver a wide choice of high quality homes and to create sustainable, mixed and inclusive communities in accordance with the objectives of national policy. To this end, Core Policy 4 of the CS sets out that in the urban areas outside the town centre, new residential development will predominantly consist of family housing. It also states that there will be no net loss of family accommodation as a result of redevelopment.
31. The Council's *Space Standards for residential development Developers Guide Part 4 – supplement* (November 2018) defines family housing as 'a fully self-contained dwelling with a minimum floor area of 79 square metres that has direct access to a private garden. Comprises a minimum of two bedrooms and may include detached and semi-detached dwellings and townhouses but not flats or maisonettes.'
32. Since the existing building comprises flatted development, there would be no loss of family housing. The proposed scheme, in only providing flatted development, would also not provide any family housing based on the

- definition. It would, however, provide 9 larger 3-bedroom units, representing a net increase in larger units of 5.
33. It seems to me that the policy requirement for family housing should be applied flexibly depending on the circumstances. The appeal site has a long frontage within the designated shopping area which does not lend itself to traditional suburban family housing. Therefore, the failure of the scheme to provide 'family housing' in accordance with the definition would not make it unacceptable.
34. In coming to this view, I am mindful of the approach taken by the Council in other schemes to which I have been referred including developments within shopping areas at both Alexandra Plaza<sup>3</sup> and 76 & 78 Stoke Road<sup>4</sup> where the Council considered the provision of family housing was not considered necessary or appropriate above ground floor retail uses. A short distance from the appeal site, a scheme at the Tyre Centre on Bath Road<sup>5</sup> for a development of 75 new flats delivering 63% 1-bed and 37% 2-bed units was recently approved by the Council. I have also been referred to proposal at Akzonobel Decorative Paints, Wexham Road<sup>6</sup> where the Council officers recognised that due to the high density nature of the proposal, it would be unlikely that typical suburban type family housing could be sought.
35. Caselaw<sup>7</sup> has established that like cases should be decided in a like manner so that there is consistency and also to secure public confidence in the planning system. Subsequent judgments<sup>8</sup> to which I have been referred to have upheld this position. I appreciate that none of the aforementioned schemes would be directly comparable as each is located within its own context. Nevertheless, they provide an indication that the policy requirement for family housing is often applied flexibly by the Council. It seems to me that there are broad parallels with the scheme before me.
36. Notwithstanding that the appeal site would not be suitable for family housing in accordance with the definition, a requirement to provide a suitable housing mix to contribute towards mixed and inclusive communities nonetheless exists.
37. The Eastern Berks and South Bucks Housing Market Area is defined in the Strategic Housing Market Assessment (SHMA) February 2016. It recommends a housing mix split between 15% 1-bed, 30% 2-bed, 35% 3-bed and 20% 4-bed. The SHMA covers an area comprising 7 local planning authorities. Given the variation that must exist across such a large area, it seems to me reasonable that the figures should not be applied rigidly on a one size fits all basis. The Council acknowledges that this split set out within the SHMA cannot be achieved at all times and is not always appropriate, depending on the location of development and the character of the surroundings.
38. The scheme would deliver 56 x 1-bed units (67%), 19 x 2-bed units (23%) and 9 x 3-bed units (11%). The general housing mix proposed would not reflect that set out within the SHMA. It seems to me that with a disproportionate number of 1-bed units and a significant shortfall in larger units, the scheme

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<sup>3</sup> Council Ref: P/08040/020

<sup>4</sup> Council Ref: P/03678/018

<sup>5</sup> Council Ref: P/00442/016

<sup>6</sup> Council Ref: P/00072/096

<sup>7</sup> North Wiltshire District Council v SSE [1993] 65 P & CR 137

<sup>8</sup> R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050

would make a limited contribution towards creating mixed and inclusive communities.

39. There is nothing before me to suggest that this location is not suited to family households who would occupy the larger units even if they do not meet the definition of family housing. Indeed, there is a local primary school opposite, a library and local shops and facilities all within easy walking distance and there is no reason why larger households would not benefit to the same extent as a smaller household such as might occupy a 1-bed flat, from the proximity to the recently improved public transport, notably Crossrail which now serves Burnham Station. The proposal also includes communal gardens and balconies so households would benefit from dedicated outdoor space.
40. My attention has been drawn to the key findings in relation to market housing within the SHMA, extracts of which are set out within the appellant's statement of case. This states that Slough has the highest need for 1-bedroom homes amongst the authorities covered by the SHMA. However, I do not have details of what that figure is. The appellant has also indicated that the number of 1-bed units would need to grow by 27% over the 2013 to 2036 period covered by the SHMA, and 2-bed units by more, at nearly 30%. Whilst this is noted, this does suggest that the need for larger units of 3 or more bedrooms would be over 40%. There is therefore evidence of units of all sizes being needed.
41. In the previous scheme for this site, the housing mix was found unacceptable by the Inspector. That previous scheme proposed 71% 1-bed and 29% 2-bed units. In this regard, whilst the appeal scheme housing mix would be better than that earlier scheme, there would still be a disproportionate amount of 1-bed units and a limited number of larger units. For these reasons, I conclude that it would make a limited contribution to achieving the overall aims of providing mixed and balanced communities.
42. I recognise the appellant's frustrations that the Council did not refer to the SHMA in its assessment of housing mix for a nearby scheme at the Tyre Centre of Bath Road. However, this in itself does not negate the relevance of the SHMA to the appeal before me.
43. I conclude that the proposed development would not provide an appropriate mix of housing. It would therefore conflict with Core Policy 4 of the CS as referred to above.

#### *Affordable housing*

44. Core Policy 4 of the CS sets out a requirement for all sites of 15 or more dwellings (gross) to provide between 30% and 40% of the dwellings as social rented along with other forms of affordable housing. The appeal scheme would deliver 84 dwellings which would be a net increase of 70 dwellings.
45. Due to the number of units proposed, the Council has advised that the proposal would attract an on-site requirement for affordable housing provision. The *Developer Contributions and Affordable Housing (Section 106) Developer's Guide Part 2 (2017)* sets out that for brownfield sites of more than 70 dwellings, 35% affordable housing should be provided comprising 22% rent and 13% intermediate housing.
46. Notwithstanding the above, there is some ambiguity in the level of affordable housing being sought by the Council with the Council's statement referring to a



- policy compliant 30% provision of affordable housing but providing no explanation for this departure from either its published guidance or its previously stated position.
47. The appellant has set out that the scheme would provide 30% affordable housing, with 20% provided on site and the remaining 10% proposed as a financial contribution for off-site provision. The on-site provision, which would be 16 units, would however be closer to 19%. This would not meet the requirements set out within policy. The appellant has not provided a viability assessment to demonstrate that the required 35% on-site provision could not be provided.
  48. The previous Inspector noted the constraints for Registered Social Landlords (RSL) of managing affordable housing within a single block alongside market housing, a matter which the appeal scheme has sought to address. However, from my reading of that decision, whilst he noted that a proposed financial contribution for off-site provision had been submitted, he did not conclude that the provision of 30% affordable housing was acceptable or had been justified.
  49. I appreciate that the appellant has sought to address the provision of on-site affordable housing through the creation of an 'independent' block within a 'wing' of the proposed building. This would make the proposed scheme more suitable for managing by a RSL. This element of the scheme, based on the indicative layouts, would provide 16 units on site.
  50. Whilst I have not accepted amendments to the provision of affordable housing due to the absence of consultation, these do indicate that additional affordable housing, such as intermediate housing could be accommodated alongside the market housing within the rest of the proposed building. For this reason and in the absence of any viability assessment, the proposal to make up a shortfall in the required on-site provision through off-site contributions has not been justified.
  51. The affordable housing units would be 1 or 2 bedroom units. I have noted the appellant's reference to the Key Findings Affordable Housing with the SHMA, which suggests that between 2013 and 2036 around three-quarters of the need is for homes with 1- or 2-bedrooms. Whilst this lends weight to the view that the provision of a higher proportion of smaller units as affordable housing may be acceptable, I am unable to reach a firm conclusion on this as the overall provision of affordable housing falls short of policy requirements.
  52. The submitted UU would appear to secure the 16 units on-site but makes no provision for the off-site financial contributions. I recognise this is because the appellant intended to amend the provision of affordable housing and the UU was drawn up on the basis of that amended proposal. However, I have nothing before me to secure the affordable housing as originally proposed. In any event, the overall provision would be less than the 35% required by policy.
  53. This leads me to conclude that the proposed development would fail to provide an appropriate level of affordable housing. It would therefore conflict with Core Policy 4 of the CS as set out above. In addition, it would not comply with the Framework which requires affordable housing to be provided on site, unless a financial contribution towards off-site provision can be robustly justified.

### *Provision of infrastructure*

54. Core Policy 10 of the CS sets out that development will only be allowed where there is sufficient existing, planned or committed infrastructure. Where it is insufficient to meet the needs of new development, the developer will be required to supply all reasonable and necessary on-site and off-site infrastructure improvements. This will be secured through planning obligations or conditions attached to planning permissions.
55. The submitted UU secures financial contributions to education, a per dwelling contribution towards recreation facilities in lieu of private amenity space and a contribution towards highway work as well as a Travel Plan and monitoring fees. The Council has confirmed that these obligations would be appropriate but raised a concern about whether the agreement confirmed that the appellant would meet the full costs for undertaking the highway works.
56. I have noted that the definitions set out under Schedule 3, Part 1 of the UU confirm that the highway works would be executed by the owner at the owner expense. On this basis, I am satisfied that the submitted UU would secure the necessary infrastructure. The scheme would therefore accord with the requirements of Core Policy 10 of the CS.

### *Living conditions*

57. No 33 lies to the south of the appeal site. This is a commercial property with a flat above. There are a number of upper floor windows facing towards the appeal site within the side elevation of No 33. These currently look out over a single-storey section of building.
58. The illustrative drawings indicate that that the proposed building would be separated from these windows by an existing access road and the proposed building would be retained as single-storey to provide a gap between these windows and the taller flank wall to the 4-storey element of the building. The Council has indicated that the gap would be around 8 to 10m.
59. The Council has drawn upon its guidance, *Residential Extensions Guidelines Supplementary Planning Document 2010* (the SPD), which advises that a 15m distance is provided between flank walls and primary elevations to avoid harmful overbearing impacts. This guidance relates to residential extensions and the windows in question are within a flank wall facing towards another flank wall. The guidance would not strictly apply but I agree it provides a useful yardstick of acceptability.
60. The appellant has indicated that these windows serve bedrooms and, on this basis, he considers them to be less sensitive. Whilst I note this point, bedrooms are nevertheless habitable rooms which should enjoy a satisfactory degree of outlook and protection from overbearing development.
61. The proximity of these bedroom windows to the flank wall of the 4-storey section of the proposed building would fall below the recommended minimum distance set out in the SPD. However, No 33 is positioned as an angle to the proposed building which, in combination with the single-storey section to the proposed building, would ensure that these bedroom windows would retain a sufficient degree of openness. Consequently, the proposed building would not appear overbearing and would not unduly harm outlook from these windows, which would still benefit from views towards the verdant area on the opposite



side of Elmshott Lane provided by the school grounds and the trees within them.

62. I am therefore led to the conclusion that the living conditions of neighbouring occupiers of No 33 would not be unacceptably harmed by the proposal in respect of outlook or a sense of overbearing. The proposal would therefore comply with Saved Policy EN1 of the LP and Core Policy 8 of the CS which together require a high standard of design that is compatible in terms of its relationship to nearby properties and respects the amenities of adjoining occupiers. Saved Policy EN2 of the LP is not relevant to this appeal for reasons stated above.

