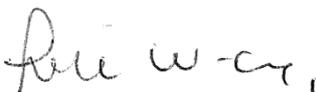


Date of issue: Tuesday, 2 November 2021

<b>MEETING</b>	<b>PLANNING COMMITTEE</b> (Councillors Ajaib (Chair), A Cheema (Vice-Chair), Dar, J Davis, R Davis, Gahir, Mann, Muvvala and S Parmar)
<b>DATE AND TIME:</b>	WEDNESDAY, 10TH NOVEMBER, 2021 AT 6.30 PM
<b>VENUE:</b>	COUNCIL CHAMBER - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	NICHOLAS PONTONE 07749 709 868

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**JOSIE WRAGG**  
Chief Executive

**AGENDA**

**PART 1**

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
APOLOGIES FOR ABSENCE			
<b>CONSTITUTIONAL MATTERS</b>			
1.	Declarations of Interest <i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 9 and Appendix B of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i>	-	-
2.	Guidance on Predetermination/Predisposition - To Note	1 - 2	-

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
3.	Minutes of the Last Meeting held on 13th October 2021	3 - 8	-
4.	Human Rights Act Statement - To Note	9 - 10	-

### PLANNING APPLICATIONS

5.	P/12642/005 - 155-157, Chalvey Grove, Slough, SL1 2TD	11 - 44	Chalvey
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*Officer's Recommendation: Delegate to the Planning Manager for Approval*

### MATTERS FOR INFORMATION

6.	Planning Appeal Decisions	45 - 78	All
7.	Members' Attendance Record	79 - 80	-
8.	Date of Next Meeting - 15th December 2021	-	-

#### Press and Public

**Attendance and accessibility:** You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before any items in the Part II agenda are considered. For those hard of hearing an Induction Loop System is available in the Council Chamber.

**Webcasting and recording:** The public part of the meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The footage will remain on our website for 12 months. A copy of the recording will also be retained in accordance with the Council's data retention policy. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

In addition, the law allows members of the public to take photographs, film, audio-record or tweet the proceedings at public meetings. Anyone proposing to do so is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

**Emergency procedures:** The fire alarm is a continuous siren. If the alarm sounds immediately vacate the premises by the nearest available exit at either the front or rear of the Chamber and proceed to the assembly point: The pavement of the service road outside of Westminster House, 31 Windsor Road.

**Covid-19:** To accommodate social distancing there is significantly restricted capacity of the Council Chamber and places for the public are very limited. We would encourage those wishing to observe the meeting to view the live stream. Any members of the public who do wish to attend in person should be encouraged to contact the Democratic Services Officer.

## **PREDETERMINATION/PREDISPOSITION - GUIDANCE**

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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**Planning Committee – Meeting held on Wednesday, 13th October, 2021.**

**Present:-** Councillors Ajaib (Chair), A Cheema (Vice-Chair), Dar, J Davis, R Davis, Gahir, Mann and Muvvala

**Also present under Rule 30:-** Councillors Ali, Hulme and Swindlehurst

**Apologies for Absence:-** Councillor S Parmar

**PART I**

**56. Declarations of Interest**

Item 5 (Minute 61 refers) – The Myrke, Datchet: Councillor Jemma Davis stated that as she had not been present at the committee meeting on 15<sup>th</sup> September 2021 at which the application and representations had been heard, and had not attended the subsequent site visit, she would not participate or vote on the application.

Item 6 (Minute 62 refers) - 79-83 Uxbridge Road, Slough: Councillor Dar declared that he had previously discussed the site with interested parties but not the application that had come forward. He stated he had an open mind and would participate and vote on the application.

Item 6 (Minute 62 refers) - 79-83 Uxbridge Road, Slough: Councillor Ajaib declared that he had previously attended one meeting regarding the site. He stated he had an open mind and would participate and vote on the application.

Item 8 (Minute 64 refers) – 361 Bath Road, Slough: Councillors Jemma Davis and Roger Davis declared the application was in their ward. They stated they had open minds and would participate and vote on the application.

**57. Guidance on Predetermination/Predisposition - To Note**

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

**58. Minutes of the Last Meeting held on 15th September 2021**

**Resolved –** That the minutes of the meeting held on 15<sup>th</sup> September 2021 be approved as a correct record.

**59. Human Rights Act Statement - To Note**

The Human Rights Act statement was noted.

## Planning Committee - 13.10.21

### 60. Planning Applications

The Amendment Sheet, which included details of alterations and amendments received since the agenda was circulated had been sent to Committee Members and published on the Council website. Members confirmed they had received and read it prior to the consideration of planning applications.

Oral representations were made to the Committee under the Public Participation Scheme prior to the applications being considered by the Committee as follows:-

P/02683/015 - 204-206, High Street, – The agent and Ward Members, Councillors Ali and Hulme, addressed the Committee.

P/00908/012 - 361, Bath Road, – Ward Member, Councillor Swindlehurst, addressed the Committee.

**Resolved** – That the decisions taken in respect of the planning applications as set out in the minutes below, subject to the information, including conditions and informatives set out in the report of the Planning Manager and the Amendment Sheet circulated to Members prior to the meeting and subject to any further amendments and conditions agreed by the Committee.

### 61. P/16947/002 - 45, The Myrke, Datchet, Slough, SL3 9AB

Application	Decision
Construction of 2 no. semi-detached dwellings and 1 no. detached dwelling.	Approved, subject to conditions.

*(Councillor J Davis did not participate in the vote on this agenda item)*

### 62. P/01303/018 - 79-83, Uxbridge Road, Slough, SL1 1SG

Application	Decision
Redevelopment of former Car Wash to provide a new building up to 4 storeys in height with additional accommodation in roof all to be used as a learning and non-residential institution, for, or in connection with, public worship or religious instruction (F1.f Use Class) with associated car parking to be used in conjunction with Diamond Road Mosque.	Approved, subject to conditions

**Planning Committee - 13.10.21**

**63. P/02683/015 - 204-206, High Street, Slough, SL1 1JS**

Application	Decision
<p>An application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary Condition 2 (Approved Drawing Numbers) , Condition 5 (Approved Uses) and Condition 6 (Hours of Operation) of planning permission P/02683/013 for the Demolition and Redevelopment of the existing site for a mixed use development (granted 4th March 2020) namely for various material amendments including addition of 2 'floors' to the top of Block B to create an 11th and 12th floor and an additional 8 x 1 bed flats; use of the first floor of Block A for 3 x 2 bed residential units; flexible Class E space throughout the ground floor commercial unit; amendment to the commercial High St side entrance to form a residential entrance; increasing the number or cycle parking spaces and waste provision; and removal of the flexible office/gym space at first floor of Block A.</p>	<p>Delegated to the Planning Manager for approval, subject to:</p> <ul style="list-style-type: none"> <li>(i) the satisfactory completion of a Section 106 Deed of Variation to secure additional financial contributions towards education improvements and open space/recreation improvements in the local area;</li> <li>(ii) A variation to the Section 106, subject to the satisfactory inclusion of a late stage viability review; and</li> <li>(iii) finalising conditions and any other minor changes;</li> </ul> <p>Or, refuse the application if the completion of the Section 106 Agreement was not finalised by 31st March 2022 unless a longer period was agreed by the Planning Manager in consultation with the Chair of the Planning Committee.</p>

**64. P/00908/012 - 361, Bath Road, Slough, SL1 5QA**

Application	Decision
<p>Construction of a part two, part three and part six storey building comprising a self storage facility (Use Class B8) together with vehicular access, service yard, parking, associated works and landscaping.</p>	<p>Delegated to the Planning Manager for approval, subject to the satisfactory agreement of conditions, including to secure the lighting improvements to Brook Path under existing condition 20.</p>

## Planning Committee - 13.10.21

### 65. **Queensmere Shopping Centre (including Dukes House and Wellington House), 141, 143, 145 and 165 High Street, and associated land, Slough, SL1 1LN**

The Committee received a pre-application presentation on the proposals for the Queensmere Shopping Centre.

Members were reminded of the purpose, scope and format of the discussion, as outlined in the Code of Conduct for Councillors and Officers in relation to planning and licensing matters. The Planning Officer gave an introduction to the site, planning history and the policy context in connection to the site including the Site Allocation Document (2010) – SSA14 and the Centre of Slough Interim Planning Framework 2019.

The pre-application presentation was given by representatives of the applicant. The proposal was for an Outline application for the demolition of buildings and the phased redevelopment of the site to provide a mixed-use scheme comprising residential; flexible commercial Town Centre Uses floor space (Use Class E and Use Class F), supporting sui-generis town centre uses; car and cycle parking; site wide landscaping and associated servicing and highways works.

The presentation included the vision for the key site and set out proposals for up to 1,600 new homes; 5,500 – 12,000 sq m of town centre floorspace; up to 3,750 sq m of floorspace for uses such as music or entertainment; up to 40,000 sq m of office floorspace; and 550 car parking spaces. The timetable was to seek planning consent in Summer 2022, the commencement of demolition in the first quarter of 2024, Phase 1 starting on site in quarter four of 2024 with the first homes and Town Square delivered in the fourth quarter of 2026.

Members of the Committee and Ward Councillors Ali and Hulme were given the opportunity to ask questions and make initial observations on the proposal which are summarised as follows:

- Regeneration – the Committee welcomed the fact that an application was close to being submitted and highlighted the importance of the site to reinvigorate the town centre.
- Building heights – the proposal was for buildings of between 6 to 18 storeys. Members queried the relationship to other buildings surrounding the site and the applicant explained the approach being taken as set out in the parameter plans.
- Jobs – the Committee commented on the importance of looking to secure commitments to create jobs and apprenticeship opportunities for local residents.
- Social and affordable housing – the current proposal was for 12.5% affordable housing in phase 1, with review mechanisms in place, which

## **Planning Committee - 13.10.21**

Members noted was below the policy requirement and hoped more could be achieved.

- Timeline – some Members were concerned about the impact the 14-year delivery timescale would have on the town centre. It was noted that the scheme was phased and ‘meanwhile’ plan would be included in the discussed with partners and included in the Section 106 agreement or via condition.
- Crime and community safety – Members highlighted the opportunity to improve the perceptions of safety in the town centre through the design and management of the site.
- Accessibility – whilst it was recognised this was an outline application subject to detailed design Members commented on the ambitions for Slough to be a disability friendly town and that accessibility should be designed into the site.
- Car parking – a question was raised about whether the level of car parking was sufficient. It was noted that the 800 spaces in the Observatory car park would remain available for town centre uses.

At the conclusion of the discussion the Committee thanked the applicant for the pre-application presentation.

**Resolved** – That the pre-application presentation be noted.

### **66. Members Attendance Record**

**Resolved** – That the record of Members’ attendance for 2021/22 be noted.

### **67. Date of Next Meeting - 10th November 2021**

The date of the next meeting was confirmed as 10<sup>th</sup> November 2021.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 9.02 pm)

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The Human Rights Act 1998 was brought into force in this country on 2<sup>nd</sup> October 2000, and it will now, subject to certain expectations, be directly unlawful for a public authority to act in a way which is incompatible with a Convention Right. In particular Article 8 (Respect for Private and Family Life) and Article 1 of Protocol 1 (Peaceful Enjoyment of Property) apply to planning decisions. When a planning decision is to be made, however, there is further provision that a public authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest, and therefore much of this authority's decision making will continue to take into account this balance.

The Human Rights Act 1998 will not be referred to in the Officers Report for individual applications beyond this general statement, unless there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues.

Please note the Ordnance Survey Maps for each of the planning applications are not to scale and measurements should not be taken from them. They are provided to show the location of the application sites.