#### *Other Considerations*

63. The Council cannot demonstrate a 5 year housing land supply (5YHLS). The appellant considers that the Council can currently demonstrate a supply of either 1.92 years or 2.1 years. This lower figure, I note was referred to in the previous appeal decision for this site, which dated back to late 2019. The 2.1 year figure is included in the Council's Annual Monitoring Report 2018/19. I have been provided with no more recent figures and the Council has not disputed the appellant's position. Whether 1.92 years or 2.1 years, the absence of a 5YHLS indicates that the policies for the supply of housing are out-of-date.
64. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. 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.
65. The 'tilted balance' established under paragraph 11 should therefore apply in this case. I return to this in my planning balance below.
66. The proposal would make a significant contribution to housing, providing a net increase in 70 units and thereby helping to address the significant shortfall in housing land supply within the Borough. The provision of additional housing would help to deliver the Government's objective of boosting significantly the supply of housing. I attach considerable weight to the provision of housing as the previous Inspector did.
67. The scheme would deliver a range of economic benefits both during the construction phase and subsequent occupation of the development. The appellant has suggested there would be a significant improvement in the vitality of the area, and has submitted letters suggesting that there is local demand for this. However, I have limited information about this. I appreciate the artist's impression indicates a vibrant streetscene, but this is just a sketch.
68. Nevertheless, I agree that the scheme would renew the shopping parade in providing modern premises and facilities within the neighbouring shopping centre and secure the ongoing provision of day-to-day services for the local community. There is evidence of local support for this.

69. The appeal site is previously-developed land with a large area of surface car parking within an urban area. The scheme would make efficient use of the site.
70. The site is in a convenient location with good access to services and facilities and public transport providing access to the wider area, therefore future occupants would not be reliant on the use of the private car to meet their day-to-day needs.
71. The provision of dedicated delivery bays to serve the retail units would help to reduce the risk of conflict arising from delivery vehicles reversing on Elmshott Lane. This would both improve highway safety and the general environment along the road.
72. The proposed development could enhance the appearance of the local area in providing a more up to date building and replacing some buildings of little architectural merit. As recognised in the previous appeal, the existing outlook from surrounding properties is not especially pleasant, onto the car parking and rear of the shops. Some benefit could arise from the redevelopment of the site. However, due to the size and bulk, the environmental benefits from this would be somewhat reduced.
73. In addition, the indicative drawings indicated that the scheme would provide a number of trees and hedges to the site, both within the communal gardens and adjacent to the street as well as landscaping buffers around the edge of the site. These would enhance the appearance of the area and, could potentially improve biodiversity around the site.
74. The scheme would also be constructed to take advantage of renewable energy and to mitigate the impact of climate change through water storage and infiltration. Compared to the existing site with outdated buildings and a large area of surface parking, it would deliver environmental benefits.

### **Other Matters**

75. The appellant has asserted that the Council failed to work proactively during the application process to reach a positive solution on the application. Whilst the appellant's concern is acknowledged, this is a procedural matter and does not affect the merits of the case.
76. The appellant considers that the Council's third reason for refusal in relation to planning obligations in respect of affordable housing and contributions towards infrastructure was pre-emptive and inappropriate. This was on the basis that he had set out that planning obligations would be provided through a section 106 legal agreement. He considers that this reason for refusal could have been avoided. Again, this is a procedural matter.
77. A number of letters of support for the scheme have been provided to me which it is asserted have not been published. Whilst this is noted, this is a procedural matter. Nevertheless, I have been provided with copies of these letters and have taken them into account in my decision.

### **Planning Obligation**

78. The UU would secure contributions to education, recreation facilities and highway works. It seeks to secure affordable housing, although for the reasons I have set out, the provision of this would not be satisfactory.

79. Notwithstanding the shortfall in affordable housing provision, I am satisfied that the other Obligations meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and comply with the tests set out in paragraph 57 of the Framework. Since they are to ensure that effects of the development are mitigated, I consider them to be neutral in the final balance.

### **Planning Balance**

80. In the absence of a 5YHLS, the tilted balance as advocated under paragraph 11 should apply.

81. The scheme would deliver 70 additional dwellings in a sustainable location. In the context of a significant shortfall in housing, I give the provision of housing considerable weight.

82. The scheme would deliver a range of social, economic and environmental benefits which together I also attribute considerable weight.

83. The proposed development would cause significant harm to the character and appearance of the area. Notwithstanding that the scheme proposes to deliver some affordable housing, it would fail to make adequate provision for affordable housing in accordance with policy requirements. Furthermore, it has not been secured through a section 106 agreement. Given the need for affordable housing, I attribute significant weight to the failure to make this provision. The scheme would fail to deliver a suitable housing mix and moderate harm would arise from this. These harmful factors are matters that carry very substantial weight and importance in the planning balance.

84. The absence of harm to the living conditions of adjoining neighbours is a neutral factor in the balance.

85. In my view, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

### **Conclusion**

86. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR



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## Appeal Decision

Site visit made on 3 May 2022

**by R Satheesan BSc PGCert MSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 May 2022**

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### **Appeal Ref: APP/J0350/C/21/3281741**

### **7 Moat Drive, Slough, SL2 5TG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Nadeem Asghar against an enforcement notice issued by Slough Borough Council.
  - The enforcement notice was issued on 21 July 2021.
  - The breach of planning control as alleged in the notice is the use of outbuilding as a self-contained residential unit ("Unauthorised Use") and shown on the attached Plan edged in blue.
  - The requirements of the notice are:
    - (i) Cease the Unauthorised Use.
    - (ii) Remove the kitchen and bathroom from the outbuilding.
    - (iii) Remove the pipework, boiler and connections associated with the kitchen and bathroom.
    - (iv) Remove the internal walls incorporating the shower room and the bedroom.
    - (v) Remove from the Land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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### **Decision**

1. The appeal is dismissed, and the enforcement notice is upheld.

### **The appeal on Ground (f)**

2. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
3. In this case, the purpose of the enforcement notice is to remedy the breach of planning control. This is clear from the requirements of the notice, which requires the unauthorised use to cease together with the removal of the kitchen, bathroom, pipework, boiler, and connections associated with the kitchen and bathroom, and the internal walls incorporating the shower room and bedroom.

4. The appellant wishes to retain the boiler and connections associated with the shower room and the internal walls containing the shower room and the bedroom and contends that these requirements are excessive since these can be constructed within the outbuilding without requiring planning permission.
5. It is clear that these features have all sustained the unauthorised use of the property as a self-contained residential unit. These facilities are part and parcel of the unauthorised use and should not be viewed in isolation as has been suggested by the appellant. Furthermore, no further evidence has been submitted to demonstrate that the boiler and connections associated with the shower room and the internal walls containing the shower room and the bedroom existed within the outbuilding before the unauthorised use took place. Notwithstanding that these facilities may not require planning permission in their own right, a notice directed at a material change of use, as is the case here, may require their removal to restore the land to its condition prior to the breach. I am therefore satisfied the requirements of the notice is proportionate and do not exceed what is necessary to remedy the breach of planning control.
6. On this basis, the Ground (f) appeal fails.

**Conclusion**

7. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation.

*R Satheesan*

INSPECTOR



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# Appeal Decision

Site visit made on 24 May 2022

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27<sup>th</sup> May 2022

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## Appeal Ref: APP/J0350/D/21/3288543

### 29 New Road, Langley, Slough, SL3 8JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr and Mrs Okeke against the decision of Slough Borough Council.
  - The application Ref. Y/17291/004, dated 24 September 2021, was refused by notice dated 4 November 2021.
  - The development proposed is the erection of a single storey rear extension (which would extend beyond the rear wall of the original house by 6m, with a maximum height of 3.21m and an eaves height of 3m).
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed extension on the amenity or living conditions of the occupiers of neighbouring properties.

## Reasons

### *Background*

3. The appeal site comprises a semi-detached property lying in a residential area of mainly similar properties. It is of two storey form although at the time of my visit a large dormer window in the rear roof slope of the property was under construction.

### *Effect on living conditions*

4. In assessing this issue I have had regard to the Council's Residential Extensions Guidelines Supplementary Planning Document (SPD) 2010. However, as this was adopted prior to the Government's relaxation of 'permitted development' this limits the weight that can be given to its provisions.
5. The proposal is to extend out 6m with a structure 3m high at the eaves. This exceeds the guidance in the SPD which limits rear extensions at a semi-detached property to 4.25m. However, I give more weight to the actual impact the addition would cause.

6. In terms of the relationship with the neighbouring property No. 27 this is separated from the host property by a narrow pedestrian access alongside both houses. No.27 already appears to have been extended at the rear and there is also a 1.8m high fence (presently covered with ivy) along the party boundary. Given these factors I am satisfied that the proposed extension would not have an adverse effect on the outlook from this property or harm the living conditions of the occupiers.
7. In relation to the adjoining semi No.31 the affect here would be more profound. Again there is a 1.8m fence along this party boundary and although this is covered in ivy and creepers to well above this height, such vegetation could not be retained with the construction of the proposed extension.
8. Having regard to the degree of the projection of the flank wall of the extension almost on the party boundary and the height of the structure, the physical and visual impact of the solid structure would have an overbearing and dominating effect on the outlook of No.31. Moreover as the adjoining property of No.33 also appears to have been extended at the rear, the further extension would enclose the main private outlook from the rear of No.31 and the enjoyment of its garden to an unacceptable degree. On this basis I find that the proposal conflicts with the provisions of Core Policy 8 which in part seeks to ensure that new development respects the amenities of adjoining occupiers.
9. This harm and conflict with the relevant policy in the development plan is not outweighed by any other factor which indicates that prior approval should not be granted.

### **Conclusion**

10. For the reasons given above I conclude that the appeal should be dismissed.

*David Murray*

INSPECTOR



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# Appeal Decision

Site visit made on 24 May 2022

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

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**Appeal Ref: APP/J0350/W/21/3282736**

**13 York Avenue, Slough, SL1 3HP.**

- 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 F Hassan against the decision of Slough Borough Council.
  - The application Ref. P/03147/004, dated 8 January 2021, was refused by notice dated 17 March 2021.
  - The development proposed is the change of use from Class C3 to Class C4 (six person 6 bedroom house in multiple occupation (HMO)).
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effects on:
  - the supply of housing and particularly the stock of family houses locally;
  - the living conditions of the occupiers of neighbouring houses; and
  - pedestrian and highway safety.

## Reasons

### *Background*

3. The appeal site comprises a two storey semi-detached property situated in a residential area although there is a school at the northern end of York Avenue. The submitted plans of the HMO show: six bedrooms over the two floors of the property, each with a fridge and a cupboard; three bathrooms; a kitchen area and a communal dining area. A further room is shown as a communal study room with two desks.
4. The change of use of a dwelling house to a small HMO, with no more than six residents, can be 'permitted development' as defined by Class L of Part 3 of Schedule 2 of the GPDO<sup>1</sup>. However, the Council dispute that the premises were being used as a dwelling house when the application was submitted. Moreover, there is no application for a Certificate of Lawful Development before me to establish the lawful position as to whether it is permitted development and it appears that a previous application for a Lawful Development Certificate

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<sup>1</sup> The Town and country Planning (General Permitted Development) (England) Order 2015



for an existing use was rejected by the Council. Therefore this application under section 78 of the Act has to be considered on its individual merits.

*Effect on housing stock*

5. Core Policy 4 of the Council's Core Strategy (2008) indicates that high density housing should be located in Slough town centre while outside of this area new residential development should predominantly consist of family housing. Further, the policy states that there should be no net loss of family houses as a result of flat conversions, changes of use or redevelopment.
6. In this case I find that the intensity of HMO use proposed means that it should be regarded as a form of high density housing and the site is located in a residential area which is mostly suburban in character rather than town centre related. As such the general location of the site does not support an intensive HMO use and the proposal conflicts with the overall policy on the distribution and location of new housing.
7. I acknowledge the appellant's claim that the property could be reused as a large family house with little physical modification, but the proposal is to use it to meet materially different housing needs for single people. The Council's emerging Local Plan outlines the continuing need for the suburbs to be the main source of housing for families in Slough and the potential reuse for families in the future does not outweigh its loss to the stock of family housing at the moment.

*Effect on living conditions*

8. The Council's case on the appeal does not provide a detailed analysis on where the alleged impact would be likely to arise but a general reference is made to direct effect on the adjoining property (No.15) which is said to be a dwelling house. However, neither does the appellant's case address the effect on this property. Moreover the Council's assessment refers to the possibility of 12 residents being accommodated in the host premises but although the plans appear to show double beds, the small size of the individual rooms suggests that such degree of use would be unlikely.
9. Nevertheless the intensive HMO use with no separate communal lounge, only a communal dining room and kitchen, tends to suggest that the main place for rest and relaxation within the premises would be the individual bedrooms where a higher degree of noise and activity, such as from TV, radio and electronic devices, could be expected compared with that generally arising from the bedrooms of a dwellinghouse. Two of the proposed HMO bedrooms are located at first floor alongside the party wall with No. 15 and, in the absence of evidence to the contrary regarding the transmission of sound, my concern is that the operation of the HMO would be likely to result in a material level of disturbance to the occupiers of this property and would harm their living conditions. This effect would conflict with part (d) of Policy H20 regarding the change of use to HMOs.

*Effect on pedestrian and highway safety*

10. The Council advises that the parking standard for an HMO is one space per bedroom whereas only three spaces can be accommodated on the hard surfaced forecourt of the property. The appellant's plans suggest 6 bikes could be accommodated in a rear bike store but neither party has addressed the

PTAL<sup>2</sup> of the site and therefore I am unable to assess whether the proposed HMO would be well located to public transport or local facilities to the extent that a general standard for parking for new development can be reduced. On the face of it the parking proposed is significantly deficient for the scale of the use and while there are no parking restrictions on the road immediately outside of the property, at the time of my visit there were many cars parked partly on the pavement in York Avenue and this, together with the presence of a school and nursery locally, indicates that further on-road parking pressure would not be in the interests of pedestrian or highway safety. The proposal would conflict with part (b) of Policy H20.

### *Planning balance*

11. On the main issues I have found that the proposal conflicts with Core Policy 4 as the site for the high density housing use proposed would be located in a suburban rather than a town centre area and would result in the loss of a family house from the housing stock. The proposal would also not accord with the specific policy on HMOs, H20, as it has not been demonstrated that the use would integrate well with the adjoining semi-detached dwellinghouse and not result in disturbance to the occupiers of that property, nor would have adequate on-site parking to ensure that pedestrian and highway safety would not be harmed. This results in the proposal conflicting with the main relevant policies in the development plan.
12. This harm must be balanced with the benefits of the scheme. In particular I recognise that the National Planning Policy Framework (the Framework) encourages sustainable development, and it also recognises that the wide ranging needs of different housing groups should be addressed. However, the local policy conflict and other harm that I have identified mean that the proposal does not meet the social and environmental aims of sustainable development. I find that the proposal conflicts with the Framework when this is read as a whole. Moreover, the development plan conflict is not outweighed by any other factors. This indicates that the appeal should not be allowed.

### **Conclusion**

13. For the reasons given above I conclude that the appeal should be dismissed.

*David Murray*

INSPECTOR

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<sup>2</sup> Public Transport Accessibility Level



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## Appeal Decision

Site visit made on 24 May 2022

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 May 2022**

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### **Appeal Ref: APP/J0350/D/22/3293082 10 Cheviot Road, Slough, SI3 8UA.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by Mr D Ladva against the decision of Slough Borough Council.
  - The application Ref. P/19123/003, dated 30 September 2021, was refused by notice dated 7 December 2021.
  - The application sought planning permission for the erection of a single storey rear extension with two roof lights following demolition of part of the existing extension which is 3.65m in depth, without complying with a condition attached to planning permission Ref. P/19123/002, dated 10 September 2021.
  - The condition in dispute and which the proposal seeks to vary is No.1 which states that:  
The development hereby approved shall be maintained only in accordance with the following plans and drawings hereby approved by the Local Planning Authority: (a) Site Location Plan, Drawing No S01 Rev A, Dated November 2020, Received 16/07/2021 (b) Drawing No D101, Dated July 2021, Received 16/07/2021 (c) Drawing No D102, Dated July 2021, Received 16/07/2021 (d) Drawing No D103, Dated July 2021, Received 16/07/2021.
  - The reason given for the condition is:  
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.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are the effect of the proposal on:
  - the character and appearance (amenity) of the area; and
  - the living conditions of the occupiers of neighbouring property, and those of the host property itself.

### **Reasons**

#### *Background*

3. The appeal site comprises a mid-terrace two storey property which lies in a residential area. The planning history of the site indicates that the property is in use as a house in multiple occupation (HMO). Planning permission was granted in 2021 for a single storey flat roof rear extension which extended

3.6m from the original rear wall of the property. The scheme now proposed seeks to vary the plans specified in Condition No.1 of that permission to allow a further extension of 1.95m making 5.6m in total. At the time of my visit it appeared that the further extension has been built and the application is retrospective.

4. In assessing the main issues I have had regard to the Council's Residential Extensions Guidance Supplementary Planning Document (SPD) 2010. However as this was adopted prior to the Government's expansion of the scope of 'permitted development' this limits the weight that can be given to its provisions.

*Effect on character and appearance*

5. The existing host property is a simple two storey mid-terrace house faced in brick and tile hanging. The proposed extension is sited at the rear of the property away from the public realm and is seen in the hinterland of private gardens. The overall flat roof form of the extension is at odds with the design and form of the house but given the other existing house extensions in the vicinity of the site, and as about 3.6m of flat roof extension is already permitted, the 1.95m addition in a similar design would not have a materially harmful effect on the general character and appearance of the area. On the circumstances of this case I find that, overall, the proposal does not conflict with Core Policy 8 in that while the quality of the design is not attractive, it respects its surroundings and the further extension would not harm the street scene or the distinctiveness of the area.

*Effect on living conditions*

6. This issue is concerned with the effect on the occupiers of the adjoining properties – No.12 to the south-west and No.8 to the north-east; and also on the living conditions for the occupiers of the host property.
7. No.12 is the end terrace with a footway to the side and the property has already been extended to the rear. Although the proposed extension would be sited close to the boundary I am satisfied that the additional projection would not have a material effect on the outlook from the rear of this property or harm the living conditions of the occupiers.
8. Regarding the relationship with No.8, this retains the original rear wall of the house which includes the main window to the rear facing ground floor room. Although I noted at my visit that the outlook from the rear of No.8 was overshadowed by the presence of shrubs in the garden, this dense foliage is not a permanent feature. The deciduous nature of the shrubs is depicted in the Council's photographs shown in the officer report. I have to consider the long term physical relationship between the two properties.
9. Having regard to the height and projection, and proximity to the party boundary of the further projection proposed, it would have a dominating effect on the outlook from the rear facing windows and oppressive effect on the garden. This would harm the living conditions of the occupiers of this dwellinghouse. I find that this aspect would conflict with the final paragraph of part 2 of Core Policy 8 concerning the need to ensure that new development respects the amenities of adjoining occupiers; together with part (k) of saved Policy EN1 of the adopted Local Plan.

10. The Council also raise a concern about the cumulative scale of extensions to the host property and the effect on the residual space of rear garden. The SPD guideline is that a three bedroom house should have a minimum area of amenity space of 50sqm whereas the residual garden would be in the region of 22sqm. I noted that the remaining amenity space is surfaced in artificial grass which means that it will be hardwearing and that the property is used as an HMO rather than as a family house. However, these factors do not outweigh the fundamental reduction in outdoor amenity space that the proposal would result in. This adds to my concern about the proposal.

*Planning balance*

11. I have taken account of the general provisions for 'permitted development'<sup>1</sup> however, these provisions are qualified and the allowance for 6m extensions to a terraced property is subject to the 'prior approval' regime which takes account of the effect of an extension on the amenity of any adjoining premises.
12. On the main issues I have found that while the visual impact of the further extension would not be harmful to the overall appearance of the host dwelling or the general character of the area, the cumulative effect of the bulk of and siting of the flank wall would have a harmful effect on the outlook from the adjoining property No.8 and would harm the living conditions of the occupiers of this property. The proposal also results in an inadequate residual garden size for the nature of the property.
13. These adverse effects and the conflict with the relevant policies in the development plan have to be balanced with other considerations. However, none outweigh this conclusion which indicates that the appeal should not be allowed.

**Conclusion**

14. For the reasons given above I conclude that condition No.1 on planning permission Ref. P/19123/002 should not be amended to include the plans submitted with the current application.

*David Murray*

INSPECTOR

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015



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# Appeal Decision

Site visit made on 26 April 2022

by **Mrs H M Higenbottam BA (Hons) MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 10 June 2022

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## Appeal Ref: APP/J0350/C/21/3279796

### 63 Beaumont Road, Slough SL2 1NG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Mohammed Alyas Khan against an enforcement notice issued by Slough Borough Council.
  - The enforcement notice was issued on 25 June 2021.
  - The breach of planning control as alleged in the notice is 'Without planning permission, the conversion of an outbuilding to form a self-contained dwelling and its use as an independent residential unit (Unauthorised Use) shown on the attached Plan edged in blue.'
  - The requirements of the notice are:
    - (i) Cease the Unauthorised Use.
    - (ii) Remove the kitchen and bathroom from the outbuilding.
    - (iii) Remove the internal walls incorporating the shower room and the bedroom.
    - (iv) Remove the pipework, boiler and connections associated with the kitchen and bathroom.
    - (v) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2) (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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## Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

### Appeal on ground (d)

2. In appealing on ground (d) the burden of proof is firmly on the appellant to demonstrate on the balance of probabilities that the use was lawful through the passage of time when the enforcement notice was issued. This means that the alleged use had continued uninterrupted (apart from *de minimus* spells) for a period of four years before the notice was issued. The material date is therefore 25 June 2017.
3. The appellant states that the outbuilding has been as it is for over four years. That at the time of the appeal he had owned the property for almost 2 years and that there had been no building works carried out prior to the purchase. The building was in its current state and during conveyancing no issues were raised in regard to the outbuilding. He also states that at the time of purchase there was a sitting tenant, and he was unaware that this was not allowed. The tenant is stated to have paid council tax.



4. There is no substantiated evidence of when a tenant moved into the outbuilding and began living in the building as a self-contained dwelling. There is no evidence of who has lived in the building or the length of time each tenant has been in occupation or whether it is the same tenant who has lived in the building and over what period of time.
5. On the basis of the evidence submitted it has not been demonstrated on the balance of probabilities that the outbuilding has been occupied for at least 4 years continuously as a self contained dwelling. As such, the appeal on ground (d) fails.

#### **Appeal on ground (f)**

6. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The appellant states that removal of all items inside the outbuilding is excessive and that removal of appliances would be sufficient to ensure it is not used as a habitable space. The Council consider the requirements are necessary to remedy the breach of planning control as a self-contained dwelling.
7. The requirements of the enforcement notice are to remove the kitchen and bathroom, internal walls incorporating the shower room and bedroom, the pipework, boiler and connections associated with the kitchen and bathroom from the outbuilding. It also requires all materials rubbish debris plant and machinery resulting from the removal of those items from the land.
8. There is no substantiated evidence that any of the items/elements required to be removed pre-existed the material change of use of the outbuilding to a self-contained dwelling. The items required for removal have, in my view and without evidence to the contrary, facilitated the material change of use to a self-contained dwelling. Therefore, I find that it is not excessive to require the removal of all the items/elements so that the land can be restored to the condition before the breach took place.
9. I therefore conclude that the requirements of the enforcement notice would not exceed what is necessary to remedy the breach of planning control that has occurred. The appeal on ground (f) fails.

#### **Appeal on ground (g)**

10. This ground of appeal is that the time given to comply with the notice is too short. The Council have given six months to comply with the requirements. The appellant states this period is too short as there is currently a tenant within the property who would need to be given notice and then sufficient time should be allowed for the tenant to find alternative accommodation. No specific alternative time period for compliance has been provided by the appellant.
11. In my view, on the evidence provided, a period of six months is a reasonable period to cease the use and physically comply with the requirements of the enforcement notice. I therefore conclude that the period for compliance specified in the enforcement notice is not too short. For the reasons given above the appeal under ground (g) fails.