CLU / CLUD	Certificate of Lawful Use / Development
GOSE	Government Office for the South East
HPSP	Head of Planning and Strategic Policy
HPPP	Head of Planning Policy & Projects
S106	Section 106 Planning Legal Agreement
SPZ	Simplified Planning Zone
TPO	Tree Preservation Order
LPA	Local Planning Authority

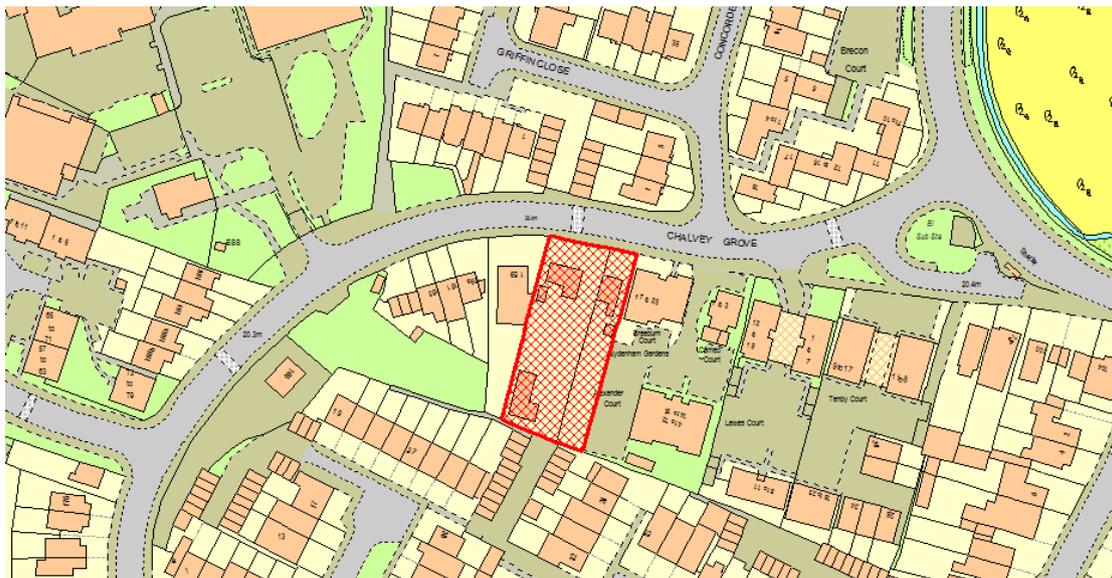
	<b>OLD USE CLASSES – Principal uses</b>
A1	Retail Shop
A2	Financial & Professional Services
A3	Restaurants & Cafes
A4	Drinking Establishments
A5	Hot Food Takeaways
B1 (a)	Offices
B1 (b)	Research & Development
B1 (c)	Light Industrial
B2	General Industrial
B8	Warehouse, Storage & Distribution
C1	Hotel, Guest House
C2	Residential Institutions
C2(a)	Secure Residential Institutions
C3	Dwellinghouse
C4	Houses in Multiple Occupation
D1	Non Residential Institutions
D2	Assembly & Leisure

	<b>OFFICER ABBREVIATIONS</b>
DR	Daniel Ray
ADJ	Alistair de Jeux
PS	Paul Stimpson
NR	Neetal Rajput
HA	Howard Albertini
JG	James Guthrie
SB	Sharon Belcher
IK	Ismat Kausar
CM	Christian Morrone
AH	Alex Harrison
NB	Neil Button
MS	Michael Scott
SS	Shivesh Seedhar
NJ	Nyra John
KP	Komal Patel
WD	William Docherty

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Registration Date:	26-July-2021	Application No:	P/12642/005
Officer:	Michael Scott	Ward:	Chalvey
Applicant:	Mapgro Ltd	Application Type:	Major
		13 Week Date:	25 Oct 2021
Agent:	Zyntax Chartered Architects, 8, Arborfield Close, Slough, SL1 2JW		
Location:	155-157, Chalvey Grove, Slough, SL1 2TD		
Proposal:	Redevelopment of existing brownfield site for 16no. residential flats comprising 5no. 1 bedroom flats, 9no. 2 bedroom flats and 2 no. 3 bedroom flats with 21no. car parking spaces, bin and cycle storage and garden amenity.		

**Recommendation:** Delegate to the Planning Manager for Approval



## **P/12642/005**

### 1.0 **SUMMARY OF RECOMMENDATION**

1.1 Having considered the relevant policies set out below, and any comments that have been received from consultees and neighbouring occupiers, and all other relevant material considerations, it is recommended the application be delegated to the Planning Manager:

1) For approval subject to: the satisfactory completion of a s106 agreement to ensure a financial contributions towards affordable housing, education and local public open space enhancements, finalising conditions, and any other minor changes.

2) Refuse the application if a satisfactory s106 Agreement is not completed by 30<sup>th</sup> April 2022, unless otherwise agreed by the Planning Manager in consultation with the chair of the Planning Committee.

1.2 This application is to be determined at Planning Committee as it is an application for a major development comprising more than 10 dwellings.

### **PART A: BACKGROUND**

#### 2.0 **Proposal**

2.1 This is a full planning application for:

- Construction of two three-storey blocks of flats.
- Comprising the provision of 16 self-contained residential units.
- The mix entails 5no. 1-bedroom; 9no. 2-bedroom; and, 2no. 3-bedroom flats
- Surface car parking providing 21 spaces for the proposed residential units – each to be provided with electric charging facilities.
- The provision of cycle parking facilities for future residents and visitors.
- Secure bin and recycling storage facilities.
- Formation of a dedicated vehicular access to the site from Chalvey Grove.

### 3.0 **Application Site**

- 3.1 The application site is wholly undeveloped and lies on the southern side of Chalvey Grove between flatted blocks to the east with mostly two-storey dwelling houses beyond to the west as well as to the rear (south) and across the street i.e. to the north.
- 3.2 The ground levels rise gently from the frontage on Chalvey Grove towards the rear of the site at its southern end. This profile is matched on each of the sites adjacent.
- 3.3 To the west lies a detached bungalow at 159 Chalvey Grove. This has a square footprint and a shallow pitched pyramidal roof; so, it has a modest form and low profile in the street scene. Whilst it appears to be residential in form, it has historically been used as an office for a business but is currently vacant.
- 3.4 To the east lie a number of flatted blocks, which comprise Sydenham Gardens, namely, Braeburn and Cameron Court, with to the rear, lies Alexander Court. The street front blocks of Braeburn and Cameron Court are two-and-a-half storeys. Full three-storey, flatted blocks lie to the east of this group and include Lewes Court and Tenby Court. These are notable for their two-storey high undercroft access with a single deck of accommodation above the entrance.
- 3.5 To the north, on the opposite side of Chalvey Grove, lies an estate of two-storey terrace houses, with their associated garages, in Griffin Close and Concorde Way
- 3.6 To the south i.e. behind the site, lies an estate of two-storey terraced houses, with their associated garages, in Cotswold Close and Tintern Close.
- 3.7 Approximately a third of the site - that fronting the street - lies in Flood Zone 3; whilst the middle portion - another third of the site - lies in Flood 2, and the remainder of the site towards the rear lies in Flood Zone 1. Given the site partially lies in Flood Zones 2 and 3, a full Flood Risk Assessment was submitted with the current application.
- 3.8 The site lies within 800m. of a scheduled moated site to the west and within 700m. of the scheduled Montem mound to the east.

3.9 For completeness, it should be noted: the site lies within an area outside of the Town Centre on the Proposals Plan; the site is not in a Conservation Area; and, there are no trees under a Tree Preservation Order in close proximity.

#### 4.0 **Relevant Site History**

4.1 P/12642/004 Construction of 2no. blocks of flats in tandem arrangement providing accommodation for 16no. 2 bedroom flats and 1no. studio flat with 19 parking spaces, cycle store, refuse store and rear garden amenity (at nos. 155 & 157). Vehicular access is proposed via adjacent existing development at Sydenham Gardens, Chalvey Grove SL1 2PA – withdrawn – 26/07/2021.

P/12642/002 Demolition of existing motor repair workshop and erection of 6 x 3 bedroom, two storey semi-detached dwellings and 1x 3 bedroom, two storey detached dwelling with associated car parking and private amenity space (at nos. 155 & 157) – APPROVED – 19/10/2010.

P/12642/001 Demolition of existing, and erection of two no. buildings to provide eleven no. flats and car parking (at no. 157) - REFUSED – 21/07/2004 for the following reasons:

- The proposed development is contrary to criterion f, of Policy H13 of The Local Plan for Slough, 2004, because it will not optimise the potential for a comprehensive development and potentially results in the sterilisation of land for residential development.
- The proposed development is contrary to Policy H13 and EN1 of The Local Plan for Slough, 2004, because together with the flat development at 149 Chalvey Grove, it will result in the visual overpowering and domination of 155 Chalvey Grove which will have a detrimental impact on the visual character of the street scene.
- The proposed development is contrary to criterion d, of The Adopted Local Plan for Slough, 2004, because it will result in overpowering and loss of light and privacy to the private amenity space of neighbouring residential properties 155 and 159a Chalvey Grove and this will detract from the residential amenity of the occupiers.
- The proposed development is contrary to criterion d, Policy H13 of The Adopted Local Plan for Slough, 2004, because it will result in an access road to serve the development located hard up on the boundary with 155 Chalvey Grove which will cause noise and disturbance detracting from the residential amenity of the occupiers.

P/12642/000 Erection of two buildings to provide twelve flats and car parking (at no. 157) – withdrawn – 23/02/2004.

## 5.0 **Neighbour Notification**

5.1 In accordance with Article 15 of The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020 four site notices were displayed – two in Chalvey Grove – one either side of the site frontage – and one in Cotswold Close and one in Tintern Close - each dated 03/08/2021. The application was advertised as a major application in the 01/10/2021 edition of The Slough Express.

5.2 A notification was sent to Action4Chalvey on 30<sup>th</sup> July 2021.

5.3 There has been no representations from any of these procedures.

## 6.0 **Consultations**

### 6.1 **Highway Authority Introduction**

This document provides Slough Borough Council's final consultation response regarding Highways and Transport for application P/12642/005 at 155 – 157 Chalvey Grove, Slough.

Transport comments were previously issued on 20<sup>th</sup> August. Further information was provided in a Transport Technical Note on 17<sup>th</sup> September 2021. Additional transport comments issued by SBC on 29<sup>th</sup> September 2021 and further information submitted by the agent on 18<sup>th</sup> October 2021.

### **Application Description**

The planning application is for the redevelopment of existing brownfield sites for 16 residential flats comprising 5x1-bedroom flats, 9x2-bedroom flats and 2x3-bedroom flats with 21 car parking spaces, bin and cycle storage and garden amenity.

### **Vehicular Access**

A new vehicular access junction is proposed with Chalvey Grove in the form of a bellmouth arrangement. The proposed access is 4.8 metres wide, with 3m kerb radii.

In response to a request from SBC, the applicant has provided a drawing (Drawing No. ITB17186-GA-002-Rev-A, dated 04/10/2021, titled '*Proposed Site Access Arrangements*') which displays visibility of 2.4 metres x 25 metres can be provided to the right and left of the access, which is suitable for a design speed of 25mph. However, to the left, the splay crosses a small parcel of 3<sup>rd</sup> Party Land, outside the ownership of the applicant or the Local Highways Authority.

The applicant's agent (i-Transport) has confirmed that discussions are underway for an agreement to be made that the area of land will be kept free of obstructions exceeding 600mm in height to enable the visibility splays shown on i-Transport Drawing No. ITB17186-SK-002-Rev-A, titled '*Proposed Site Access Arrangements*', dated 04/10/2021.

At the request of SBC Highways and Transport it has been confirmed that the details of a lighting scheme will be provided during the detailed design phase of the scheme.

SBC Highways and Transport have no objection to the proposed vehicular access junction for the proposed development.

### **Pedestrian Access**

SBC Highways and Transport have requested that a lift is provided to enable disabled residents, disabled visitors or pram users to access the building. It has not been confirmed whether a lift access will be provided by the applicant.

### **Access by Sustainable Travel Mode**

The proposed development site is located 2500m (30 minutes' walk and 11 minutes cycle) from Slough Railway Station and 2000m (26 minutes' walk) from Slough High Street.

### **Trip Generation**

The Transport Statement (Planning ref: ITB7186-001A) provides a forecast of the site's trip generation, based on trip generation surveys contained within TRICS, the national trip generation database. SBC request the removal of TRICS Survey Site DS-03-C02 from the calculation given that the survey was completed on a Saturday.

SBC require a trip generation calculation based on representative sites for the peak hours (0800 – 0900 and 1700 – 1800) on a weekday when trip generation associated with journeys to work and school are most likely to occur. Therefore surveys completed on weekends should be excluded and the trip generation calculation is not accepted.

### **Car Parking**

The proposed 21 car parking spaces would be a shortfall of 5 parking spaces compared with the adopted Slough Borough Council Parking Standards (2008). The Slough Borough Council parking standards for a Predominantly Residential Area would require the provision of 25 Car Parking spaces.

The Transport Statement outlines in Paragraph 4.4.1, that each of the 2x3-bedroom flats and 1x2 bedroom flats will be provided two allocated parking spaces each, whilst the remaining 14 spaces will be unallocated/communal parking. This equates to each of the 13 remaining one and two bedroom dwellings being allocated at least one car parking space.

The Transport Statement submitted includes Car Ownership Data from the 2011 Census for the Chalvey Ward. The Census showed that during 2011, car ownership levels for one to three bedroom flats in the Chalvey Ward were less than one vehicle per dwelling with an average of 0.74 vehicles per dwelling.

A single yellow parking restriction is present along Chalvey Road which prevents parking between the hours of 8am – 5pm, which would prevent the overspill of parked vehicles onto the surrounding highway during daytime hours.

The applicant has confirmed that 5% of the proposed parking spaces (1 space) will be designed for the use of disabled drivers, in accordance with industry best practice. The disabled parking space should have a hatched 1200mm strip on each side of the space and be marked for disabled use only.

Swept path analysis of the proposed parking bays (Drawing ITB17186-GA-003) has been provided which demonstrates an estate car measuring 4.71m in length can safely ingress and egress the parking spaces and there is sufficient turning space for a car to exit the site in a forward gear.

Therefore SBC Highways and Transport have no objection to the proposed number of parking spaces or the proposed allocation system.

### **EV Parking**

At the request of SBC Highways and Transport, the Transport Statement (Para 4.4.1) confirms that all car parking spaces will be fitted with an overnight charger to allow for electric vehicle charging, in accordance with the Slough Low Emissions Strategy (2018 – 2025). It is recommended that the specification of the EVCP is secured by planning condition.

### **Cycle Parking**

The site plan (Zyntax Drawing No.29-19-13-Rev-A dated June 2021) displays 16 covered, secure cycle parking spaces within a cycle store to the rear of the development. The number of secure, covered spaces is in accordance with the adopted SBC Cycle Parking Standards which require the provision of 1 secure, covered cycle parking space per dwelling.

The Transport Statement (Para 4.5.1) confirms the provision of 6 short-stay cycle parking spaces which be located in a secure, covered cycle store on the site. The Slough Developer's Guide: Part 3 - Highways and Transport (2008) which requires the provision of visitor cycle parking for flatted developments of more than 10 dwellings.