*Hilda Higenbottam*

Inspector



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# Appeal Decision

Site visit made on 26 April 2022

**by Mrs H M Higenbottam BA (Hons) MRTPI**

**An Inspector appointed by the Secretary of State**

**Decision date: 15 June 2022**

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## **Appeal Ref: APP/J0350/C/3283190**

### **58 Long Readings Lane, Slough SL2 1PZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Sajjad Hussain Syed-Bukhari against an enforcement notice issued by Slough Borough Council.
  - The enforcement notice was issued on 17 August 2021.
  - The breach of planning control as alleged in the notice is 'The conversion of an outbuilding as shown edged blue, and its use as a self-contained unit of residential accommodation (Unauthorised Use).'
  - The requirements of the notice are:
    - (i) Cease the Unauthorised Use.
    - (ii) Remove the kitchen and shower room from the outbuilding.
    - (iii) Remove the internal walls incorporating the kitchen and the shower room
    - (iv) Remove all plumbing, boiler, and associated pipework in connection to the kitchen and shower room within the outbuilding.
    - (v) Remove from the land all materials, rubbish, debris, plant, and machinery resulting from compliance with the above requirements.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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## **Decision**

1. It is directed that the enforcement notice be varied by:

- The insertion of the words 'Requirement 5 (i)' before the word 'Six' and the insertion of the word 'and' after the word 'effect' and the deletion of the full stop in paragraph 6(i).
- The insertion of the following words after the amended paragraph 6(i) ' (ii) Requirements 5 (ii), 5(iii), 5(iv) and 5(v) seven (7) months after the notice takes effect.'

Subject to these variations the appeal is dismissed, and the enforcement notice is upheld.

## **Application for costs**

2. An application for costs was made by Slough Borough Council against Mr Sajjad Hussain Syed-Bukhari. This application is the subject of a separate Decision.



### **Preliminary Matters**

3. The appeal was originally lodged on grounds (b), (c), (d), (f) and (g). No grounds of appeal were provided for grounds (b) and (c). The Planning Inspectorate wrote to the appellant on 27 September 2021 confirming that the appellant was not pursuing ground (b), and it was removed as a ground of appeal. The appellant was informed at that time, that unless a response was received the appeal would proceed on grounds (d), (f) and (g) only. No response was received from the appellant. I will therefore consider the appeal on the basis of grounds (d), (f) and (g) only.

### **Appeal on ground (d)**

4. In appealing on ground (d) the burden of proof is firmly on the appellant to demonstrate on the balance of probabilities that the use was lawful through the passage of time when the enforcement notice was issued. This means that the alleged use had continued uninterrupted (apart from *de minimus* spells) for a period of four years before the notice was issued. The material date is therefore 17 August 2017.
5. The appellant has provided two unsigned and undated statements. The first statement states that the outbuilding has been a separate self-contained residential unit for a period in excess of four years. It is also stated that the individual stated to occupy the outbuilding independently is not related to the appellant and that the outbuilding is heated by a boiler which is independent to the main house. The second statement is from an individual who states she has occupied the outbuilding continually and without interruption as an independent residence for a period exceeding 4 years.
6. Unsigned and undated letters are forms of evidence can only be given little or limited weight in considering whether or not the evidential burden is discharged.
7. In this case the Council rely on the signed and dated statement in the application reference Y/15000/001 relating to the appellant's application for prior approval for an extension at the appeal property. In the application form the agent confirmed that the plans and information in that application are true and accurate. The application was dated 15 December 2020. The plans showed a single dwelling with an outbuilding. Nothing on the submitted plans or information indicated the existence of a self-contained dwelling in the outbuilding. This application was refused on 28 June 2021 because there was more than one dwelling house within the curtilage of No 58 and as such it did not benefit from permitted development rights under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
8. Therefore, there is inconsistency between the current undated and unsigned statements submitted to support the appellant's case in this appeal and the signed and dated documents submitted in support of the earlier prior approval application. In my view, the evidence in support of the occupation of the outbuilding for a continuous period of four years before the service of the enforcement notice, lacks precision and clarity. Moreover, there is no explanation of the contradictory assertion in the 2020 application as part of the the evidence submitted with the appeal.

9. On the basis of the evidence submitted it has not been demonstrated on the balance of probabilities that the outbuilding has been occupied for at least 4 years continuously as a self-contained dwelling. As such, the appeal on ground (d) fails.

#### **Appeal on ground (f)**

10. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The appellant states that the steps are excessive. The appellant accepts that the requirement (i) to cease the use is necessary to remedy the breach of planning control. However, requirements (ii) to (v), in the appellant's view, do not facilitate the new use as a separate dwelling. He states that all the works undertaken i.e the fittings and fixtures to create the kitchen and shower room, were ancillary to the lawful use of the whole property as a single planning unit. The appellant considers that the requirements (ii) to (v) are therefore excessive
11. The Council consider the requirements are necessary to remedy the breach of planning control as a self-contained dwelling. The purpose of the enforcement notice is to remedy the breach of planning control.
12. It is for the appellant to demonstrate on the balance of probabilities that the kitchen, shower room, boiler etc were installed prior to the material change of use of the outbuilding to a self contained unit of residential accommodation. The appellant has provided no substantiated evidence of when the kitchen, shower room and boiler etc were installed, by whom and how the building was being used and by whom at the time of installation.
13. On the basis of the information available, I consider that the installation of the kitchen, shower room and boiler etc facilitated the material change of use to a self contained unit of residential accommodation, and as such, were integral to and solely for the purpose of facilitating the material change of use. It is therefore appropriate and not excessive that the requirements include the removal of the kitchen, shower room, boiler, internal walls to the kitchen and shower room.
14. I therefore conclude that the requirements of the enforcement notice would not exceed what is necessary to remedy the breach of planning control that has occurred. The appeal on ground (f) fails.

#### **Appeal on ground (g)**

15. This ground of appeal is that the time given to comply with the notice is too short. The Council have given six months to comply with the requirements. The appellant considers that it would be reasonable to allow time for the current occupiers to look for alternative accommodation and that a 12 month compliance period would strike the appropriate balance between competing public and private interests so as not to place a disproportionate burden on the appellants or on the occupiers of the outbuilding. He also states that if ground (f) fails the steps required to complete the required works can only be carried out once the occupiers have moved out and an additional 6 months to the aforementioned 12 months would be more appropriate. He is also concerned that the pandemic has affected the housing rental market and local trades availability to comply with the requirements.

16. The requirements of the enforcement notice would result in the occupier losing their home. This would represent a serious interference with the occupiers right to respect for private and family life and the home (Article 8 of the Human Rights Act 1998). Article 8 establishes a right to respect for private and family life and prohibits interference with it by a public body except where it is (1) lawful and (2) necessary in the interests of such matters as public safety, national economic wellbeing, and the protection of health. Article 1 establishes a right to the peaceful enjoyment of a person's possessions and prohibits interference except in the public interest and thus is engaged for both the appellant and the occupier. It does not impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. The enforcement notice seeks to address the unauthorised use of the outbuilding and is necessary to regulate the use of land.
17. While I note the assertions of the appellant there is no substantiated evidence in relation to the availability of rental accommodation or builders to carry out the works. In my view, six months is a reasonable period for the occupier to look for alternative accommodation. I appreciate that the works to comply with the requirements will take place once the occupier has vacated the outbuilding, which could be earlier than six months. The works associated with removal of the kitchen, shower room, boiler, and walls etc are not onerous and would be likely to take a day or two. However, to enable the works to be carried out after the occupier has left the outbuilding I will allow a further month for compliance with requirements (ii) to (v).
18. Subject to the increase in the compliance period for the later requirements I consider the enforcement notice would be a proportionate interference with the occupiers and landowners rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.
19. For the reasons given above I conclude that a reasonable period for compliance would be six months for requirement (i) and seven months for requirements (ii) to (v), and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

*Hilda Higenbottam*

Inspector



## Appeal Decision

Site visit made on 7 June 2022

**by Mr JP Sargent BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2022

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### **Appeal Ref: APP/J0350/D/22/3290278 104 Blumfield Crescent, Slough SL1 6NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Mrs Lucy Pickering against the decision of Slough Borough Council.
  - The application Ref Y/07960/004, dated 12 July 2021, was refused by notice dated 13 October 2021.
  - The development proposed is prior approval for the removal of the present roof and the additional of an additional two storeys on the dwelling house with one of the additional storeys will be in the roof space.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. I consider that the main issues in this appeal are
  - i) whether the proposed extension would comply with the relevant conditions and limitations,
  - ii) whether or not the external appearance would be acceptable and
  - iii) the impact of the proposal on the amenity of adjoining premises.

### **Reasons**

#### ***Background***

3. Under Schedule 2, Part 1, Class AA of the *Town and Country Planning (General Permitted Development) (England) Order 2015* as amended (the GPDO), planning permission is granted for the enlargement of a 2-storey dwelling by up to 2 additional storeys, subject to limitations and conditions given under paragraph AA.1. Where the scheme accords with those conditions, then under paragraph AA.2.(3)(a) the developer must apply to the local planning authority for prior approval as to, amongst other things, (i) the impact on the amenity of any adjoining premises and (ii) the external appearance of the dwelling house, including the design and architectural features of the principal elevation.

#### ***Conditions and limitations***

4. A plan (the plan) was submitted concerning the recent construction of an extension to the side of No 104 to form a separate dwelling. At that time No 104 appeared to have a hipped roof treatment, and, on the plan, extending this roof over the new extension involved alterations that would be removed by the works before me now. Consequently, the Council considers the appeal scheme would not be built entirely on a principal part of the building and the house has already been enlarged by one or more storeys. As such, it would breach 2 of the conditions and

- limitations (criteria (d) and (i)) with which any development to be built under Class AA must comply, or with which it must not conflict.
5. This though is denied by the Appellant, who states that all the existing roof of No 104 is original. Based on my observations of the roof and the changes in tiling I concur with such an opinion. I am therefore not confident that, in relation to this specific detail, the plan accurately depicted the situation. Furthermore, as the extension shown on the plan was to the side, I consider the original property has not been enlarged by one or more storeys above the dwelling house.
  6. However, even assuming the plan to be correct, I am of the view that the roof works it indicates would not constitute the enlargement of No 104 by a storey. Moreover, the additional floors now proposed would be built onto the original front and rear elevations of the dwelling. While the plan shows this would involve the removal of the new element, that comprises a very minor addition to the original structure. As a result, in such a scenario to my mind it could still be said the extra storeys subject of this appeal would be constructed on the principal part of the building.
  7. On the evidence before me, I therefore find that the dwelling has not been enlarged by the addition of one or more storeys above the original dwelling house, and the proposal would not comprise the construction of any storey other than on the principal part of the dwelling, and so I conclude it would not conflict with GPDO paragraph AA.1.(d) or (i).

### **Appearance**

8. It is the Appellant's contention that, when considering a scheme under GPDO paragraph AA.2.(3)(a)(ii) the only relevant building is the appeal property rather than its effect on the wider area. As she says that what is proposed is in keeping with the dwelling, she maintains that the scheme is acceptable in this regard.
9. However, I see nothing in the GPDO to justify such an interpretation. Paragraph AA.2.(3)(a)(ii) simply requires a developer, before beginning the development, to obtain prior approval as to the "*external appearance of the dwelling house including the design and architectural features of the principal elevation ...*". To my mind the wording of the Order does not limit my assessment only to the impact of the external appearance in relation to the dwelling itself. Moreover, the use of '*including*' means it is not a closed list.
10. The appeal property sits within a terrace. Apart from the recent subservient side addition on what is now No 106 at the end, the dwellings in the terrace have constant eaves and ridge heights, and similar window treatments and patterns. These factors give the terrace a strong uniformity and a notable horizontal emphasis, and while there have been some subsequent alterations, these have not been so significant as to affect the character of this row of houses to any appreciable extent. Elsewhere on Blumfield Crescent are terraces and semi-detached properties of a similar scale and height to the terrace containing the appellant's house. While some have had dormer windows built, these are on the rear or side elevations and so maintain a sense of being 2-storey properties when looking from the road. The dwelling and the terrace therefore respect the wider street scene.
11. The roof pitch and the size and arrangement of the proposed window openings would be sympathetic to what is already present on No 104. However, adding these extra storeys would mean the dwelling's height would be notably at odds with that of the rest of the terrace, and it would give No 104 a more pronounced



vertical emphasis. As a result, the works would detract from the appearance of the house, and make it a discordant element in the terrace.

12. Paragraph AA.3.(12) of the GPDO requires that regard must be had to the *National Planning Policy Framework* (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In the Framework, paragraph 130 states, amongst other things, planning decisions should ensure that developments are sympathetic to local character and the surrounding built environment. In paragraph 120(e) it supports upward extensions 'where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene'. For the reasons given, the proposed works would be contrary to these 2 policy objectives.
13. Accordingly, whilst I recognise that the development would reflect some of the characteristics found in the appearance of No 104, I find that it would nonetheless result in the dwelling being a discordant element in the terrace that was detrimental to the character and appearance of the street scene. It would therefore be contrary to the Framework. As a result, I conclude that the external appearance of the building would be unacceptable.

### **Amenity**

14. The rear of the property faces the side of 2 Phipps Road over the back garden. In this side elevation at first floor level is a bathroom window that, being obscured, should not experience any loss of privacy. The other window is to the stairs and landing. Although I note the neighbour's concerns about being observed as they move around their house, this is not a primary room and so again any overlooking there should not be unduly harmful. Whilst views may also be possible through doorways on that landing into the neighbour's bedrooms, they should not be so pronounced as to impinge unacceptably onto the privacy the residents there enjoy. I am aware too that there is no doubt already a certain amount of intervisibility between those windows and the first-floor window that I assume serves a bedroom at No 104. Overall, I find the development would not lead to further unacceptable harm from overlooking.
15. Views of the gardens of adjacent properties are possible now to a greater or lesser degree from No 104, and indeed are to be accepted to some extent in this suburban estate. Therefore, the proposal would not cause additional harm.
16. Mindful of the separation and the height of the works, and again taking account of the use of the rooms served by the windows in the side elevation of No 2, the proposal would not cause an unacceptable loss of daylight or sunlight in that neighbour.
17. Accordingly, I conclude the scheme would not have a harmful effect on the amenity of adjoining premises.

### **Conclusion**

18. For the reasons given I conclude the appeal should be dismissed.

*JP Sargent*

INSPECTOR



## Appeal Decision

Site visit undertaken on 24 May 2022

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision Date: 30<sup>th</sup> June 2022

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**Appeal Ref: APP/J0350/D/22/3294404**

**138 Spackmans Way, Slough SL1 2SB**

- 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 Ahmed against the decision of Slough Borough Council.
  - The application, ref. P/14557/001, dated 17 December 2021, was refused by notice dated 3 February 2022.
  - The development proposed is described as a three storey side extension.
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### Decision

1. The appeal is dismissed.

### Application for Costs

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

### Preliminary Matters

3. During the appeal process, the appellant has included a revised Floor Risk Assessment (FRA)<sup>1</sup> in order to accompany their Statement of Case (SoC) and provide further information to Reason for Refusal No.4. The FRA does not change the nature of the proposal and when judging this information in accordance with the 'Wheatcroft principles'<sup>2</sup>, I see no prejudice towards either party in accepting this FRA and will base my decision upon it.

### Main issues

4. The main issues are:
  - The effect of the proposed development upon the character and appearance of the building and the locality;
  - The living conditions of existing and future occupiers which regards to the provision of private garden space;
  - Whether the vehicular access and parking layout is appropriate for the proposed development, with regards to highway safety; and

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<sup>1</sup> Dated 1<sup>st</sup> March 2022, Ref No.WTFR-FRA-2021/11/Q12\_RevA

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- Whether Flood Risk Assessment (FRA) provides sufficient details of escape routes during a flood event and adequately deals with surface water when assessed against the Development Plan policies.

## **Reasons**

### *Character and Appearance*

5. The appeal site is part of the Chalvey Estate, which has similarities in design, appearance and layout to the housing constructed from development corporations in the 1960s -1970s which introduced Radburn style housing projects. During this time a number of estates were formed around a collection of small cul-de-sacs and parking courts with rows of terraced housing placed amongst green infrastructure where there is a separation between vehicular and pedestrian movement giving an emphasis of spaces in and around the buildings. The dwellings within the Chalvey Estate have a very symmetrical design in placement and dwelling types with simple and functional construction utilising brown brick, pitch and gabled roof forms with concrete tiles and feature boarding applied to front facades.
6. Spackmans Way is one of the main thoroughfares into the estate and the terraces are three storeys tall which have a higher design status than dwellings on smaller cul-de-sacs which are two storeys tall. There is a deliberate emphasis in the area of spaces in and around dwellings with green and landscaped surrounds within and surrounding the estate. Whilst there have been some alterations to the estate, such as the removal of undercroft garages for living space, and a three storey extension set back from the main façade of No.140 Spackmans Way (which is on the opposite side of the road from the appeal property), the estate retains many of the qualities of the original design such as spaces in and around dwellings, vegetation and symmetry that contribute to the character, appearance and local distinctiveness of the area.
7. The appeal site is one of the characteristic three storey properties and is an end terrace that has previously converted the ground floor from a garage into residential accommodation. The dwelling is setback from the side boundary and presents as a bookend to the other row of terraces to the opposite side of one of the smaller cul-de-sacs that passes along the side boundary. Whilst originally the dwellings along Spackmans Way would have had vegetated front gardens, many of these gardens have unfortunately been laid with hardstanding for the parking of vehicles.
8. In undertaking extensions to existing buildings, the Slough Borough Council's Core Strategy (CS) Core Policy 9 Seeks that development respects the character and distinctiveness of the existing buildings, townscapes and landscapes, amongst others. The Local Plan for Slough 2004 (LPS) Saved Policy EN1 sets a number of design principles to consider such as scale, height, massing, building form, amongst others with LPS Saved Policy H15 containing specific design considerations for residential extensions such as assessing remaining amenity space, high quality design and impact upon the existing street scene. LPS Saved Policies H14 and EN3 also contain specific design considerations around landscaping and garden space which are relevant considerations regarding design. The design policies are also supported by the Residential Extensions Guidelines Supplementary Planning



Document (2010) (SPG) which offers guidance on design principles and detailed design considerations that for side extensions places an emphasis on subservience and responding to the existing site and context of the locality, amongst others.

9. The appellant's Statement of Case (SoC) disagrees with the application of CS Core Policy 9 in justifying the Council's opinion that the scheme has been overdeveloped. However, the second bullet point of this policy specifically seeks that development will not be permitted unless it '*respects the character and distinctiveness of existing buildings, townscapes and landscapes and their local designations.*' The policy is clearly relevant to the consideration of this scheme.
10. The SPD does not specifically relate to scenarios involving three storey side extensions, however the guidance and principles provided with regards to two storey side extensions is relevant in terms of needing to ensure subservience<sup>3</sup> and have a sense of proportion and balance<sup>4</sup>. Given the symmetrical design which is mimicked throughout the estate, I disagree with the appellant's SoC that the rhythm and proportions would remain the same. The addition of an additional three storey bay would give the existing dwelling an unusually wide appearance when compared to existing three storey dwellings along Spackmans Way and would affect the proportions and rhythm of dwellings in the locality.
11. The extension would remove much of the gap to the side of the dwelling which gives a sense of spaciousness as one turns the corner into the smaller cul-de-sacs and parking courts. I appreciate reference to No.140 Spackmans Way which also has a three storey side extension which was constructed some time ago and has a large setback from the front façade. The extension opposite is not a positive characteristic of the area and would not be to the extent of visual bulk and massing as proposed under this appeal. The increase in width of built form over three storeys, together with the lack of setback from the front facade would narrow and enclose the remaining space around the road which is compounded by the tall wall of the three storey extension to the side of No.140 Spackmans Way.
12. Whilst the main concerns around visual bulk, scale and dominance are key considerations that lead to an incongruous development, Saved LPS Policies H14 and EN3 seek appropriate design of landscaping that reinforces positive qualities of the character and appearance of the area. The proposed retention of the hard surfacing with no real improvement upon the car dominated environment to the front of the dwelling accentuates the lack of consideration that the scheme has towards the character and appearance of the area. Turning to the side extension, whilst I acknowledge the appellants comments regarding the brick wall that encloses the side garden, this is still undeveloped garden behind which is a different experience than an enclosed built form, particularly when the built form is three storeys tall. The removal of this side garden would therefore cause detriment to the character and appearance of the area.

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<sup>3</sup> Paragraph 2.13

<sup>4</sup> Paragraph 2.1.5

13. In conclusion of this matter, the proposed scheme would cause a significant impact towards the character and appearance of the existing building and of the surrounding locality. The proposal would therefore be contrary to CS Core Policy 9; and LPS Saved Policies EN1, EN3, H14 and H15 and described previously.

*Living Conditions regarding private garden space*

14. LPS Saved Policies H14 and H15 seek to ensure adequate sized garden spaces are provided with new development, which includes extensions. Amongst considerations are the type and size of dwelling and type of household, quality of space in terms of area, depth, orientation, usefulness; proximity to existing public space and play facilities, amongst others. The Council has referred to Standard EX48 of the SPG which specifies minimum sized rear gardens that should be provided as a result of undertaking rear extensions. I agree with the appellant that this guidance specifically relates to rear extensions, however I can also appreciate the logic employed by the Council Officer in that this specific guidance is not as much related to whether the extension is a rear or side extension; but relates more to useability of rear garden space, by specifying appropriate sizes and areas of garden space that is typically appropriate to different sizes of dwellings. Whilst not specifically mentioned as for side extensions, considerations around the principle size of a garden would be the same whether the extension is to the side or to the rear.
15. In any event, based on my site visit, the current gardens along Spackmans Way are square and to me, quite small and undersized given that according to the appellant that dwellings along the street contain 5 bedrooms. No information is given in the appeal as to the proposed occupancy of the scheme, however the appellant has calculated the number of rooms to overall amenity space as being greater per room (8.75m<sup>2</sup>) as when compared to other dwellings along the street (7.85m<sup>2</sup>). These calculations do not acknowledge the potential for each room to have dual occupancy with some of the proposed room sizes being large enough for a double bed. I also acknowledge and give some consideration to the greenspace across the road. This space is informal grassed area which could be used for informal passive and active recreation, however would not be able to cater for all needs, such as play equipment, multi-use games area and associated equipment.
16. I agree with the appellant that the private amenity space was considered appropriate at the time of construction. However this was likely fifty years ago when the emphasis on private amenity space and the policy position was very different to today. The amenity space provided currently would not be suitably large enough for a five bedroomed property, and hence the increase in bedrooms to eight, would further exacerbate the historically poor standard of provision to the detriment of current and future occupiers of the site. In conclusion of this matter, the proposal therefore would leave an inadequate and undersized rear garden space in order to cater for an eight bedroomed dwelling. The proposal would therefore result in detrimental living conditions to existing and future occupiers as a result of lack of provision of private garden space. The proposed scheme is therefore contrary to LPS Saved Policies HP14 and HP15 as described previously.

### *Highway Safety*

17. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties and, in light of this, I am satisfied that what I saw represents typical conditions.
18. Spackmans Way, like many urban residential streets suffers from on-street parking congestion on one side of the road which impedes simultaneous two-way flow. The result being that vehicles often have to stop momentarily to give way to traffic coming in the opposite direction. However, based on my site visit it appears that traffic volumes are fairly low and driven speeds are well under the 30mph speed limit. I have not been made aware of a poor accident record and therefore I deduce that despite its deficiencies, Spackmans Way operates satisfactorily without any significant safety issues.
19. The main concerns from the Council are with regards to the existing conditions and lack of visibility to both pedestrians and vehicles manoeuvring on the road as well as in and out of existing spaces. The appellant has drawn my attention to a previous planning approval<sup>5</sup> in 2009 where the application permitted the changing of the garage to residential accommodation as well as the three car spaces to the front of the appeal property.
20. Whilst I appreciate that the current situation for parking are not ideal, they are existing and have been there for a number of years. Whilst the Council do not consider that the proposed 3 additional bedrooms do not require additional car spaces, the main concerns are regarding visibility. Whilst the addition of 3 bedrooms may expose more users to the already inadequate visibility, this in my mind would not result in significant additional detriment to road users and pedestrians that would likely cause adverse impacts towards highway safety. Consequently, based on the information before me, I do not consider that the proposal would cause highway safety issues and would be compliant with CS Core Policy 7 which seeks to ensure new development is accessible, and does not cause detriment to highway safety, amongst others.