SBC Highways and Transport are satisfied with the proposed cycle parking for the development.

### **Servicing and Refuse Collection**

At the request of SBC Highways and Transport, swept paths have been provided which demonstrate that a fire tender and delivery vehicle can enter, turn and egress the proposed development in a forward gear (Drawing No. ITB 17186-GA-002). It has also been confirmed that a refuse vehicle would collect refuse from the kerbside, with bins wheeled to a dedicated bin collection point on the site frontage, within the site boundary (shown on Zyntax Drawing No. 20-19-13-B, dated June 2021). A management company would transfer bins from the bin store to the bin collection point on collection day.

SBC Highways and Transport are satisfied with the proposed refuse collection arrangements.

### **Summary and Conclusions**

I confirm that I have no objection to this application from a transport and highway perspective.

[NOTE: Highways set out conditions covering Access, Visibility, Site Layout, Car Parking, EV Charging Points, Cycle Parking, Wall –no obstruction of line of sight, Bin Storage, together with Informatives. These are included below at 24.0].

#### 6.2 Thames Water:

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application and set out various matters, which are included under Informatives below at 24.0.

6.3 Lead Local Flood Authority

The general principles for the surface drainage are acceptable; we would recommend further information on the proposals be submitted as part of a more detailed design phase. Therefore we recommend [a condition - as set out below at 24.0].

6.4 SBC Scientific Officer

I have reviewed the Combined Geotechnical and Ground Contamination Risk Assessment Report (Ref. no. R14955), dated 15<sup>th</sup> September 2021 and prepared by Ashdown Site Investigation Ltd. Please see my comments below:

- According to the assessment undertaken, no complete pollutant linkages relating to end users or groundwater have been identified at the site, and remedial works are not currently justified. However, further ground gas monitoring is recommended to inform a more detailed assessment of the level of risk from ground gases.
- Whilst no complete pollutant linkages with respect to soil have been identified by this assessment, a discovery strategy is recommended to remain in place throughout the development works, as set out in Section 9.9 of the report.

The report is considered acceptable for this stage of development. Further information is scheduled to be gathered in the next few months, which must be reviewed and assessed before the site can be deemed suitable for the proposed use.

Based on the above, I recommend the following conditions [NOTE: accordingly, these are set out below at 24.0.]

6.5 Berkshire Archaeological Service

The proposed development should be conditioned to be completed in compliance with this Written Statement of Investigation (WSI), [which] is of an acceptable standard for achieving archaeological mitigation in relation to these development proposals. [NOTE: Accordingly, a condition is set out below at 24.0.]

6.6 SBC Tree & Landscape Officer

No response received for this application. [Any comments received will be reported into the Amendment Sheet.]

## **PART B: PLANNING APPRAISAL**

### 7.0 **Policy Background**

#### 7.1 National Planning Policy Framework and National Planning Policy Guidance:

Section 2: Achieving sustainable development

Section 4: Decision-making

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting healthy communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

Section 14: Meeting the challenge of climate change, flooding and coastal change

Section 16: Conserving and enhancing the historic environment

#### The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008

Core Policy 1 – Spatial Strategy

Core Policy 3 – Housing Distribution

Core Policy 4 – Type of Housing

Core Policy 7 - Transport

Core Policy 8 – Sustainability and the Environment

Core Policy 9 – Natural, built and historic environment

Core Policy 10 – Infrastructure

Core Policy 11 - Social cohesiveness

Core Policy 12 – Community Safety

#### The Adopted Local Plan for Slough 2004 (Saved Policies)

EN1 – Standard of Design

EN3 – Landscaping Requirements

EN5 – Design and Crime Prevention

H9 – Comprehensive Planning

H13 – Backland/Infill Development

H14 – Amenity Space

T2 – Parking Restraint

T8 – Cycle Network and Facilities

#### Other Relevant Documents/Guidance

- Local Development Framework Site Allocations Development Plan Document 2010
- Slough Borough Council Developer's Guide Parts 1-4
- Proposals Map (2010)
- Nationally Described Space Standards
- ProPG: Planning & Noise: Professional Practice Guidance on

### Slough Local Development Plan and the NPPF

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Annex 1 to the National Planning Policy Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The revised version of the National Planning Policy Framework (NPPF) was published in July 2021.

The National Planning Policy Framework 2021 states that decision-makers at every level should seek to approve applications for sustainable development where possible and planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Following the application of the updated Housing Delivery Test set out in the National Planning Policy Framework 2021, the Local Planning Authority cannot demonstrate a Five Year Land Supply. Therefore, when applying Development Plan Policies in relation to the development of new housing, the presumption in favour of sustainable development will be applied, which comprises a tilted balance in favour of the development as set out in Paragraph 11(d) (ii) of the National Planning Policy Framework 2021 and refined in case law. The 'tilted balance' as set out in the NPPF paragraph 11 requires local planning authorities to apply the presumption in favour of sustainable development (in applications which relate to the supply of housing) unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Planning Officers have considered the revised National Planning Policy Framework 2021 which has been used together with other material planning considerations to assess this planning application.

#### 7.2 The planning considerations for this proposal are:

- Principle of development (section 8.0)
- Impact on the character and appearance of the area (section 9.0)
- Impact on amenity of neighbouring occupiers (section 10.0)
- Housing mix (section 11.0)
- Living conditions for future occupiers of the development (section

12.0)

- Crime prevention (section 13.0)
- Highways and parking (section 14.0)
- Flooding & Drainage (section 15.0)
- Trees & Landscaping (section 16.0)
- Archaeology/Heritage issues (section 17.0)
- Land contamination (section 18.0)
- Air Quality (section 19.0)
- S.106 Contributions (section 20.0)
- Presumption in favour of sustainable development (section 21.0)
- Equalities (section 22.0)

## 8.0 **Principle of development**

- 8.1 Whilst it is noted that planning permission has been previously granted for the residential redevelopment of the site of this pair of properties - which would have extinguished the commercial element in the premises to the rear - that approval does not appear to have been commenced. Therefore the lawful use rights would appear to be mixed commercial and residential.
- 8.2 As such, these proposals would entail the change of use of land previously used for commercial purposes to form a wholly residential scheme. Notwithstanding this, the previous planning permission, P/12642/002, is a significant material consideration in the determination of any proposals for this site.
- 8.3 The current proposals represent a comprehensive approach to the development of both no. 155 and no.157; so, the first, second and fourth reasons for the refusal of P/12642/001 – as set out in para 4.1 of this report – would fall away.
- 8.4 The National Planning Policy Framework 2021 encourages the effective and efficient use of land. These proposals involve the replacement of bed-sits and the formation of new self-contained residential accommodation. As such, the proposals comply with the overall thrust of the NPPF.
- 8.5 Core Policies 1 and 4 which seek high-density, non-family type housing to be located in the Town Centre. In the urban areas outside of the town centre, new residential development is expected to be predominantly family housing.
- 8.6 Whilst the site is located outside of the Town Centre, it reflects the existing flatted residential mix in the adjacent developments to the east comprising the adjoining site and those immediately beyond and this

justifies considering that flatted accommodation is more appropriate in this case.

- 8.7 Both the National Planning Policy Framework and the Local Development Plan seek a wide choice of high-quality homes which should be considered in the context of the presumption in favour of sustainable development. The site is considered to be located in a sustainable location as it benefits from access to public transport, education, retail, leisure, employment and community facilities.
- 8.8 Paragraph 8 of the NPPF sets out that achieving sustainable development means that the planning system has three over-arching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are an economic objective, a social objective and an environmental objective.
- 8.9 Paragraph 9 of the NPPF stresses that sustainable solutions should take local circumstances into account, to reflect the character, needs and opportunities of each area
- 8.10 In Core Policy 1 the Council seeks a scale and density of development that will be related to a site's current or proposed accessibility, character and surroundings.
- 8.11 In Core Policy 8 the Council seeks all development to be sustainable, of high-quality design that respects its location and surroundings, in that it should respect the amenities of adjoining occupiers and reflect the street scene and local distinctiveness of the area.
- 8.12 Accordingly, in Core Policy 9 the Council states development will not be permitted where it does not respect the character and distinctiveness of existing townscapes. The impact of the current proposals is considered in section 9.0 below.
- 8.13 Having regard to the National Planning Policy Framework 2021 and the Local Development Plan, there are no objections to the principle of flatted residential development on this site.
- 8.14 As a scheme that entails an infilling of the street scene, attention must be paid to each limb of Policy H13, of which criteria (a), (b), (c), (d) and (f) are relevant. In summary, the issues turn on the scale of any infilling development.

#### 9.0 **Impact on the character and appearance of the area**

- 9.1 The National Planning Policy Framework encourages new buildings to be of a high quality design that should be compatible with their site and surroundings. This is reflected in Core Policy 8 of the Core Strategy,

and Local Plan Policies EN1, EN2 and H13.

- 9.2 A description of the locality and the neighbouring forms of development is set out above. It is noted that there is a distinct difference between the form, mass, scale and character of the area west of the site on the south side of Chalvey Grove and the areas to the north, west and south of the site. Each of these two areas displays a distinctive set of features.
- 9.3 The application site is now cleared. Its position in Chalvey Grove, as the highway bends, suggest a greater sense of unity and place in the frontage characterised by the three-storey, flatted blocks to the east.
- 9.4 These proposals are for a three-storey flatted block, with accommodation at roof level on the frontage and a two-storey block with accommodation at roof level at the rear. In terms of scale and massing, the proposed scheme would respect that of the developments to the east; both in terms of the road side block but also in terms of the inland block to the rear. As such, it is not considered that it would not be out-of-place in this setting.
- 9.5 In terms of its siting, the front block is considered to relate to the building line at Braeburn Court, at its eastern corner, and then by setting back at its western corner, as it follows the alignment of the street. This sets up a modulated façade comprising three gables with the intervening sections of similar proportions resulting in a vertical emphasis.
- 9.6 Both the frontage block and that at the rear feature dormers at eaves level – a direct reflection of the design of each of the blocks to the east. Those proposed in this application have hipped roofs similar to those at Braeburn Court immediately adjacent to the east.
- 9.7 The north and south façades are well-mannered and demonstrate an order in their layout and fenestration. The flanks – facing east and west – are simpler and generally are punctured by only secondary and high-level openings to cater for non-habitable rooms and to provide increased daylight for the deep open-plan floor layouts.
- 9.8 The proposed elevations show a scheme with contrasting red and buff brick facings. The applicant has identified a TBS Old English Red-multi and a TBS Old English Buff-multi to be used in conjunction with a TBS Ferro string course detailing, together with a Marley Eternit smooth grey roof tile and grey uPVC windows and rainwater goods. It is

considered that the general palette of materials would be complimentary to the style of recent residential developments in the vicinity.

9.9 The scheme includes some undercroft parking to the western side of the front block and the inward courtyard facing northern side of the rear block. These would not impact on the street scene.

9.10 The adjacent frontages at Braeburn, Cameron, Lewes and Tenby Court have limited landscaping; primarily, some hedges and grass. The proposals reflect this local street scene. There would be some limited soft landscaping between the façade of the main roadside block and the footway to increase the sense of a defensible space for the ground floor accommodation.

9.11 Likewise, the ground floor units at the rear of the front block would be provided with modest garden areas, to separate their windows from the car parking courtyard.

9.12 Based on the above, the proposals would have an acceptable impact on the character and visual amenity of the area. The proposals therefore comply with Core Policy 9 of the Core Strategy and the requirement of the National Planning Policy Framework, as such the scheme is considered to therefore comply with Policies EN1, EN2 and H13 of the Local Plan for Slough March 2004 (Saved Policies), Core Policy 8 of The Slough Local Development Framework Core Strategy 2006-2026 Development Plan Document, and the requirements of the National Planning Policy Framework 2021.

#### 10.0 **Impact on amenity of neighbouring occupiers**

10.1 The National Planning Policy Framework 2021 encourages new developments to be of a high-quality design that should provide a high quality of amenity for all existing and future occupiers of land and buildings. This is reflected in Core Policy 8 of the Core Strategy and Local Plan Policies EN1 and EN2.

10.2 As more fully described above, the scheme entails a two blocks of flats to the front and rear of the site respectively. This reflects the arrangement of the sites to the east.

10.3 The siting and design of each of these blocks has been set out to avoid any adverse impact on the neighbouring occupiers' amenities, in terms of any potential harm from overshadowing, overlooking and loss of

privacy, as well as daylighting and sunlighting impacts.

10.4 Window openings facing the existing neighbouring dwellings are either high-level/secondary or serve non-habitable rooms. The distances and orientation of these openings in conjunction with the function would ensure that there would be no issues of harm for those neighbouring occupiers.

10.5 In conclusion, it is considered that there would be no adverse harm for neighbouring properties and the proposal is considered to be consistent with Core Policy 8 of the Local Development Framework Core Strategy and Policy EN1 of the Adopted Local Plan, and the requirements of the National Planning Policy Framework 2021.

#### 11.0 **Mix of housing**

11.1 The National Planning Policy Framework seeks to deliver a variety of homes to meet the needs of different groups in the community. This is largely reflected in local planning policy in Core Strategy Strategic Objective C and Core Policy 4.

11.2 The proposals would provide a mix of one, two and three-bedroom flats, as follows:

1 bed/sitting room = 1

1bed/2persons = 4

2bed/4persons = 9

3bed/5persons = 2

Given the location of the site and its particular site circumstances, it is considered that the mix would be appropriate and thus acceptable.