### *Flood Risk Assessment*

21. The proposed site is within Zone 3 which means that the site is within the functional floodplain in the event of a flood. The Council have two concerns with regards to the ability for the extension to prevent/reduce surface water discharge as well as the ability to ensure safe exit for persons during a flood event.
22. The amended FRA states that fluvial water could be discharged via a 1m<sup>3</sup> soakaway within the ground which could provide storage of water and prevent the water entering the public sewerage network. I consider this to be an appropriate way to deal with surface water flooding which would resolve the first component of the reason for refusal.

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<sup>5</sup> Slough Planning Ref: P/14557/000

23. Turning to the second component, regarding escape routes, the amended FRA states that as there is no subdivision of property that there is no increase in vulnerability. The proposed extension is large in that it would provide 3 additional bedrooms and depending on occupancy of these bedrooms could increase vulnerability of additional single or dual occupants of this extension. Of concern is also the proposed escape route which means that either persons would need to wait on the first floor of the dwelling for rescuers to arrive, or to walk to Chalvey Road West via an access that would also be subject to both zone 2 and zone 3 areas of flooding. This route would not be appropriate to utilise during a flood event if it is too part of this flood event.
24. Based on the above, and in conclusion of this matter, whilst I agree that the matter regarding surface water is resolved, I am not persuaded that sufficient escape routes for existing and new occupants can be provided in a flood event. When taken as a whole, the proposed scheme would therefore not be in accordance with CS Core Policy 7 which seeks that new development is safe and minimises exposure to flooding.

### **Other Matters**

25. I note that there is an interested party that has objected to the scheme on the basis that the extension would block sunlight from entering their property at 182 Spackmans Way which lies to the rear of the appeal site. The Council has assessed the proposed extension as not causing a significant loss of light to surrounding properties, and I have no reason to disagree with this assessment.
26. There is commentary within the appeal documents with the appellant feeling aggrieved by the application process in relation to length of time for decision making, correspondence with the Council and a refusal which the appellant feels is not in accordance to the pre-application advice that they received. Whilst pre-application advice is a positive method for gaining further insight into potential issues to be addressed, unfortunately it is not binding on the final decision taken by the council, albeit it may provide some influence and consideration. Whilst I have taken on board comments expressed within the pre-application advice, I have assessed the appeal based on the merits of the application when assessed against the development plan and any relevant material considerations.

### **Conclusion**

27. Whilst I have agreed with the applicant with regards to highway safety and the ability to deal with surface water, this is not sufficient to overcome concerns regarding character and appearance, access to private garden space, and escape routes during a flood event. Taken as a whole, for the reasons given above, the appeal is dismissed.

*J Somers*

INSPECTOR



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# Appeal Decision

Site visit made on 10 May 2022

by **M. P. Howell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 5<sup>th</sup> July 2022**

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## **Appeal Ref: APP/J0350/W/21/3287846**

### **37 Cranbourne Close, Slough SL1 2XH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Abdul Hamid Suleiman against the decision of Slough Borough Council.
  - The application Ref P/00066/006, dated 24 February 2021, was approved on 19 August 2021 and planning permission was granted subject to conditions.
  - The development permitted is for the construction of a part single/part two storey side and rear extension following demolition of the existing outbuilding.
  - The condition in dispute is 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, Block Plan, Proposed Plans (Dwg No PL-01 Rev P3) received 07/07/2021 (b) Proposed Elevations (Dwg No PL-02 Rev P2) received 07/07/2021.
  - The reason given for the condition is: 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.
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## **Decision**

1. The appeal is allowed, and planning permission is granted for part single/part two storey side and rear extension following demolition of the existing outbuilding at 37 Cranbourne Close, Slough SL1 2XH in accordance with the terms of the application, Ref P/00066/006, dated 24 February 2021, is varied, by deleting condition No 2 and substituting it for the following condition:
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL-01 Rev P1 and PL-02 Rev P1.

## **Procedural Matters and Background**

2. Application Ref P/00066/006 was submitted seeking planning permission for a single storey and two storey extension to No 37. The scheme was approved, but in amended form on account of design (insofar as the original ground floor layout was concerned). That is hereafter referred to as the 'approved scheme'. There is no indication, were I to dismiss the appeal, that the appellant would not seek to implement the approved scheme.
3. The appellant seeks the removal of condition 2, and its replacement with a condition setting the plans that reflect the originally submitted design. For clarity, the plans submitted originally and being considered are referenced PL-01 Rev P1 and PL-02 Rev P1. I have hereafter referred to that scheme as the 'development proposed'.

4. The Council states that the property has been extended extensively in terms of a two-storey side extension, single storey rear extension and hip to gable roof alterations. For clarity, although there are approvals for these works, No 37 has not been extended in this manner. From what I saw, there was only a rear conservatory extension.

### **Main Issue**

5. The main issue is the effect of the development proposed on the character and appearance of the area.

### **Reasons**

6. Cranbourne Close is a residential cul-de-sac predominately of semi-detached two storey dwellings with bay windows and hipped roofs. The properties have a fairly consistent building line, set behind front gardens and driveways, which are largely open with low-lying fences and walls. The dwellings, for the most part, sit within spacious plots, front the road and a large central area of grassed land. The low density, consistent building line together with the low-lying enclosures and central area of green space produces an openness that results in a pleasant character and appearance to the area.
7. 37 Cranbourne Close is a semi-detached two storey property, which is positioned on a curve in the Close. The resultant plot is tapered with a large rear garden that narrows towards the front. The adjoining semi-detached dwelling along with several other dwellings within the Close have been extended. Despite the extensions, the scale and appearance of the dwellings as well as the spaces in-between the properties at first floor have largely been maintained. This consistency of scale and appearance as well as the appreciable spaces in-between contributes positively to the open character and appearance of the area.
8. The development proposed would be very similar to the approved scheme. The two storey elements to the side and rear remain the same, but the ground floor side extension has a greater length, which extends just beyond the proposed rear ground floor extension. The development proposed would be finished in materials to match the existing dwelling.
9. The development proposed, while substantial, is nonetheless of a scale, design and form that has due regard to the character and appearance of the host dwelling. The two-storey elements are proportionate to its scale, with the more prominent side extension having a notable set back from the front elevation and a set down from the main roof. Due to the shape of the plot, the most prominent aspect of the ground floor side extension would be tapered to a narrow width to the front. The remaining single storey extensions are sizeable, but they are subordinate to the host dwelling, proportionate to the large plot size and mostly contained to the rear. As such, despite a considerable increase in the floorspace, the proposed development would have a scale, height and design that would appear subordinate, and would not unduly dominate the appearance of the host dwelling.
10. The two-storey side and rear extensions of the proposed development would be proportionate to the changes made on the adjoining semi, maintaining a good balance and symmetry between the pair of dwellings. On the other side, the two-storey side extension would retain a gap between the neighbouring dwelling at first floor level. Although the gap would be smaller, it would be consistent with



the built form and spaces present within the Close, which contribute positively to the open character and appearance of the area. The single storey side extension would have a splayed wall, but this is not uncharacteristic in the Close.

Furthermore, the orientation of the dwelling, its set back from the road and the position of the neighbouring property ensures the splayed wall would not be a prominent or incongruous feature from public vantage points on the Close.

11. Accordingly, the proposed extension would not be detrimental to the scale, design or appearance of the host dwelling or the wider character and appearance of the area. The proposed development would comply with the relevant provisions of Core Policy 8 of the Slough Borough Council Local Development Framework Core Strategy 2008, saved Policies H15, EN1 and EN2 of the Slough Borough Council Local Plan 2004 and guidance in the Slough Borough Council Residential Extension Guidelines Supplementary Planning Document 2010. These policies, and guidance, seek to ensure proposals are of a high-quality design, which respects its location and surroundings, improving the quality of the environment and street scene. It would also accord with the general design objectives of the National Planning Policy Framework.

### **Conditions**

12. As I have concluded that the proposed development would be acceptable in respect of character and appearance, it would be necessary to remove condition 2 of the permission and replace it with a condition detailing the plans approved. This is to ensure that the proposed development is carried out in accordance with the approved details. The remaining conditions were not in contention and remain unaltered.

### **Conclusion**

13. I accept that allowing the appeal would effectively revert to a design which has been amended through a process of modification and acknowledge that the approved scheme would have a lesser effect on its surroundings than the scheme before me. However, as reasoned above, given the nature of the proposal and its surroundings, I have determined that the proposed development would be acceptable.
14. Consequently, I find that the disputed condition is not reasonable or necessary in the interests of the character and appearance of the area. I conclude that planning permission should be allowed, and the condition varied as set out above.

*M. P. Howell*

INSPECTOR





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# Appeal Decision

Site visit made on 30 June 2022

by **L Page BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 July 2022

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## Appeal Ref: APP/J0350/D/22/3294195 106 Blumfield Crescent, Slough SL1 6NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mrs Lucy Pickering against the decision of Slough Borough Council.
  - The application Ref Y/19485/000, dated 12 July 2021, was refused by notice dated 18 November 2021.
  - The development proposed is removal of the present roof and the addition of two storeys on the dwellinghouse. One of the additional storeys will be in the roof space.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The decision notice refers to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). However, it is clear from the evidence that the actual dispute is in relation to Class AA. The appeal has been dealt with accordingly.

### Main Issue

3. The main issue is whether the proposal is permitted development under Schedule 2, Part 1, Class AA of the GPDO.

### Reasons

4. Paragraph AA.4.(1) makes clear that the "principal part" under Class AA, in relation to a dwellinghouse, means the main part of the dwellinghouse excluding any front, side, or rear extension of a lower height, whether this forms part of the original dwellinghouse or is a subsequent addition.
5. The Council argue that the proposal is not permitted development because it extends above part of the dwellinghouse that is not an original feature. However, the definition of "principal part" includes both original features and subsequent additions and so the Council's assessment of this point is not correct.

6. Notwithstanding, it appears that there is a side extension part of the existing dwellinghouse that is of a lower ridge height compared to the main part of the dwellinghouse. Consequently, the proposal would extend beyond the principal part of the dwellinghouse and would not be permitted development as set out under Paragraph AA.1.(i).
7. The definition of "principal part" differentiates between extensions and the main part of the dwellinghouse based on scale. There is no evidence that the internal function of rooms can factor into my assessment, or that such an assessment made on this basis would be lawful.
8. The Council has not substantiated that the existing dwellinghouse has been enlarged by the addition of one or more storeys above the original dwellinghouse.
9. It is inferred in their assessment that the existing dwellinghouse is not the original dwellinghouse for the purposes of applying the GPDO. However, I am not clear that this would be the case given that the dwellinghouse has been constructed and designated as a dwellinghouse separate from 104 Blumfield Crescent by way of planning application P/07960/002.
10. Whatever the case may be, even if the existing dwellinghouse is not regarded as the original dwellinghouse for the purposes of applying the GPDO, it is a product of a sideward extension and not an upward extension of the dwellinghouse 104 Blumfield Crescent. Consequently, I cannot reasonably conclude that the proposal would not be permitted development as set out under Paragraph AA.1.(d).
11. Altogether, whilst the Council has not fully substantiated its reasons for refusal under Paragraph AA.1.(d), it is clear that the proposal would not be permitted development as set out under Paragraph AA.1.(i) of the GPDO.

### **Other Matters**

12. Given that I have found the proposal is not permitted development, it is not necessary for me to consider matters relating to prior approval because it would not alter the outcome of the appeal.

### **Conclusion**

13. For the reasons given, the appeal is dismissed.

*Liam Page*

INSPECTOR



## Appeal Decision

Site visit made on 1 March 2022 by Ms S Maur

**Decision by K Taylor BSc (Hons) PGDip MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 02 August 2022**

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**Appeal Ref: APP/J0350/D/21/3287374**

**Site Address: 5 Severn Crescent, Slough SL3 8AT**

- 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 Sunesh Koshy against the decision of Slough Borough Council.
  - The application Ref P/19414/001, dated 26 July 2021, was refused by notice dated 28 September 2021.
  - The development proposed is a single storey side & rear & part two storey rear extension.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the proposed single storey side & rear & part two storey rear extension at 5 Severn Crescent, Slough SL3 8AT. In accordance with the terms of application Ref P/19414/001, dated 26 July 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2154/PL/01, 2154/PL/02, 2154/PL/03, 2154/PL/04, 2154/PL/05 and 2154/PL/06.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The Council has raised no concerns in respect of the ground floor elements of the extension, and a proposal which was similar to this was approved in 2021. Accordingly, the main issues are the effect of the first floor rear element of the extension on:
  - i) the character and appearance of the host dwelling and surrounding area; and
  - ii) the living conditions of the occupiers of 11 and 13 Torridge Road, with regard to whether it would be overbearing.