#### 12.0 **Living conditions for future occupiers of the development**

12.1 The National Planning Policy Framework 2021 encourages new developments to be of a high-quality design that should provide a high quality of amenity for all existing and future occupiers of land and buildings. This is reflected in Core Policy 8 of the Core Strategy and Local Plan Polies EN1 and EN2.

12.2 All of the units would meet the Council's internal space standards, as set out in the Technical Housing Standards 2015.

- 12.3 Each flat has its principal habitable room windows either facing north or south. There are instances of “side” facing windows serving non-habitable rooms i.e. bathrooms and also several secondary high level window openings on the flank of the front roadside block where these would assist in providing additional light to the longer floorplan of the combined living/dining/kitchen rooms.
- 12.4 On the upper floor of the front block some openings are formed by a Cambrio style rooflight. These have a tilt-and-lift mechanism, which comprises a glazed window when shut and creates a balcony area when opened.
- 12.5 On the rear block the upper floor has dormers to the front and rooflights set in the roof plane to the rear.
- 12.6 In terms of the levels of daylight, aspect, and outlook, it is considered that each unit would have satisfactory levels of amenity for future occupiers.
- 12.7 The proposed front block would be served by a “front” entrance direct from the street side and a secondary entrance leading from the communal car parking courtyard. The proposed rear building would have its sole entrance on the northern side facing the communal car parking courtyard. It is recommended that each of the entrances provide level access at the threshold of the block. Accordingly, a condition is set out below at 24.0.
- 12.8 Whilst some units would have some form of private amenity space either in the form of a modest garden or a balcony, several units do not have such access to amenity space. However, the lack of private amenity space for those units is not considered a reason for refusal. Though, this set of proposals would justify a s.106 contribution to the enhancement of the local facilities in accordance with the Council’s Developer Guide, as set out below.
- 12.9 Based on the above, on balance, the living conditions for future occupiers in this case is considered satisfactory and thus to be in accordance with the requirements of the NPPF, Core policy 4 of Council’s Core Strategy, and Policy H11 of the Adopted Local Plan.
- 13.0 **Crime Prevention**
- 13.1 Policy EN5 of the adopted Local Plan states all development schemes should be designed; so, as to reduce the potential for criminal activity

and anti-social behaviour.

- 13.2 The communal accesses would have a good level of natural surveillance within the site. A condition requiring details of the measures to be incorporated to reduce and prevent criminal activity is set out below at 24.0.

#### 14.0 **Highways and Parking**

- 14.1 The National Planning Policy Framework states that planning should seek to promote development that is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Development should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and pedestrians and where appropriate local parking standards should be applied to secure appropriate levels of parking. This is reflected in Core Policy 7 and Local Plan Policies T2 and T8. Paragraph 109 of the National Planning Policy Framework states that *'Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 14.2 It is noted that the site benefits from a satisfactory level of accessibility to a range of public transport and all the facilities for retail, entertainment, employment, education and health. The site is therefore considered to be sustainable.
- 14.3 The scheme entails the formation of a new vehicular access at the western corner of the site adjacent to the boundary with no. 159. Further to detailed discussions this arrangement is acceptable to the Highway Authority.
- 14.4 The proposed scheme would provide 21 car parking spaces with EV charging points. The specification of EV charging points has been agreed with the Slough Environmental Quality Team, as set out in a condition below at 24.0.
- 14.5 The Highway Authority is satisfied by the proposed arrangement, quantum and layout of the parking in terms of circulation and manoeuvrability and given their analysis, as set out above, they consider that the provision would be satisfactory for this specific mix of accommodation.

- 14.6 Cycle storage facilities have been provided and in terms of position and quantum the Highway Authority is satisfied, subject to the specific details of the provision, which will be covered under a condition below at 24.0.
- 14.7 The proposals include an enclosed bin and recycling facility. It is noted that, given the position of this facility, arrangements will have to be made to ensure the bins are moved to a holding area at the front of the site in anticipation of the collection. The Highway Authority has provided a condition to cover this matter, which is set out below at 24.0.
- 14.8 Based on the above, and subject to the conditions set out below, it is considered that the proposals would not lead to severe harm to highways users and thus are considered to be in accordance with the requirements of Policies T2 and T8 of the adopted Local Plan, as well as the provisions of the NPPF.
- 15.0 **Flooding & Drainage**
- 15.1 Core Policy 8 of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document states that development must manage surface water arising from the site in a sustainable manner which will also reduce the risk of flooding and improve water quality.
- 15.2 As set out above, according to the EA flood maps, the site straddles Flood Zones 1, 2 and 3.
- 15.3 Changes in government legislation from April 2015, require major developments to provide measures that will form a Sustainable Drainage System. Sustainable Drainage Systems (SuDS) are an effective way to reduce the impact of urbanisation on watercourse flows, ensure the protection and enhancement of water quality and encourage the recharge of groundwater in a natural way. The National Planning Policy Framework states that the surface run-off from site cannot lead to an increase from that existing. Slough's Strategic Flood Risk Assessment states that surface water should be attenuated to greenfield run-off rates. In the scenario where infiltration techniques are not possible, attenuation will be required in order to reduce surface water run-off.
- 15.4 Submission documentation setting out the applicant's drainage strategy was been forwarded to the Council's consultants, Hampshire CC, who act as the Local Lead Flood Authority. Their response as set out above

includes a condition to ensure the scheme meets with appropriate standards. This is included below at 24.0.

#### 16.0 **Trees & Landscaping**

16.1 The scheme entails a new residential block set in hard and soft landscaping, which would provide limited communal areas. There would be some scope for soft landscaping and some trees could be provided, subject to careful consideration of the specific spacing and choice of species. Overall, it is considered that the scheme would enhance the visual amenity of the area.

16.2 Details of planting and boundary treatments, shall be subject to further consideration pursuant to conditions, as set out below at 24.0.

#### 17.0 **Archaeology/Heritage Issues**

17.1 As reported above, there are no heritage assets nearby and the site does not lie in a conservation area.

17.2 As described above, the site lies close to the heritage assets to the west and east. Furthermore, Berkshire Archaeology has advised that important historical finds have been found at nearby development sites. They continue that “mapping and satellite imagery reveal much of the site has never been previously developed and therefore the archaeological potential of the site remains intact”. So, in accordance with paragraph 205 of the NPPF, a condition is set out below at 24.0 to ensure satisfactory opportunity is taken to investigate the site and record any finds.

#### 18.0 **Land Contamination**

18.1 The site of no.157 (which formerly was the site of a car repair workshop) is recorded as of “High Risk” of potential contamination in the Council’s data base. Accordingly, a thorough review has been undertaken of the application documentation. The Council’s expert has concluded that the report is considered acceptable for this stage of development. As such, appropriate conditions have been recommended. These are included at 24.0 below.

#### 19.0 **Air Quality**

19.1 The application site is not situated within an Air Quality Management Area (AQMA). Therefore, there will not be an unacceptable exposure to air pollution for future occupiers of the development or the users of the surrounding facilities. In the interest of not worsening air quality problems in other parts of the town it will be important, if the proposal is approved, to minimise emissions from travel demand through encouraging non-car modes of travel, which would be enhanced by the scheme's compliance with the Council's requirements for cycle storage facilities and infrastructure for Electric Vehicles.

19.2 Electric charging points have been sought in accordance with the Local Environmental Strategy, which seeks to mitigate air quality concerns from additional traffic and parking. Whilst the Low Emission Strategy does not form part of the Local Development Plan, it is noted that the developer has set out in their Transport Statement that all the 21 spaces will be provided with charging facilities. Accordingly, these will be conditioned as set out below at 24.0.

## 20.0 **s.106 Contributions**

20.1 As set out above, a contribution towards the enhancement of local public space would be required under the terms of the Council's Developer Guide. This amounts to £4800 – based on the figure of £300 per unit.

20.2 The proposals entail the introduction of 16 new dwellings – as such, the scheme triggers financial contributions under the Council's policies towards:

- education. This amounts to £57,623 – based on the figure of £4828 per a two or more bedroom unit and £903 per a one-bedroom unit; and,
- off-site affordable housing. This amounts to £96,560 – based on the mix of 31.25% (one-bed) - 56.25% (two-bed) - 12.5% (three-bed) in a 16 unit development.

## 21.0 **Conclusion relating to Planning Balance**

21.1 In the application of the appropriate balance, it is considered that there are benefits from the formation of sixteen residential units in a sustainable location; so it is suggested that planning permission should be granted in this case. The benefits of supplying sixteen extra units in a tilted balance assessment has been shown to significantly and demonstrably outweigh adverse impacts and conflicts with specific policies in the NPPF.

## **22.0 Equalities Considerations**

22.1 Throughout this report, due consideration has been given to the potential impacts of development, upon individuals either residing in the development, or visiting the development, or whom are providing services in support of the development. Under the Council's statutory duty of care, the local authority has given due regard for the needs of all individuals including those with protected characteristics as defined in the 2010 Equality Act (e.g.: age (including children and young people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In particular, regard has been had with regards to the need to meet these three tests:

- Remove or minimise disadvantages suffered by people due to their protected characteristics;
- Take steps to meet the needs of people with certain protected characteristics; and;
- Encourage people with protected characteristics to participate in public life (et al).

22.2 The proposal would be required to meet with Part M of the Building Regulations in relation to space standards and occupation by those needing wheelchair access. Furthermore, a condition is set out to ensure level thresholds at the entrance to each block.

22.3 It is considered that there will be temporary (but limited) adverse impacts upon all individuals, with protected characteristics, whilst the development is under construction, by virtue of the construction works taking place. People with the following characteristics have the potential to be disadvantaged as a result of the construction works associated with the development e.g.: people with disabilities, maternity and pregnancy and younger children, older children and elderly residents/visitors. It is also considered that noise and dust from construction has the potential to cause nuisances to people sensitive to noise or dust. However, measures under other legislation covering environmental health should be exercised as and when required.

22.4 In conclusion, it is considered that the needs of individuals with protected characteristics have been fully considered by the Local Planning Authority exercising its public duty of care, in accordance with the 2010 Equality Act.

## **23.0 PART C: RECOMMENDATION**

23.1 Having considered the relevant policies set out below, and comments that have been received from consultees and neighbouring occupiers, and all other relevant material considerations, it is recommended the

application be delegated to the Planning Manager:

1) For approval subject to: the satisfactory completion of a s106 agreement to ensure financial contributions towards off-site affordable housing, education and local public open space enhancements, finalising conditions, and any other minor changes.

2) Refuse the application if a satisfactory s106 Agreement is not completed by 30<sup>th</sup> April 2022, unless otherwise agreed by the Planning Manager in consultation with the chair of the Planning Committee.

## 24.0 **PART D: LIST CONDITIONS AND INFORMATIVES**

### 1. Commence within three years

The development hereby permitted shall be commenced within three years from the date of this permission.

REASON To prevent the accumulation of planning permissions, and to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

### 2. Approved Plans

The development hereby approved shall be implemented only in accordance with the following plans and drawings hereby approved.

- (a) Drawing No. 20-19-12 Rev C, Dated June 2021; Recd On 25/10/2021
- (b) Drawing No. 20-19-13 Rev B, Dated June 2021; Recd On 25/10/2021
- (c) Drawing No. 20-19-14 Rev B, Dated June 2021; Recd On 25/10/2021
- (d) Drawing No. 20-19-15 Rev B, Dated June 2021; Recd On 25/10/2021
- (e) Drawing No. 20-19-16 Rev C, Dated June 2021; Recd On 25/10/2021
- (f) Drawing No. 20-19-17 Rev C, Dated June 2021; Recd On 25/10/2021
- (g) Drawing No. 20-19-18 Rev C, Dated June 2021; Recd On 25/10/2021
- (h) Drawing No. 20-19-19 Rev C, Dated June 2021; Recd On 25/10/2021
- (i) Drawing No. 20-19-20 Rev C, Dated June 2021; Recd On 25/10/2021
- (j) Drawing No. 20-19-21 Rev C, Dated June 2021; Recd On 25/10/2021
- (k) Drawing No. 20-19-22 Rev C, Dated June 2021; Recd On 25/10/2021
- (l) Drawing No. 20-19-23 Rev C, Dated June 2021; Recd On 25/10/2021
- (m) Drawing No. 20-19-24 Rev C, Dated June 2021; Recd On 25/10/2021
- (n) Drawing No. 20-19-25 Rev C, Dated June 2021; Recd On 25/10/2021
- (o) Drawing No. 20-19-26 Rev C, Dated June 2021; Recd On 25/10/2021

- (p) Drawing No. 20-19-27 Rev C, Dated June 2021; Recd On 25/10/2021
- (q) Drawing No. 20-19-28 Rev C, Dated June 2021; Recd On 25/10/2021
- (r) FloodSmart Pro (GeoSmart Information) Report Ref: 72383.02, Dated 2020-10-22, Recd On 26/07/2021
- (s) SuDSmart Pro (GeoSmart Information) Report Ref: 72383R1, Dated 2020-02-21, Recd On 26/07/2021
- (t) Transport Statement by i-Transport ref: MC/GT/ITB17186-001B, Dated 20 October 2021, Recd On 29/10/2021
- (u) Written Scheme of Investigation by TigerGeo Ref. CHS211 Version 1.2, Dated October 2021, Recd On 07/10/2021
- (w) Combined Geotechnical and Ground Contamination Risk Assessment Report by Ashdown Site Investigation Limited Ref: P15288 R14955, Dated 15<sup>th</sup> September 2021, Recd On 28/09/2021

REASON To ensure that the site is developed in accordance with the submitted application and does not prejudice the amenity of the area, so as to comply with the Policies in the Development Plan.

### 3. New finishes to building works

The external materials to be used on the development hereby approved shall be as set out on Drawing No. 20-19-12 Rev C, Dated June 2021; Recd On 25/10/2021 and no other materials.

REASON To ensure a satisfactory appearance of the development so as to ensure that the proposed development does not prejudice the visual amenities of the locality in accordance with Policy EN1 of The Adopted Local Plan for Slough 2004.

### 4. New surface treatments

Prior to the commencement of the development hereby approved, the external materials to be used in the construction of the access and circulation roadways, pathways and communal areas within the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority before the scheme is commenced on site and the development shall be carried out in accordance with the details approved.

REASON To ensure a satisfactory appearance of the development so as to ensure that the proposed development preserves and/or enhances the character and appearance of a conservation area and does not prejudice the visual amenity of the locality in accordance with Policy EN1 of The Local Adopted Plan for Slough 2004.

## 5. Drainage (SuDS)

No development shall take place until a detailed surface water drainage strategy has been submitted to and approved by the Local Planning Authority, containing the following elements:

- Where infiltration is used for drainage, evidence that a suitable number of infiltration tests have been completed. These need to be across the whole of the site; within different geologies and to a similar depth to the proposed infiltration devices. Tests must be completed according to the BRE 365 method or another recognised method including British Standard BS 5930:2015.
- If not using infiltration for drainage – Existing and proposed run-off rate calculations completed according to a suitable method such as IH124 or FEH. Information is available from UK Sustainable Drainage: Guidance and Tools. Calculations must show that proposed run-off rates do not exceed the existing run-off rates. This must be shown for a one in one year event plus climate change and a one in one hundred year plus climate change.
- If not using infiltration for drainage – Existing and proposed run-off volume calculations completed according to a suitable method such as IH124 or FEH. Calculations must show that, where reasonable practical, run-off volume should not exceed the greenfield run-off volume for the same event. This must be shown for a one in one hundred year, 6 hour rainfall event.
- Evidence that enough storage/attenuation has been provided without increasing the run-off rate or volume. This must be shown for a one in one hundred year plus climate change event.
- Evidence of Urban creep has been considered in the calculation and that a 10% increase in impermeable area has been used in the calculations to account for this.

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no flood risk on or off site resulting from the proposed development.

## 6. Phase 3 Quantitative Risk Assessment and Site-Specific Remediation Strategy

Development works shall not commence until a Quantitative Risk Assessment (QRA) has been prepared for the site, based on the findings of the intrusive investigation. The risk assessment shall be prepared in accordance with the Land Contamination: Risk Management (LCRM) and Contaminated Land Exposure Assessment (CLEA) framework, and other

relevant current guidance. This must first be submitted to and approved in writing by the Local Planning Authority and shall as a minimum, contain, but not limited to, details of any additional site investigation undertaken with a full review and update of the preliminary Conceptual Site Model (CSM) (prepared as part of the Phase 1 Desk Study), details of the assessment criteria selected for the risk assessment, their derivation and justification for use in the assessment, the findings of the assessment and recommendations for further works. Should the risk assessment identify the need for remediation, then details of the proposed remediation strategy shall be submitted in writing to and approved by the Local Planning Authority. The Site Specific Remediation Strategy (SSRS) shall include, as a minimum, but not limited to, details of the precise location of the remediation works and/or monitoring proposed, including earth movements, licensing and regulatory liaison, health, safety and environmental controls, and any validation requirements.

REASON: To ensure that potential risks from land contamination are adequately assessed and remediation works are adequately carried out, to safeguard the environment and to ensure that the development is suitable for the proposed use and in accordance with Policy 8 of the Core Strategy 2008.

#### 7. Remediation Validation

No development within or adjacent to any area(s) subject to remediation works carried out pursuant to the Phase 3 Quantitative Risk Assessment and Site Specific Remediation Strategy condition shall be occupied until a full Validation Report for the purposes of human health protection has been submitted to and approved in writing by the Local Planning Authority. The report shall include details of the implementation of the remedial strategy and any contingency plan works approved pursuant to the Site-Specific Remediation Strategy condition above. In the event that gas and/or vapour protection measures are specified by the remedial strategy, the report shall include written confirmation from a Building Control Regulator that all such measures have been implemented.

REASON: To ensure that remediation work is adequately validated and recorded, in the interest of safeguarding public health and in accordance with Policy 8 of the Core Strategy 2008.

#### 8. Landscaping

Construction of the building above ground floor level shall not commence on site until details of an arboricultural method statement in conjunction with a detailed bee-friendly landscaping and tree planting scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the trees and shrubs to be retained and/or removed and the type, density, position and planting heights, along with

staking/guying, mulching, feeding, watering and soil quality, of new trees and shrubs, and details of hardsurfaces which shall include compliance with the surface water drainage mitigation as approved under condition 6 of this planning permission.

On substantial completion of the development, the approved scheme of hard landscaping shall have been constructed. The approved scheme of soft landscaping shall be carried out no later than the first planting season following completion of the development. Within a five year period following the implementation of the scheme, if any of the new or retained trees or shrubs should die, are removed or become seriously damaged or diseased, then they shall be replaced in the next planting season with another of the same species and size as agreed in the landscaping tree planting scheme by the Local Planning Authority.

REASON In the interests of the visual amenity of the area and accordance with Policy EN3 of The Adopted Local Plan for Slough 2004 and to ensure that surface water discharge from the site is satisfactory and shall not prejudice the existing sewerage systems in accordance with Policy 8 of the adopted Core Strategy 2006 – 2026.

#### 9. Boundary Treatment

Construction of the building above ground floor level shall not commence on site until details of the proposed boundary treatment including position, external appearance, height and materials of all boundary walls, fences and gates have been submitted to and approved by the Local Planning Authority. The development shall not be occupied until the approved boundary treatment has been implemented on site. It shall be retained at all time in the future.

REASON: In the interests of the visual amenity of the area and to reduce opportunities for crime and anti-social behaviour in accordance with Policies EN1 and EN3 of The Adopted Local Plan for Slough 2004, Core Policies 1 and 8 of the Slough Local Development Framework Core Strategy 2006-2026, and the guidance contained in the Council's Developer's Guide Part 4 (2008) and the National Planning Policy Framework (2021).

#### 10. Bins & Recycling facilities

Construction of the building above ground floor level shall not commence until the details of the proposed designated bin collection area (to include siting, design and external materials) are submitted and approved by the Local Planning Authority. The approved facilities shall be completed, together with the bin store hereby approved in the rear residential block, prior to first occupation of the development and retained for this purpose.

REASON To ensure the development has adequate facilities for storage and collection and in the interests of visual amenity of the site in accordance with Policy EN1 of The Local Plan for Slough 2004.

#### 11. Cycle storage facilities

Construction of the building above ground floor level shall not commence until details of the cycle parking provision (including means of access and security, and cycle stand details) have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with these details prior to the occupation of the development and shall be retained at all times in the future for this purpose.

REASON: To ensure that there is adequate cycle parking available at the site in accordance with Policy T8 of The Local Plan for Slough 2004, and to meet the objectives of the Slough Integrated Transport Strategy

#### 12. Crime Prevention

No development above ground floor slab shall commence until a secure access strategy and secure letter/parcel drop strategy in line with the principles of Secured by Design and in consultation with Thames Valley Police has been submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall not be occupied or used until written confirmation of Secured by Design accreditation has been submitted to the Local Planning Authority. The approved security measures shall be retained thereafter.

REASON In order to minimise opportunities for crime and anti-social behavior in accordance with Policy EN5 of The Adopted Local Plan for Slough 2004 (saved policies) and Core Policies 8 and 12 of the adopted Core Strategy 2006-2026, and the requirements of the National Planning Policy Framework 2021.

#### 13. Boundary wall at the access

No development above ground floor slab shall commence until details of a low boundary wall of maximum height of 600mm shall be submitted to and approved in writing by the local planning authority. The wall indicated on the submitted plans shall be formed prior to the initial occupation of the development hereby permitted and the said boundary wall shall be maintained in its permitted form in perpetuity.

REASON: To prevent over-running of the footway by vehicles and to minimise danger, obstruction and inconvenience to users of the adjoining highway.

#### 14. Archaeological Investigation

The development shall be undertaken in accordance with the approved Written Scheme of Investigation (WSI). The development shall not be occupied until the site investigation and initial post investigation assessment has been completed in accordance with the programme set out in the approved WSI and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In order to ensure adequate opportunity for the proper investigation and recording of the potential archaeological remains at the site in accordance with the requirements of the National Planning Policy Framework 2021.

#### 15. Visibility

No part of the development shall be occupied until the visibility splays of 2.4 metres x 25 metres shown on the approved drawings have been provided on both sides of the access and the area contained within the splays shall be kept free of any obstruction exceeding 600 mm in height above the nearside channel level of the carriageway.

REASON: To provide adequate inter-visibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access.

#### 16. Layout

The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

REASON: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

#### 17. Car Parking Provision

Prior to the development hereby approved first being brought into use, 21 no. car parking spaces shall be provided and made available for use in connection with the residential development and maintained for the

parking of cars thereafter. The car parking spaces shall not be used for any separate business, commercial or residential use.

REASON: In the interests of ensuring that the use benefits from satisfactory car parking provision in the interests of the amenities of the area in accordance with Core Policy 7 of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008.

#### 18. EV Charging facilities

Prior to the first occupation of each unit, the residential car parking provision for the unit shall be provided, to include a 1 electric vehicle charge point per parking space – and a total of 20 electric vehicle charging points. The residential electric vehicle charging points must have a 'Type 2' socket and be rated to at least 3.6kW 16amp 0 7kW 30amp single phase, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure vehicle parking is provided and encourage up-take of electric vehicle use, in accordance with Policy T2 of the Adopted Local Plan (2004), Policies 7 and 8 of the Core Strategy 2008, the guidance contained in the Council's Developer's Guide Part 3 (2008) and the National Planning Policy Framework 2021.

#### 19. Access

Prior to the development hereby approved first being brought into use the new means of access shall be altered in accordance with the approved drawing by i-Transport Drawing No. ITB17186-SK-002-Rev-A, titled '*Proposed Site Access Arrangements*', dated 04/10/2021 and constructed in accordance with Slough Borough Council's Design Guide.

REASON To ensure that adequate access provision is available to serve the development to prevent highway congestion and safety issues and to protect the amenities of the area in accordance with Core Policy 7 and 8 of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008 and Policy T2 of The Adopted Local Plan for Slough 2004 and the requirements of the NPPF 2021.

#### 20. External Site Lighting

No part of the development hereby permitted shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for external site lighting including details of the lighting

units, levels of illumination and hours of use. No lighting shall be provided at the site other than in accordance with the approved scheme.

REASON In the interests of safeguarding the amenities of neighbouring properties and to ensure safer access and use of the shared cycle/pedestrian/motor vehicular areas throughout the site in accordance with Core Policy 8 of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008, Policy EN5 of The Adopted Local Plan for Slough 2004 (saved polices), and the requirements of the National Planning Policy Framework 2021.

#### 21. Level Access

The ground floor entrance doors to the Development shall not be less than 1 metre wide and the threshold shall be at the same level to the paths fronting the entrances to ensure level access. Level thresholds shall be provided throughout the development between the residential units and the external amenity/balconies and the main lobbies.

Reason: In order to ensure the development provides ease of access for all users, in accordance with Policy EN1 of The Adopted Local Plan for Slough 2004, Core Policy 8 of the Slough Local Development Framework Core Strategy 2006-2026, and the guidance contained in the Council's Developer's Guide Part 4 (2008) and the National Planning Policy Framework 2021.

#### 22. Obscured glazing

Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), each of the windows on the flank (side) elevations shall be glazed in obscure glass and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The window(s) shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

REASON To minimise any potential loss of privacy to adjoining land in accordance with Policy H15 of The Adopted Local Plan for Slough 2004.

#### 23. No new windows

Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), no windows, other than those hereby approved, shall be formed in any elevations of the development without the prior written approval of the Local Planning Authority.

REASON To minimise any loss of privacy to occupiers of adjoining residential properties and to ensure the visual character and appearance of the facades are preserved in accordance with Policies EN1 and H15 of The Adopted Local Plan for Slough 2004 and to ensure the development does not prejudice the future development of adjoining lands; so, as to protect the privacy of neighbouring properties and to protect the visual amenities of the area in accordance with Core Policy 8 of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008, Policy EN1 of The Adopted Local Plan for Slough 2004 (saved polices), and the requirements of the National Planning Policy Framework 2021.

INFORMATIVE(S):

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions. It is the view of the Local Planning Authority that the proposed development does improve the economic, social and environmental conditions of the area for the reasons given in this notice; so it is in accordance with the National Planning Policy Framework.

2. Highways

The applicant will need to apply to the Council's Local Land Charges on 01753 875039 or email to [0350SN&N@slough.gov.uk](mailto:0350SN&N@slough.gov.uk) for street naming and/or numbering of the unit/s.

No water meters will be permitted within the public footway. The applicant will need to provide way leave to Thames Water Plc for installation of water meters within the site.

The development must be so designed and constructed to ensure that surface water from the development does not drain onto the highway or into the highway drainage system.

The applicant is advised that if it is intended to use soakaways as the method of dealing with the disposal of surface water then the permission of the Environment Agency will be necessary.

The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding, skip or any other device or apparatus for which a license must be sought from the Highway Authority.