## Reasons for the Recommendation

### *Character and appearance*

4. The appeal property sits on the end of a terrace of three two-storey dwellings with a gable end roof on Severn Crescent. The dwelling is situated within a housing estate comprised of mostly terraced dwellings. The character of the area is residential with a relatively consistent design and form. This terrace is a smaller terrace than others in the area and has a light brick colour, stone porches and there is only a small amount of white cladding under the windows. No.1 Severn Crescent has a ground floor rear extension that is about 3m deep with a tall parapet that is visible from the appeal property. The appeal dwelling is set back from and faces perpendicular to the road and is only accessible by footpaths to the front and the rear gardens. To the rear of the property is a veranda with a flat roof at ground floor level.
5. The proposal includes a part two storey rear extension. It would include a hipped roof that would sit well below the ridge of the main roof. The proposed extension would have a minimal projection and would follow a similar building line to the ground floor extension at No.1. There are not any first-floor extensions on this terrace. However, due to a complimentary and subordinate design with its modest projection and height it would integrate well with the character and appearance of the dwelling and area.
6. For the reasons detailed above, the first-floor extension would not cause harm to the character and appearance of the host dwelling and surrounding area. The proposal is considered to accord with Policies EN1, EN2 and H15 of the Local Plan for Slough 2004 (Local Plan). Together, these policies permit development that is of a high-quality design, that respects the identifiable character of the street scene and surrounding area by being compatible with the scale, form, materials, design and architectural style of the existing property and has a suitable relationship to nearby properties.
7. The proposal would also not be in conflict with the Slough Development Framework Residential Extensions Guidelines Supplementary Planning Document 2010 (SPD) DP3 and EX28, which advises that extensions should be in keeping with and respect the original form of the house and its surroundings by being subordinate and in proportion to the original house.

### *Living conditions*

8. The host property is situated perpendicular to the rear gardens of a row of terraced properties on Torridge Road and there is an alleyway between them to the west. The terrace runs from no.1 at the north of the host dwelling to 19 in the south. There is also a gap between the host dwelling and its own boundary. The proposal includes a first-floor extension of 2.49m in depth from the original rear wall of the property. The roof would be pitched and significantly set down from the ridge of the main roof.
9. Guideline EX18 of the SPD is only relevant to side extensions and, as the first floor element of the proposed extension would be to the rear, there would not be a direct breach of this guidance in the SPD. The first floor part of the extension would be off set from the rear boundaries of the neighbouring dwellings including by the alleyway and step in from the side boundary at the appeal property. It would also be of a modest height. Although the

neighbouring gardens are relatively short in length, the separation, together with the low ridge height would be sufficient to avoid an undue overbearing effect or loss of light.

10. The reasoning behind guideline EX32 of the SPD relates to overlooking, which was not a concern raised by the Council in its reason for refusal. This suggests that a minimum distance of 15 metres be maintained between the first-floor rear wall of a two-storey rear extension and the side boundary of an adjacent property. In respect of some of the properties in Torridge Road, the distance would be less than this. However, overlooking would be at an oblique angle and not significantly greater than can occur from the current rear elevation of the appeal property. The SPD is a guidance document, and, in this case, the proposal would not be contrary to the overarching aims of the relevant Policies.
11. For the reasons detailed above, the proposed development would not cause undue harm to the living conditions of the occupiers of the neighbouring properties. The proposal is considered to meet Core Policy 8 of Slough Core Strategy 2006 -2026 and Policies H15, EN1 and EN2 of the Local Plan (2004) which together require that proposals for extensions to existing dwelling houses to have an appropriate relationship to nearby properties and that there is no significant adverse impact on the amenity of adjoining occupiers.

### **Other Matters**

12. The positioning of the rear wall of the first-floor elevation would partly change. However, the level of overlooking towards the adjoining 3 Severn Crescent would be similar to that which already exists. The Council have found no harm in respect of privacy, and I have no reason to disagree with them.
13. The drawings demonstrate that the first floor element of the extension would comply with the 45-degree code on the horizontal axis when measured from the window at the attached neighbouring dwelling. Given the scale of the extension it would not be overbearing or in breach of the principles set out in the SPD in respect of this neighbouring dwelling.
14. The proposed extension would be modest and offset from the neighbouring dwellings. Any increased effect on overshadowing or light would not be significant and would not substantially affect any pre-existing issues including those related to mould and energy. Therefore, in this regard, it would not conflict with Core Policy 8 from the Slough Local Development Framework Core Strategy (2006).

### **Conditions**

15. In addition to the standard time period for commencement of the development, a condition has been recommended requiring the development accord with the approved plans, as this provides certainty and precision. In the interests of the character and appearance of the area, a condition to secure matching materials is recommended.
16. The Council requested a condition to remove permitted development rights in relation to the addition of new windows in the flank elevation of the development. However, this would not be necessary as legislation requires that any new windows, above ground floor level, be obscure glazed with restricted opening and therefore privacy would be retained.

**Conclusion and Recommendation**

17. Based on the above, and having regard to all matters raised, I recommend that the appeal should be allowed.

*Ms S Maur*

APPEAL PLANNING OFFICER

**Inspector's Decision**

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*K Taylor*

INSPECTOR



# Appeal Decision

Site visit made on 14 June 2022

**by M. P. Howell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 August 2022**

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**Appeal Ref: APP/J0350/W/21/3285076**

**Victoria Court and Eastbridge, Victoria Road, Slough SL2 5NF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Lorienwood Limited against the decision of Slough Borough Council.
  - The application Ref Y/05383/002, dated 29 January 2021, was refused by notice dated 9 June 2021.
  - The development proposed is for a two-storey pitched roofed extension above the principal elevation to provide 28 additional flats.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Council's second reason for refusal refers to a lack of information to demonstrate that the extension to the building would not cause significant harm to the occupiers of the notification building by way of loss of light. In order to address this reason for refusal the appellant has submitted additional information in the form of a Daylight, Sunlight and Overshadowing Report by Syntegra Consulting (2021). I am satisfied that no party, including the Council who have not formally commented on the additional information, would be prejudiced by my assessing the scheme with regard to it.
3. The appellant has provided a copy of the approved site layout plan for the original apartment block, Ref P5383/1. A copy of the submitted plan indicates that 67 car parking spaces were approved. The Council indicate that 41 spaces are available, not 67, and the appellant states that parking provision would not be provided to future occupants as part of the proposed scheme. As such, for clarity I have based my assessment on the number of spaces indicated as available by the Council (41) rather than what is shown on the historically approved plan.

## Background and Main Issues

4. The provisions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) require the local planning authority to assess the proposed development on the basis of, amongst other things, the transport and highway impacts of the proposed development, and the impact on the amenity of the existing building and neighbouring premises, which includes the loss of light.



5. The main issues are therefore the impact of the development on transport and highway safety and the impact on the living conditions of the occupants of the existing building, with particular regard to light.

## **Reasons**

### *Transport and Highway Safety*

6. The appeal site is an existing three storey apartment block, accommodating 42 one bedroomed properties. A railway line is present to the south and the apartment block is accessed via Victoria Road situated off Uxbridge Road (A412). The A412 is a busy highway with two-way traffic with a central reservation, in contrast Victoria Road and Eastbridge is a small cul-de-sac with a single access and exit point.
7. The proposed scheme would increase the capacity of the apartment block by 28 residential units, which could result in a sizable increase in traffic to and from the site. The site has sufficient access to accommodate additional traffic, but the appellant has indicated that no additional parking provision would be provided. It is stated that the site is an accessible location, and the intention is to make the scheme 'car free', implementing measures set out in a submitted Travel Plan.
8. The Council confirm that the appeal site is close to the town centre, but not at location where zero parking would be acceptable. The Council has set out that an additional 35 spaces would be needed<sup>1</sup> and that there is no evidence to show on street parking demand from the development could be accommodated within the nearby areas. This would lead to parking pressure on the surrounding streets to the detriment to highway safety.
9. The apartment block is currently served by 41 parking spaces to the sides and front of the building, which are controlled by parking permits enforced by a private company. The remainder of the cul-de-sac is controlled by double yellow lines but allows for kerbside parking either side of the access road and outside the adjacent terraced blocks. However, the parking bays outside the terraced blocks are largely in front of dropped kerbs. As such, parking in front of the dropped kerbs would be limited when the owner/occupant of the property would require access. The parking arrangements are similar in the adjoining residential estate of Goodman Park, but it also includes some laybys for unrestricted on street parking.
10. At the time of my two site visits (both approximately 10.30am on Tuesdays) the on-street parking was at a reasonable level of occupancy, but it is likely that overnight and at weekends, parking demand in the area would be much higher.
11. I have had regard to the location of the site and the information contained within the Transport Statement, however, there are limitations to its accessibility. Manual for Streets indicates in section 4.4 that walkable neighbourhoods are typically characterised as having a range of facilities within 10 minutes (800m). However, most of the jobs, schools, the town centre and the train station are over 1km away from the appeal site. Furthermore, the bus services are accessible, but the timetable set out within the Transport Statement state that they are only on an hourly basis and stop between approximately 1930 and 0630. Due to the limitations of the public transport provision, coupled with the distance needed to walk to certain locations, the site would not represent a highly accessible location.

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<sup>1</sup> Based on The Council's Parking Standards indicated in 'Transport and Highway Guidance Developer's Guide Part 3' 2008.

12. As such, the proposed development is likely to result in an increase in traffic, including future occupants having to rely upon private vehicles to access the site and park. I have had regard to the appellants proposal to make the scheme a 'car free' development. However, no conditions have been proposed and no legal agreement has been submitted as evidence. As such, I have no mechanism to ensure the proposed development would be car free. Furthermore, limited evidence is before me to demonstrate what the current level of car parking occupancy is at the site and what level of on street parking could be accommodated for on the surrounding streets.
13. Consequently, based on the evidence before me, the proposed development would be likely to contribute to parking stress on the surrounding streets. Having regard to the level of additional accommodation proposed and the high demand for on-street parking on the surrounding streets, the proposed extension would adversely affect highway safety. Due to the single access and exit point, indiscriminate parking is likely to result in congestion, multi-point manoeuvres and reversing out of the cul-de-sac onto a junction. This would result in an unacceptable level of risk of vehicle conflicts to the detriment of highway safety.
14. Accordingly, the development proposed would cause harm to transport and highway safety. This would conflict with the objectives of the National Planning Policy Framework (the Framework), particularly paragraph 111, which indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. I have also had regard to the policies of the development plan, but only insofar as they are a material consideration relevant to this issue. The development proposed would conflict with Policy T2 of the Slough Local Plan 2004, which states residential development will be required to provide a level of parking appropriate to its location and which will overcome road safety problems.
15. The Council also cite Core Policy 8 of the Slough Development Framework Core Strategy 2008. This policy seeks to ensure that all development in the Borough is of a high-quality design and improves the quality of the environment. I do not consider the proposed development to be contrary to aims and objectives of this policy.

#### *Loss of Light to Existing Building*

16. The appellant has submitted an additional Daylight, Sunlight and Overshadowing Report to consider the loss of light to rooms in the existing apartment building. This model analyses the daylight, sunlight and overshadowing impact of the new development on the affected buildings<sup>2</sup>.
17. The report outlines that the surrounding properties would not be adversely affected in regard to daylight, sunlight and overshadowing. Although some windows at the existing flats of Victoria Court will experience loss of daylight from the proposed development, the development would not result in an unacceptable loss of daylight and sunlight to the existing flats.
18. I acknowledge that some of the representations have questioned the report's methodology and compliance with the BRE guidelines. However, I have not been presented with alternative evidence that would lead me to conclude that the

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<sup>2</sup> 2-14 Victoria Road, 27-29 Victoria Road, 1-6 Eastbridge, Land adjacent 1 Eastbridge and Victoria Court

extension would result in a significant loss of daylight and sunlight to existing flats or neighbouring properties.