The applicant will need to take the appropriate protective measures to ensure the highway and statutory undertakers apparatus are not damaged during the construction of the new unit/s.

Prior to commencing works the applicant will need to enter into a Section 278 Agreement of the Highways Act 1980 / Minor Highway Works Agreement with Slough Borough Council for the implementation of the works in the highway works schedule. The applicant should be made aware that commuted sums will be payable under this agreement for any requirements that burden the highway authority with additional future maintenance costs.

### 3. Thames Water

#### Waste Comments

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167 & 168 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

#### Water Comments

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](https://thameswater.co.uk/buildingwater).

There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>

The applicant is advised that their development boundary falls within a Source Protection Zone for groundwater abstraction. These zones may be at particular risk from polluting activities on or below the land surface. To prevent pollution, the Environment Agency and Thames Water (or other local water undertaker) will use a tiered, risk-based approach to regulate activities that may impact groundwater resources. The applicant is encouraged to read the Environment Agency's approach to groundwater protection (available at <https://www.gov.uk/government/publications/groundwater-protection-position-statements>) and may wish to discuss the implication for their development with a suitably qualified environmental consultant.

**SLOUGH BOROUGH COUNCIL**

REPORT TO: PLANNING COMMITTEE

DATE: October 2021

**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>
2020/00299/ENF	161, Tamar Way, Slough, SL3 8SZ  Unauthorised Outbuilding	Notice Upheld  2 <sup>nd</sup> September 2021
2018/00098/ENF	146, High Street, Langley, Slough, SL3 8LF  COU to HMO and creation of additional dwelling	Notice Upheld  6 <sup>th</sup> September 2021
P/08040/021	4 - 10A Alexandra Road, Slough, SL1 2NQ  Variation of Condition 6 (Approved Drawings) seeking amendments to the approved drawings comprising the relocation of vehicular access from Alexandra Road to the lower ground floor car park (under 4-10A Alexandra Road), adjustment to the angle of the external wall in the north western corner of the building and associated external works in connection with planning permission (As Amended by Ref: P/08040/004) dated 27th June 1995 for the erection of a supermarket and 9 no. retail shops with a guest house on the first and second floors containing ancillary facilities including 2 no. staff flats, 30 no. bedrooms and offices on the Chalvey Road West/Alexandra Road junction and erection of 10 no. residential units on the Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza.	Appeal Granted  23 <sup>rd</sup> September 2021
2020/00296/ENF	10, Marlborough Road, Slough, SL3 7LH  Unauthorised Outbuilding	Notice Upheld in Part  30 <sup>th</sup> September 2021
P/05413/006	2A, Chestnut Avenue, Slough, SL3 7DE  Lawful development certificate for a proposed side dormer extension to existing roof.	Appeal Granted  20 <sup>th</sup> October 2021





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## Appeal Decisions

Site visit made on 25 August 2021

by **Stephen Hawkins MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> September 2021

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**Appeal A Ref: APP/J0350/C/21/3272428**

**Appeal B Ref: APP/J0350/C/21/3272429**

**Land at 161 Tamar Way, Slough SL3 8SZ**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs Ravinder Kaur (Appeal A) and Mr Jagjit Singh Sandhu (Appeal B) against an enforcement notice issued by Slough Borough Council.
- The enforcement notice was issued on 1 March 2021.
- The breach of planning control as alleged in the notice is without planning permission, erection of an outbuilding.
- The requirements of the notice are: (i) Demolish the outbuilding in its entirety; (ii) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirement.
- The period for compliance with the requirements is: (i) Six months after the notice take (*sic*) effect.
- Appeals A and B are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.**

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### Preliminary Matters

1. At s173(1)(b), the Act provides that an enforcement notice shall state the relevant paragraph of s171A(1) within which, in the opinion of the Council, the alleged breach of planning control falls. Paragraph (a) is appropriate where the breach consists of carrying out development without the required planning permission. Paragraph (b) is relevant where the breach is a failure to comply with a condition or limitation of a planning permission. As the allegation is the erection of an outbuilding without planning permission, the reference to s171A(1) paragraph (b) in paragraph 1 of the notice is in error. However, I am satisfied that, using the power available under s176(1)(a) of the Act, the notice can be corrected to refer to paragraph (a) without causing injustice.
2. The period for compliance with the requirement at paragraph 5 (i) of the notice is specified in paragraph 6 (i). No equivalent period for compliance is specified in respect of the requirement at paragraph 5 (ii). Given that a period for compliance is specified in relation to at least part of the requirements, s173(9) of the Act is complied with. Therefore, the notice is not a nullity. However, I do not intend to vary the notice to specify a compliance period in respect of the paragraph 5 (ii) requirement. This would cause injustice, as the appellants

would then be in a worse position than if they had not made appeals and had instead complied with the notice as issued.

3. As neither of the appeals were made on ground (a), there is no deemed planning application in respect of the outbuilding. Consequently, planning merits considerations are not before me.

### **Appeals A and B-Ground (c) appeals**

4. The ground of appeal is that the matter alleged in the notice does not constitute a breach of planning control. It is for the appellants to show that their appeals should succeed on this ground, the relevant test of the evidence being on the balance of probability.
5. The appeal site contains a mid-terrace dwelling. The front elevation faces towards a public open space, whilst a communal service road runs at the rear. The outbuilding in these appeals has been erected across the end part of the rear garden, adjacent to the service road. The outbuilding is in the course of construction and has unfinished masonry walls with a flat roof. There is a garage style door opening together with a pedestrian doorway in the service road elevation. There is another pedestrian doorway together with two window openings in the elevation facing towards the rear elevation of the dwelling. A flat roof canopy runs across the elevation facing the rear of the dwelling. At the time of my visit, the interior of the outbuilding contained building materials and equipment.
6. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) at Article 3, Schedule 2, Part 1, Class E permits the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool which is required for a purpose incidental to the enjoyment of the dwelling as such, subject also to, amongst other matters, the relevant limitations on the size, height and location of such structures in paragraph E.1 not being exceeded.
7. According to the Courts, when assessing whether a building is required for a purpose incidental to the enjoyment of the dwelling, 'required' should be interpreted as 'reasonably required' and should not rest on the unrestrained whim of a householder. Consequently, it is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and evaluate whether the outbuilding is genuinely and reasonably required in order to accommodate the proposed use or activity and thus achieve that purpose.
8. In the context of a dwelling, an incidental use would generally be regarded as a subordinate activity connected with the running of the dwelling or with the domestic or leisure activities of the persons living in it but would not include use as primary living accommodation. It is mainly for the occupiers of a dwelling to determine what incidental purposes they propose to enjoy, subject to a test of reasonableness. The Government's Technical Guidance<sup>1</sup> advises that structures falling within Class E can include common buildings such as garden sheds, other storage buildings, garages and garden decking as long as they can properly be described as having a purpose incidental to the enjoyment of the dwelling.

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<sup>1</sup> Permitted development rights for householders Technical Guidance: MHCLG September 2019.

9. The intended use of the outbuilding is described as a garage. Nevertheless, at around 4.4 m its internal depth is relatively limited. The internal depth is well below the 5 m minimum requirement for a garage, set out in the Council's Residential Extension Guidelines Supplementary Planning Document<sup>2</sup>. As a result, I have reservations over whether a vehicle could physically be accommodated. Also, given the relatively limited width of the carriageway in front of the outbuilding, I am not convinced that entering and egressing the garage with a vehicle is likely to be a straightforward affair, especially if vehicles were parked nearby on the service road. Garages erected at adjacent residential properties have been set back deeper into rear gardens further from the service road, probably in part to facilitate the ease of manoeuvring by vehicles. These factors reinforce my doubts over whether the outbuilding has a practical utility as a garage.
10. Additionally, the outbuilding is considerably wider than the garage door opening. This means that the outbuilding has an overall internal floor area which is significantly in excess of that which is likely to be reasonably necessary if the sole intended purpose is in fact to accommodate a vehicle. Whilst part of the outbuilding would also seem to be intended for use as a covered thoroughfare leading to the dwelling, the appellants did not explain any intended purpose for which the outbuilding would be used, other than as a garage.
11. Given the above factors, I am not persuaded that the outbuilding is genuinely and reasonably required for a purpose or purposes which are incidental to the enjoyment of the dwelling. The appellants have not advanced any meaningful evidence which might have led me towards a different conclusion.
12. The outbuilding does not exceed the relevant size and locational limitations in Class E at paragraph E.1 (b)-(d). Even so, the outbuilding is within 2 m of the site boundaries and the highest part of the roof is around 2.6 m above ground level. Therefore, the outbuilding exceeds the 2.5 m limitations on the overall height and the height of the eaves, at paragraph E.1 (e) (ii) and paragraph (f) respectively. The GPDO does not provide any margin for deviation; either a development falls within the relevant limitations or it does not, in which case planning permission is not granted. Where a limitation in the GPDO is exceeded the whole development is unlawful, not just the element in excess of the permitted limit.
13. As there is no express grant of planning permission in respect of the outbuilding, it is unauthorised. Although an application for planning permission was submitted, I am given to understand that it was refused by the Council on 2 February 2021<sup>3</sup>.
14. Therefore, the outbuilding is in breach of planning control; the appellants have been unable to show otherwise and the ground (c) appeals fail.

## **Conclusion**

15. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

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<sup>2</sup> Guideline EX41, page 27.

<sup>3</sup> Council Ref: P/19127/000.

**Formal Decision**

16. It is directed that the enforcement notice is corrected by deleting “paragraph (b)” in paragraph 1 and substituting it with “paragraph (a)”. Subject to the correction the appeals are dismissed and the enforcement notice is upheld.

*Stephen Hawkins*

INSPECTOR



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## Appeal Decision

Site visit made on 25 August 2021

**by Stephen Hawkins MA MRTPI**

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

**Decision date: 6<sup>th</sup> September 2021**

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**Appeal Ref: APP/J0350/C/20/3262847**

**Land at 146 High Street, Langley, Slough SL3 8LF**

- 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 Ms Victoria Yao against an enforcement notice issued by Slough Borough Council.
- The enforcement notice was issued on 12 October 2020.
- The breach of planning control as alleged in the notice is (i) Without planning permission, the material change of use of the land from use as a single dwellinghouse to use as nine self-contained flats ("unauthorised use"). (ii) Without planning permission, the erection on the land of a single storey side extension shown edged green on an attached plan and an attached front timber structure on the front elevation shown edged yellow on an attached plan ("unauthorised works").
- The requirements of the notice are: Unauthorised use-(i) Cease the use of the dwellinghouse on the land as nine self-contained flats and return the dwellinghouse to its lawful use as a single dwellinghouse. (ii) Remove all kitchens, kitchenettes and cooking facilities in full from each of the nine self-contained flats but leave one kitchen remaining in the dwellinghouse. (iii) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with paragraphs (i) and (ii) above. Unauthorised works-(iv) Demolish the single storey side extension and the attached front timber structure on the front elevation. (v) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with paragraph (iv) above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(c),(f) and (g) 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.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.**

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### Preliminary Matters

1. Step (i) of the enforcement notice requires the use as nine self-contained flats to cease, whilst step (ii) requires the removal of kitchens, kitchenettes and cooking facilities from each of the nine self-contained flats. However, the number of flats enforced against is already clearly set out in the allegation. Therefore, specifying the precise number of flats in the requirements is unnecessary. It may also lead to uncertainty as to what the notice actually requires. Consequently, I intend to correct the notice by deleting the reference to the number of self-contained flats from the requirements at steps (i) and (ii). The requirements would be sufficiently precise; the appellant would be in

no doubt as to what they had to do to comply with the notice. I am satisfied that there would be no injustice.

2. As there is no deemed planning application arising from a ground (a) appeal, planning merits considerations can have no bearing on my decision.

### **Ground (c) appeal**

3. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
4. The appeal site contains a detached residential building with single storey extensions to the side and front. There was no dispute that the lawful use of the building is as a single dwellinghouse and that the use as nine self-contained flats in the allegation is in breach of planning control. Further, there was no dispute that in respect of the side and front extensions also attacked by the notice, the latter had been erected in breach of planning control. I have found no reason to come to a different conclusion on these matters. The ground (c) appeal is therefore limited to the side extension. It is for the appellant to show that their appeal on this ground should succeed, the relevant test of the evidence being on the balance of probability.
5. Erection of the side extension clearly involved building operations falling within the definition of development at s55(1) of the Act. Planning permission is required for the development of land, having regard to s57(1) of that Act. The appellant submitted that the side extension was authorised by the GDPO<sup>1</sup> which, at Article 3, Schedule 2, Part 1 Class A, grants planning permission for the enlargement, improvement, or other alteration of a dwellinghouse, subject to the relevant size and locational limitations and conditions of that Class being met. I was referred to an LDC<sup>2</sup> issued under s192 of the Act by the Council in November 2015 for a proposed single storey side extension<sup>3</sup>. According to the appellant, the side extension was erected between April and June 2017. Extracts from the Council's Building Control records show that building operations were undertaken at the site during the above period.
6. A small House in Multiple Occupation (HMO), whether within Use Class C4<sup>4</sup> or otherwise, is not prevented from being a single dwellinghouse for the purposes of the GPDO. Even so, there was little evidence to suggest that erection of the side extension and any associated internal works were undertaken other than to create a separate self-contained unit of living accommodation. For example, there was no witness account or contemporaneous documentation which showed that the side extension had been used as part of the HMO following its erection.
7. During my visit, I observed what were in effect two separate, self-contained residential units in the side extension. When a Council Officer visited the site on 1 May 2018, around a year after the side extension was erected, they recorded that it contained a living and sleeping area and kitchen as well as bathroom facilities and was functionally separate from the rest of the building. As it was also noted that an interconnecting door had been sealed off, it is highly likely that the accommodation was also physically separate from that in

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

<sup>2</sup> Certificate of lawfulness of proposed use or development.

<sup>3</sup> Council Ref: P/03578/007.

<sup>4</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended).

the rest of the building. Given that the side extension had been substantially completed only a relatively short time before, it would in my view be surprising if erection of that structure and installation of the facilities observed during the Council Officer's visit had not been part of a single continuous building operation. In correspondence with the Council dated 21 May 2018, the appellant described the purpose of erecting the side extension as being for herself and her daughter to move into, to increase the number of tenants in the building. This reinforces my view of it being more likely that the side extension was erected as separate self-contained living accommodation. As a result, the available evidence does not support the appellant's claim of the side extension being erected in association with the use of the building as an HMO.

8. Moreover, as built the side extension is materially wider and higher than that shown on the drawings accompanying the LDC application. The width of the original building is around 8 m, whilst the side extension is almost 5 m wide. Consequently, the width of the side extension is greater than half the width of the original dwellinghouse, exceeding the size limitation at paragraph A.1 (j) (iii) of Class A. It follows that the side extension cannot be permitted by Class A in any event. No grant of express planning permission for the side extension was drawn to my attention.
9. Therefore, the appellant has been unable to show to the required standard that the side extension does not constitute a breach of planning control and the ground (c) appeal fails.

### **Ground (f) appeal**

10. The ground of appeal is that the requirements of the notice are excessive.
11. At s173(4), the Act provides that the purpose of an enforcement notice can be to remedy the breach of planning control, including by discontinuing any use or restoring the land to its condition before the breach took place, or to remedy any injury to amenity that has been caused by the breach. Although the notice does not state as such, its purpose must be to remedy the breach. The notice requires nothing less than cessation of the unauthorised use together with the total removal of the facilitating works to restore the site to its condition before the breach took place. The requirements set out in the notice would achieve exactly that purpose.
12. Varying the notice to require something less than the demolition of the side and front extensions would not restore the site to its condition before the breach took place. A requirement to submit a further LDC application would leave the side extension in place. Such a requirement also risks being found to be uncertain, as the appellant could not tell from the notice what they needed to do to remedy the breach. Further, it fails to address what would happen if that application were to be unsuccessful. For similar reasons, more or less the same conclusions would apply to requiring the submission of a planning application for the front extension. Additionally, the requirement to remove the materials and so on resulting from the remedial works does not exceed what is reasonable for remedying the breach.
13. Be that as it may, I am mindful that following compliance with the notice the building would revert to use as a single dwellinghouse and it could therefore be enlarged with the planning permission granted by the GPDO at Article 3, Schedule 2, Part 1, Class A. The LDC provides clear evidence that in the event

the side extension was to be totally demolished, a smaller side extension could then be erected which met the relevant limitations and conditions of Class A. A replacement side extension could be erected more or less immediately following demolition of the existing structure. There is no sound reason to think that the appellant would not seek to erect such an extension, for example to replace some of the internal space lost due to the remedial works. As a result, erecting a smaller replacement side extension under Class A following the remedial works represents a realistic fallback position.

14. The Act at s173(4) also provides for remedying the breach by making any development comply with the terms, including conditions and limitations, of any planning permission granted in respect of the land. This includes where that permission is granted by the GPDO. The side extension could be modified so that it did not exceed the size limitations of Class A. The drawings accompanying the LDC application show how the side extension could be altered and reduced in size to meet the limitations and conditions of Class A. This would bring the side extension within what would otherwise be permitted by that Class. Requiring alteration and reduction in the size of the side extension as an alternative remedy would be sufficiently clear for there to be no uncertainty as to what must be done to comply with the notice. Therefore, having regard to the fallback position of what could otherwise be achieved under Class A, reducing the size of the side extension so that it complied with the planning permission granted by the GPDO represents an obvious alternative which would overcome the planning difficulties at less cost and disruption than total demolition.
15. For the above reasons, whilst I find that the requirements are not excessive, I shall vary the notice as set out above to provide an alternative remedy to part of the breach and the ground (f) appeal succeeds to that extent.

### **Ground (g) appeal**

16. The ground of appeal is that the time specified for complying with the requirements of the notice falls short of what should reasonably be allowed.
17. The appellant and the tenants of the building have been aware throughout this appeal that the notice will come into effect and that the requirement to cease the use as self-contained flats will be upheld. Also, Government restrictions on movement and social contact associated with the COVID-19 pandemic have been eased since the appeals were made. Nevertheless, those restrictions were in place for several months following the issue of the notice. As a result, it is unlikely that the tenants would have been able to source and secure suitable alternative accommodation for much of that time. COVID-19 related legislation meant that prior to 31 May 2021, the tenants could reasonably have expected at least six months' notice from the appellant before any possession proceedings were commenced. My understanding is that the appellant would currently following termination of the tenancies still be required to give at least four months' notice in respect of possession proceedings.
18. The remedial works involved would generally be relatively small-scale and straightforward operations for an experienced small building contractor. Whilst the unauthorised use has to cease before the remedial works are carried out, that does not mean that actions cannot be taken such as securing any necessary finance, sourcing and securing a suitable contractor and arranging for the remedial works to be carried out. There was no firm evidence of any

specific difficulties currently being encountered in terms of securing the services of a suitable contractor, or of extensive delays in their availability to undertake work. To my mind, the length of time involved in undertaking the above actions, together with having the remedial works carried out, is unlikely to exceed more than a few months. This would remain the case if a new kitchen facility would also have to be provided on the ground floor. Even so, this means that the time involved in carrying out the remedial works together with that associated with ceasing the unauthorised use is likely to make complying with the notice in six months somewhat challenging. Due to the lack of certainty, it is not appropriate to rely on the Council varying the notice to extend the compliance period.

19. Taking the above matters into account, extending the time for compliance to nine months in respect of the totality of the requirements would allow the tenants a more reasonable period in which to find suitable alternative accommodation. It would also allow the appellant a more reasonable timeframe in which to secure any necessary finance, as well as to arrange for and have the remedial works carried out. Furthermore, it would provide some scope to absorb any unforeseen delays or disruption caused by the continuing effects of the pandemic. This would therefore strike a more appropriate balance between remedying the planning harm identified in the notice as soon as practicable, whilst also giving appropriate weight to the circumstances of the appellant and her tenants. In reaching this conclusion however, I also find that extending the compliance period to twelve months would perpetuate the breach and the planning harm identified.
20. For the reasons given above I conclude that a reasonable period for compliance would be nine months and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

### **Conclusion**

21. For the reasons given above, the ground (c) appeal does not succeed and I shall uphold the enforcement notice with a correction and variations.

### **Formal Decision**

22. It is directed that the enforcement notice is corrected by:

- Deleting the following text-*"nine (9)"* in steps (i) and (ii) at paragraph 5.

And varied by:

- After step (iv) at paragraph 5 insert the following step (iv) (a):

*"Or, as an alternative to the step at paragraph 5 (iv) above, demolish the attached front timber structure on the front elevation (as shown edged yellow on the plan attached to the enforcement notice) and alter and reduce the size of the single storey side extension (as shown edged green on the plan attached to the notice), to include reducing the width so that it does not exceed more than half the width of the original dwellinghouse, to make it comply with the terms, including the conditions and limitations, of the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) at Article 3, Schedule 2, Part 1, Class A."*

- At step (v) add at the end of the sentence "*or paragraph 5 (iv) (a) above*".
- The deletion of "*six months*" in paragraph 6 and the substitution of "*nine months*" as the period for compliance.

23. Subject to the correction and variations the appeal is dismissed and the enforcement notice is upheld.

*Stephen Hawkins*

INSPECTOR



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## Appeal Decision

Site visit made on 29 June 2021

**by D Szymanski BSc (Hons) MA MRTPI**

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

**Decision date: 22<sup>nd</sup> September 2021**

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### **Appeal Ref: APP/J0350/W/19/3243603**

#### **4 - 10A Alexandra Road, Slough SL1 2NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by AA & Sons Ltd. against Slough Borough Council.
  - The application Ref P/08040/021 is dated 30 April 2019.
  - The application sought planning permission for the consolidation of planning application P/08040/001, and DOE appeal decision ref no T/APP/V0320/A/92/204598/P7, dated 22 October 1992, with minor adjustments to internal alterations, changes to fenestration and infill adjustment to south elevation, together with the relaxation of condition 12 of planning permission P/08040/001, without complying with a condition attached to planning permission Ref P/08040/004, dated 27 June 1995.
  - The condition in dispute is No 6 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) Drawing No 2083/33A Dated May 1995
    - b) Drawing No 2083/34A Dated May 1995
    - c) Drawing No 2083/35A Dated May 1995
    - d) Drawing No 2083/36A Dated May 1995
    - e) Drawing No 2083/37 Dated May 1995
    - f) Drawing No 2083/30 Dated May 1995
    - g) Drawing No 2083/31 Dated May 1995
    - h) Drawing No 2083/32A Dated May 1995
    - i) Drawing No 0961/10 Rev B – relating to car parking
    - j) Drawing No 0961/11 Rev B – relating to car parking
    - k) Drawing No 0961/24 Rev D – relating to car parking
  - 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.
  - This decision supersedes that issued on 20 October 2020. That decision on the appeal was quashed by order of the High Court.
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### **Decision**

1. The appeal is allowed, and planning permission is granted for Variation of Condition 6 (approved drawings) seeking amendments to the approved drawings comprising the relocation of vehicular access to the lower ground floor car park (under 4-10A Alexandra Road), adjustment to the angle of the external wall in the north western corner of the building and associated external works in connection with planning permission (as amended by Ref:

P/08040/004) dated 27 June 1995 for the erection of a supermarket and 9 no. retail shops with a guest house on the first and second floors containing ancillary facilities including 2 no. staff flats, 30 no. bedrooms and offices on the Chalvey Road West/Alexandra Road junction and erection of 10 no. residential units on the Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza at 4 - 10A Alexandra Road, Slough SL1 2NQ, in accordance with the terms of application Ref P/08040/021, dated 30 April 2019, subject to the conditions in the attached Schedule.

### **Application for costs**

2. An application for costs was made by AA & Sons Ltd against Slough Borough Council. This application is the subject of a separate Decision.

### **Background & Procedural Matters**

3. A Consent Order (CO) issued by the High Court on 26 March 2021 quashed the appeal decision dated 20 October 2020 and costs decision of the same date. The quashed decision letter concluded that the permission sought to be varied (Ref P/08040/004 (004) dated 27 June 1995) did not include all development permitted by permission Ref P/08040/001 (001) dated 7 June 1991. Therefore, permission could not be granted as sought by the appellant. However, the CO declared that planning permission Ref 004, includes all development permitted by planning permission 001 including "the erection of 10 no. residential units on the Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza". Notwithstanding the reference to the continued absence of a definitive red line plan, the Council has not provided any additional substantive evidence that would lead me to come to a different view to that set out in the CO.
4. It is argued by the Council that permission 001 has lapsed. However, permission 004 included a fresh 5 year implementation period. At my visit the largest building labelled Alexandra Plaza was present on site. It appeared in accordance with the approved plans and appeared of an age that the building works would have been implemented within the timescale required by permission 004. There is no substantive evidence to the contrary. I have considered the appeal on this basis.
5. The description of development in the banner heading above is taken from the planning application form. The validation letter and the CO sets out a revised description that I agree with, subject to the omission of access 'from Alexandra Road' given the access to the underground parking area is to be taken from the car park and not Alexandra Road.
6. Therefore, I have considered this proposal as 'Variation of Condition 6 (approved drawings) seeking amendments to the approved drawings comprising the relocation of vehicular access to the lower ground floor car park (under 4-10A Alexandra Road), adjustment to the angle of the external wall in the north western corner of the building and associated external works in connection with planning permission (as amended by Ref: P/08040/004) dated 27 June 1995 for the erection of a supermarket and 9 no. retail shops with a guest house on the first and second floors containing ancillary facilities including 2 no. staff flats, 30 no. bedrooms and offices on the Chalvey Road West/Alexandra Road junction and erection of 10 no. residential units on the

Alexandra Road frontage with car parking and servicing on the land at the rear of Alexandra Plaza'. This is reflected in the decision paragraph above.

7. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council subsequently provided an appeal statement setting out its position in respect of the scope of 004 and other concerns with the proposals. I have had regard to these and the representations by interested parties in setting out the main issue below.
8. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the appellant the opportunity to comment upon the implications of this.

### **Main Issue**

9. The main issue in this appeal is whether the proposed development would provide a safe and suitable access for all modes of transport.