19. Accordingly, the development proposed would not cause unacceptable harm to the living conditions of the occupants of the existing building, by virtue of an unacceptable loss of light. The proposal would conform to the policies on neighbouring impacts set out within paragraph 130 of the Framework. I have also had regard to the policies of the development plan, but only insofar as they are a material consideration relevant to this issue. The development proposed would comply with Policy E2 of the Slough Local Plan 2004, which states that extensions to existing buildings should not result in the significant loss of sunlight or create significant overshadowing as a result of their construction.
20. The Council also cite Core Policy 8 of the Slough Development Framework Core Strategy 2008 and Policy E1 of the Slough Local Plan 2004. These policies, amongst other things, seek to ensure that all development in the Borough is of a high-quality design, scale, layout, materials and improving the quality of the environment. I do not consider the proposed development to be contrary to aims and objectives of these policies.

### **Other Matters**

21. The appellant has highlighted a legal case<sup>3</sup> relating to Part 3 Class Q of the GPDO 2015. The case states it was wrong to apply the Framework policies in respect of accessibility to residential development for the prior approval process as would have been applied to an application for planning permission. However, this is prior approval under Part 20 Class A of the GPDO 2015, not part Q. Notwithstanding this, since 2017, the GPDO 2015 has been amended with respect to Part 3, Class Q where the decision maker would need to have regard to the policies in the Framework as if it were a planning application. This is also the case with Part 20 Class A cases. As such, the policies on transport and highway impacts, such as paragraph 111 of the Framework outlined above, are relevant to the determination of this case.
22. Furthermore, I appreciate that the prior approval process for Part 20, Class A does not allow for engineering operations that would be needed to create additional parking spaces. However, that is not a reason to suggest that parking associated with the development, and its impact upon transport and highway safety, cannot be considered as part of prior approval under Part 20 Class A of the GPDO 2015, nor that a deficiency in this respect and the resultant adverse impact can be disregarded because of on-site constraints.

### **Conclusion**

23. The proposal would not comply with one of the prior approval matters set out by Schedule 2, Part 20, Class A of the GPDO. Namely that concerned with the traffic and highway impacts of the proposed extension to the building. It would not therefore benefit from the provisions thereof. As such, the appeal should be dismissed.

*M. P. Howell*

INSPECTOR

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<sup>3</sup> East Hertfordshire DC v Secretary of State for Communities and Local Government [2017] EWHC 465 (Admin)



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## Appeal Decision

Site visit made on 26 July 2022

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 September 2022**

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**Appeal Ref: APP/J0350/C/22/3297657**

**Land at 15A and 15B Oatlands Drive, Slough SL1 3EH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bashir Ahmed against an enforcement notice issued by Slough Borough Council.
  - The notice, numbered 2020/00683/ENF, was issued on 5 April 2022.
  - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of outbuilding to form a self-contained dwelling and facilitating works (shown edged blue and including the wooden addition to the outbuilding shown edged green on the Plan).
  - The requirements of the notice are to: 1. Cease the use of the outbuilding as a self-contained dwelling. 2. Remove the kitchen and bathroom from the outbuilding. 3. Remove the internal walls incorporating the bathroom. 4. Remove all plumbing, boiler and associated pipework in connection to the kitchen and shower room within the outbuilding. 5. Demolish the wooden addition. 6. Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
  - The period for compliance with the requirements is: 6 (six) months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### The appeal on ground (d)

2. In an appeal on ground (d), the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control. Section 171B(1) of the Act sets out the relevant time period for taking enforcement action.
3. The council has determined that the building is in use as a single dwelling house and the appellant's case is that this use has been continuing for some years. For the development to be immune from enforcement action the appellant must demonstrate that the outbuilding has been in use as a single dwellinghouse for at least four years before the date the notice was issued. In this instance, that date is 5 April 2018.
4. The plan which accompanies the notice includes the property to the front which has been subdivided into 2 flats (15a and 15b Oatlands Drive), which I am led

to believe, are owned by the appellant. It is noted that the primary address for the appellant is 518 Barking Road, London although he says that he spends every Saturday and Sunday staying at the appeal property and has been doing so for more than five years.

5. As part of the appeal the appellant says that he moved into the outbuilding in 2017. However, I note the email from the appellant to the council dated 9 February 2017 advising them that 'Mr Ahmad' had moved into the property on 1 August 2016. The email further informs the council of the 'flat' behind '15 Oatland Drive, Slough' having 'water and electricity'<sup>1</sup> and which is lived in from 'time to time' by the appellant to 'look after my tenants'. A copy of an email from the council tax department dated 2 March 2017 advises the appellant of the request made for an inspector to visit the premises to establish whether banding is required. The appellant says that they had further correspondence with the council tax department. However, I have not been provided with such or indeed any evidence of council tax banding or payments. The appellant has provided a copy of a visual structural assessment of the outbuilding which was surveyed on 1 April 2021. This document provides that the internal floor area is approximately 20sqm and consists of an open plan living room and kitchen, a bathroom and a bedroom. There is no information referring to how long the building has been occupied on a residential basis.
6. Photographs provided by the council dated 2 August 2021 show the building with sparse facilities and no real sign of the property being lived in. Furthermore, photographs which accompany the structural report show a similar situation and at the time of my site visit, the inside of the building was in a similar state. Although the building may provide the facilities for domestic use, I find that the information provided does not paint a clear picture to show how the property has been occupied. While the appellant claims intermittent, if regular use, on the limited information provided it is far from clear that the building was in use as a separate dwellinghouse for a continuous 4 year period within which the council could have taken enforcement action at any time. Therefore, on the balance of probabilities, the evidence provided is not sufficiently precise and unambiguous to justify a finding that the use of the building to the rear of 15a and 15b Oatlands Drive, Slough, SL1 3EH as a separate dwellinghouse has been sustained for the requisite period.
7. The alleged breach of planning also refers to the wooden addition to the front of the building which appears to have been constructed to provide a second access. The extension was clearly erected to facilitate the unauthorised use and can be required to be removed on that basis, but in any case, there is no evidence to suggest that it was substantially completed more than 4 years before the notice was issued and might have acquired immunity in its own right.
8. Consequently, I cannot be certain that the alleged breach of planning control is not immune from enforcement action. The appeal on ground (d) therefore fails.

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<sup>1</sup> Supplied by the flat to the front

## **The appeal on ground (a) and the deemed planning application**

### **Main issues**

9. This part of the appeal seeks planning permission for the development enforced against. The main issues concern the effect of the development on: i) the living conditions of occupants of neighbouring properties with regard to amenity space, privacy, noise and disturbance; ii) whether the use of the outbuilding as a dwelling is acceptable for its current and future occupants in terms of space, privacy, outlook, accessibility and design iii) the character and appearance of the area; and iv) car parking provision.

### **Reasons**

#### *Living conditions of neighbouring occupants*

10. The appeal building is situated within the yard area to the rear of the flatted properties No.15A and 15B ("the flats"). There are two entrance doors to the building. One is positioned on the side of the building. The other to the front and access to this door is through the yard which, at the time of my visit was occupied by bicycles, a trampoline, children's toys and items of a domestic nature.
11. The front windows and entrance door of the outbuilding and the rear elevation of the flats directly face each other across the hard surfaced yard area. There is no physical barrier to subdivide the area. Given the restricted area a physical barrier would likely be impracticable and would result in a claustrophobic setting for the flats and the outbuilding. Taking into account the layout of the appeal site, the normal activities associated with residential occupation of the outbuilding and of the flats, including comings and goings by occupiers, would be likely to cause mutual disturbance and mutual loss of privacy between the properties. This would be exacerbated by the proximity of the outbuilding to the ground floor of the flats where there would be direct views into internal private space.
12. Access to the outbuilding can be gained through a side entrance off a vehicular-width track which provides access to some neighbouring buildings beyond. If this access were to be used, disturbance to occupiers in the flats would be less than if the yard between the two were used. However, there is no guarantee that occupiers of the outbuilding would always use the side entrance. Furthermore, the use of the outbuilding as a dwelling means that neither the outbuilding nor the main house has any usable outside space which is private to the occupants.
13. The use of the outbuilding for residential purposes in these circumstances would be harmful to the occupants of the existing flats in terms of general disturbance and loss of privacy. In this respect there is conflict with Policy EN1 of the Local Plan for Slough (March 2004) (the LP) which requires development to be compatible with and/or improve their surroundings in terms of, amongst other things, relationship to nearby properties.

#### *Current and future occupants*

14. The council considered in its reasons for issuing the notice that the outbuilding fails to provide a good level of amenity for existing or future occupiers and is substandard in terms of its floorspace, outlook, privacy and its amenity space



provision in terms of area, depth, orientation, attractiveness, usefulness and inadequate accessibility. I am not aware of the council's internal space standards for such accommodation. Nevertheless, from my inspection of the building, I found it to be a cramped and low quality living environment. The design of the outbuilding is basic due to its intended use as a subsidiary domestic garage/store which does not lend itself naturally to independent residential use.

15. Furthermore, the outbuilding is positioned close to the rear of the flats with windows allowing for unrestricted views directly towards the existing flats and their outdoor space. This results in a poor outlook and a compromised area of private outdoor space which would be harmful for current and future occupiers of the appeal development. The use of the building is thus found to conflict with Policy H13 of the LP which requires backland development to be, amongst other things, designed to have appropriate access, amenity space and landscaping; be designed so that existing residential properties retain appropriate garden areas and do not suffer from overlooking or loss of privacy. The appeal development also conflicts with Policy ENV1 of the LP which requires development to be compatible with and/or improve their surroundings in terms of, amongst other things, relationship to nearby properties.

#### *Character of the area*

16. Core Policy 1 of the Core Strategy Development Plan Document 2006-2026 (December 2008) (the DPD) requires all development to take place within the built up area with the scale and density related to the site's current accessibility, character and surroundings. The pattern of buildings in this neighbourhood is typical of many residential areas, with houses fronting the street and outbuildings in some back gardens. There are also some garages reached by rear accesses. While there may be similar buildings to the rear of properties within the area, as far as I am aware, they are used for purposes incidental to the main residential use of the house and not as a separate dwellinghouse.
17. In this respect, the physical presence of the 'outbuilding' at the appeal site does not detract from the area's general character. However, 'backland development' for residential purposes is not a principal component of the area's character, particularly where the area occupied is within the modest sized rear private space of a domestic property. This has also resulted in an increased density with three residential properties within the appeal site and this is not reflective of the immediate surroundings. Accordingly, the appeal development is considered harmful to the character of the area and this conflicts with Core Policies 4 and 8 of the DPD and Policy H13 of the LP.

#### *Car parking provision*

18. Whilst there is parking provision to the front of the flats, there appears to be no dedicated space for a vehicle to park off the public highway for any occupant of the outbuilding. The vehicular track which leads from Oatlands Drive to the rear of the outbuilding provides access to neighbouring properties. Policy H13 of the LP requires backland development to be provided with appropriate car parking provision to accord with the aims of the integrated transport strategy. However, I have not been provided with a copy of this document.



19. While the lack of dedicated car parking for the self-contained residential unit located in the outbuilding may result in on street parking, I do not consider that this would be harmful to highway safety. Most residential properties nearby benefit from off-road parking leaving available room to park along roads where there are no parking restrictions. Furthermore, the appeal site is close to the town centre and the train station and there are several bus stops close by allowing for a choice of transport options. Therefore, I consider that the development complies with the essence of Core Policy 7 of the DPD which requires new development to be sustainably located in the most accessible locations and thereby reduce the need to travel by private means.

**Other matters**

20. I note the frustration of the appellant due to their perceived lack of support and advice by the council in dealing with the planning matters. However, my assessment of the appeal development is based on an impartial appraisal of the planning merits regarding relevant planning policies. Dissatisfaction with the Council's procedure should appropriately be made in the first instance through the authority's own complaints procedure.

**Conclusion on ground (a) and the deemed planning application**

21. Although I have found that the absence of private parking for the occupants of the appeal building would not have a harmful effect on highway safety, I have identified harm to the character of the area and to the living conditions for the occupants of the flats and for existing and future occupants of the outbuilding. There are no material considerations that indicate the deemed planning application should be determined other than in accordance with the Development Plan. For the reasons given, the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission.

*S A Hanson*

INSPECTOR