### **Reasons**

10. This application seeks to amend aspects of the approved development by substituting and adding to the approved drawings listed in condition 6 of permission 004, to amend the layout of a terrace of flats. The flats form part of a wider permission area which included the erection of a now constructed mixed-use building. The proposed alterations to the flats would not change the number of units or the appearance of the Alexandra Road elevation as previously approved. However, amongst other things it would modify the north of the approved terrace by cutting back the side wall to align with the existing access road, consequently reducing the floor area of two of the flats, and the external space associated with some of the properties. The underground parking access would be moved to the rear rather than as approved on the side of the access road.
11. The Council and Highway Authority raised a number of questions in relation to initially submitted proposals, which the appellant has responded to with revisions and clarifications. These were understood to have been submitted in August 2019, since which time the Council and the Highway Authority has had further time to respond before the appeal was lodged, as well as during the appeal and re-determination process. However, I see no further objections from the Council or the Highway Authority in respect of the revised plans and clarified matters.
12. The revised plans indicate the width of the access ramp would be sufficient for two vehicles to pass and there would be 2.4m x 2.4m visibility splays from the ramp. The proposals appear acceptable in this regard. The Council has not objected to the revised proposals in respect of these matters, demonstrated any harm, or provided adopted documents containing relevant standards. Therefore, I have no reason to find the proposals unsatisfactory. I have not been provided with any standards for the internal height of the car park, but 2.1m would appear to be adequate to accommodate most types of vehicles and persons intending to use the spaces.
13. Details of ducting have not been provided, but there is nothing of substance before me demonstrating that such installations would need to materially impinge upon the internal space in any significant way. Based upon the evidence before me, the basement walls and supports appear adequate to

support the dwellings. The revised underground layout would meet the specified minimum internal width and provide adequately sized parking spaces set out in the Highway Officer consultation response. In-light of this I no longer see the need for internal tracking to be provided. There are 14 Cambridge bicycle stands proposed with adequate circulation space which could be accessed via the pedestrian steps or vehicular ramp.

14. The appeal site is well located for access to services, facilities, and public transport. Therefore, this may suppress demand for parking from new residents. Alexandra Road and some surrounding roads are Controlled Parking Zones. While my visit can only represent a brief snapshot in time, there was plenty of on-street parking available at my visit and there is no substantive evidence this was untypical. There is also no substantive evidence demonstrating parking stress in the area in the evidence before me. Therefore, I see no reason the proposed modifications would result in any harmful effects having regard to on-street parking.
15. Electronic pedestrian gates and roller shutters would provide secure and controlled access to the underground parking area. Plans of the entire surface car park indicate the refuse storage is proposed on an existing trolley parking area. The specification and capacity of the refuse storage area is not clear, and neither is the location of the revised trolley parking. While I am advised the location of trolley parking is controlled by condition under Ref P/08040/020, based upon the evidence before me there is a conflict between that permission and this appeal scheme. However, these matters could be addressed through planning condition 5 in the attached schedule.
16. The appellant has clarified they are not intending to alter the vehicular access from Alexandra Road, the details of which are shown on plan/drawing Ref P-19 Rev A approved under permission Ref P/08040/020 that I have been provided with. There are no further concerns raised by the Highway Authority in this regard. Therefore, I see no reason why the previously approved footway and splays would not be adequate.
17. Moving the underground access from the north of No 4A into the car park and cutting back of the external wall would widen the access road. It would also avoid the need for vehicles to stop close to the Alexandra Road access for any vehicles entering and leaving the underground access. Therefore, the proposals would be likely to result in improved operation of the access from Alexandra Road and would overall, reduce the potential for congestion. I see no substantive evidence that the dwellings and associated vehicle movements would result in any discernible adverse effects upon the local highway network.
18. For the reasons set out above the proposed development would provide a safe and suitable access for all modes of transport. I have not been provided with any relevant up to date development plan policies. However, the development would be compliant with paragraphs 110, 111 and 112 of the Framework. In combination and amongst other things these require that development takes opportunities to promote sustainable transport, achieves a safe and suitable access for all users, is only refused on highway grounds if there would be an unacceptable impact upon highway safety or the residual cumulative impacts on the road network would be severe, and, create places that are safe, secure, and attractive which minimise the scope for conflicts.

## **Other Matters**

19. The development would reduce the floor area of two flats and some of the external space of some dwellings. However, they would retain an element of useable private outdoor space that would be adequate for the type, scale and location of dwellings proposed, as well as adequate indoor space. I am not provided with any substantive evidence demonstrating it would be insufficient, result in harmful living conditions for future occupiers or would result in overcrowding, and there is no objection from the Council in this regard. Therefore, I conclude no significant adverse effects would result from this aspect of the development. It would provide a good level of natural surveillance to the front and rear, so I have no grounds to conclude the development would result in conditions that could increase crime or anti-social behaviour.
20. Given the proximity of the development to neighbouring residential properties, the existing parking area, and the duration and scale of the build, a Construction Management Plan (CMP) would ensure that construction and deliveries could be managed to an acceptable level. The alterations to these previously approved dwellings, would not be likely to result in any material increase in noise, disturbance, or perceptible change in air quality once complete so I find no material harm in this regard. The existing commercial units are the subject of conditions 12 and 13 of permission Ref 004 which I have transposed into the conditions below. Subject to their re-imposition, I can see no reason why allowing this appeal would result in any materially greater adverse effect upon the living conditions of neighbouring and future occupiers from the existing commercial units.
21. The dwellings would retain the same overall height and front fenestration to those previously approved. Given the distance to neighbouring properties the development would not result in harmful living conditions to neighbouring or future occupiers in respect of privacy, overlooking or overshadowing. The development would be of a scale, design, and appearance in keeping with other dwellings to the south and east and the neighbouring commercial development to the north. Therefore, it would be in keeping with, and would not be harmful to the character and appearance of the area or constitute overdevelopment.

## **Conditions**

22. Allowing this appeal creates a new standalone planning permission. As the development has commenced a commencement condition is not necessary. A plans condition is necessary to ensure the development hereby permitted is undertaken in accordance with the approved plans. The appellant has agreed the materials and boundary conditions should be pre-commencement. I have made minor modifications to the wording of the former to ensure it relates to the proposed dwellings and is enforceable.
23. The parties are in agreement that previous conditions 3, 4, 5, 8 and 15 would not be required in respect of the access, treatment of surface roads and landscaping. Therefore, having regard to the scope of this scheme, I have not imposed these conditions.
24. In the interests of the living conditions of neighbouring occupiers and highway safety it is necessary to impose a condition to secure a CMP. While there is an existing condition in respect of refuse, I do not consider the proposals

submitted are sufficiently detailed and it does not make provision for the relocation of the existing trolley parking area. Therefore, the condition I have imposed is necessary in the interests of the character and appearance of the area and the safe and satisfactory operation of the site.

25. I have re-imposed previous planning conditions in respect of the parking and turning area, display of goods, hours of use and deliveries at the site as these are necessary in the interests of the satisfactory operation of the site and the living conditions of neighbouring and future occupiers.
26. The Planning Practice Guidance advises that informative notes do not carry any legal weight. The matters relating to construction works are addressed by the CMP I have sought through the new planning condition. I have sought the views of the parties in respect of the planning obligation dated 20 May 1991, which given its wording I do not consider would be linked to this appeal scheme. The parties agree that the obligation does not need to be linked to the appeal scheme, which based upon the evidence before me, is a view I share.

### **Conclusion**

27. I have been provided with no relevant policies of the development plan, and I have been offered no substantive evidence demonstrating a conflict with its provisions. I find the development would be compliant with the relevant provisions of the National Planning Policy Framework. Therefore, I conclude that the appeal should be allowed, and planning permission is granted.

*Dan Szymanski*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby approved shall be carried out only in accordance with the following plans and drawings:
  - a) Drawing No 2083/33A Dated May 1995;
  - b) Drawing No 2083/34A Dated May 1995;
  - c) Drawing No 2083/35A Dated May 1995;
  - d) Drawing No 2083/36A Dated May 1995;
  - e) Drawing No 2083/37 Dated May 1995;
  - f) Drawing No 2083/30 Dated May 1995;
  - g) Drawing No 2083/31 Dated May 1995;
  - h) Drawing No 2083/32A Dated May 1995;
  - i) Drawing No 0961/10 Rev B – relating to car parking;
  - j) Drawing No 0961/11 Rev B – relating to car parking;
  - k) Drawing No 0961/24 Rev D – relating to car parking;
  - l) Drawing No P-01 Rev A;
  - m) Drawing No P-02;
  - n) Drawing No P-03;
  - p) Drawing No P-05 Rev A;
  - q) Drawing No P-06;
  - r) Drawing No P-07;
  - s) Drawing No P-08 Rev A; and,
  - t) Drawing No P-09.
- 2) Samples of external materials to be used on the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority before the construction of the dwellings is commenced on site. The development shall be carried out in accordance with the approved details.
- 3) Before the development hereby permitted is commenced, a suitable means of enclosure shall be erected along the site boundaries, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 4) The parking spaces and turning area shown on the deposited plans 0961/10 Rev A, 0961/11 Rev B and 0961/24 Rev D hereby submitted as previously approved shall be constructed before any part of the development is occupied or within such longer period as may be approved by the Local Planning Authority and shall thereafter be maintained exclusively for that purpose in a useable condition to the satisfaction of the Local Planning Authority.
- 5) Notwithstanding the submitted plans, prior to the occupation of any dwelling, details of the proposed bin & recycling storage to serve the development of 4-10A Alexandra Road, together with details of the trolley park, (to include siting, design, and external materials) shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be completed prior to first occupation of the development and retained for the approved purpose.

- 6) No demolition or development shall commence on the site of 4-10A Alexandra Road until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of the provision to be made to accommodate all site operatives, visitors and construction vehicles loading (to a minimum Euro 6/VI Standard), off-loading, parking, and turning within the site, wheel cleaning facilities during the construction period and machinery to comply with the emission standards in Table 10 in the Low Emission Strategy guidance. The CMP shall thereafter be implemented as approved before development begins and be maintained throughout the duration of the construction works period.
- 7) At all times during the hours that the retail shops on Chalvey Road West are open to the public, the car parking area at the rear of the building shall be made available for customers' vehicles.
- 8) No goods shall be displayed or sold from the forecourt or from the car park.
- 9) Unless otherwise agreed in writing by the Local Planning Authority the ground floor shops, except for the supermarket and Unit One (as identified on Drawing No. 2083/32A), shall be open to the public only between the hours of:-  
10.00 to 13.30 on Sundays;  
08.00 to 21.00 on Fridays; and,  
08.00 to 19.00 on other days of the week.  
  
The supermarket shall be open to the public only between the hours of:  
07.30 to 21.00 on Fridays; and,  
07.30 to 19.30 on all other days of the week.  
  
Unit One, as identified on Drawing No. 2083/32A shall be open to the public only between the hours of:  
06:00 to 20.00 on all days.
- 10) Unless otherwise agreed in writing by the Local Planning Authority there shall be no deliveries or servicing within the car park or service bay between the hours of:-  
Before 07.00 or after 21.00 on Mondays to Saturdays.  
Before 07.00 or after 13.30 on Sundays or Bank Holidays.

**End of Schedule.**



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## Appeal Decision

Site visit made on 1 September 2021

**by Stephen Hawkins MA MRTPI**

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

**Decision date: 30<sup>th</sup> September 2021**

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**Appeal Ref: APP/J0350/C/21/3277190**

**Land at 10 Marlborough Road, Slough SL3 7LH**

- 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 Mangal Singh Lalli against an enforcement notice issued by Slough Borough Council.
- The enforcement notice was issued on 19 May 2021.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction on the land of a second single storey rear extension (“unauthorised development”).
- The requirements of the notice are: (i) Demolish the unauthorised development. (ii) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the requirement stated at (i).
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld as set out below in the Formal Decision.**

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### Preliminary Matter

1. The revised National Planning Policy Framework (the Framework) came into force during the course of this appeal. The main parties have been given an opportunity to comment on the implications of the revised Framework in respect of the appeal and I have taken it into account in my decision.

### Ground (a) appeal

#### Main Issues

2. The main issues in this appeal are:
  - The effect of the second single storey rear extension on the character and appearance of the area.
  - The effect on the living conditions of occupiers of adjoining residential property, having regard to outlook.

#### Reasons

##### *Character and appearance*

3. The appeal site contains an enlarged two storey detached dwelling. The dwelling is located in an established residential area, largely comprising rows of semi-detached and detached dwellings of a similar age and architectural style.

For the most part, the dwellings are similarly spaced and they occupy generously sized linear plots, the ample, largely open front and back gardens helping to assimilate subsequent residential extensions and outbuildings into their surroundings. The foregoing factors all contribute appreciably to the well-ordered and pleasantly spacious suburban character and appearance of the surrounding area.

4. The single storey extension in this appeal protrudes from a pre-existing single storey flat roofed enlargement at the back of the dwelling. The extension is of significant depth, running adjacent to the side boundary up to part of the tapering back garden boundary. At around 10 m, the overall depth of the extension considerably exceeds the recommended maximum of 4.25 m from the rear main wall of the original dwelling, set out in the Council's Residential Extensions Guidelines Supplementary Planning Document (SPD). This is before taking the pre-existing enlargement, which already protrudes around 4 m from the rear elevation of the original dwelling, into account. Whilst the dwelling is detached and at the end of a row of properties, given the similarities in the alignment of dwellings throughout the row and also having regard to the orientation of adjoining residential property in Blenheim Road, there is no sound reason why the SPD guidance should not be given considerable weight. Furthermore, the extension occupies about a third of the back garden width and at around 2.5 m in height, it is appreciably taller than structures on the boundaries between the site and adjoining residential property.
5. Due to its external dimensions, the extension is substantial in scale. Together with the considerable scale of the pre-existing enlargements at the rear and side, the dwelling now exhibits an appreciable sense of being subsumed by later additions. As a result, the extension appears poorly related to the dwelling and although single storey, it fails to be visually subordinate and erodes the inherent character of the dwelling. The slight difference in roof height evident between parts of the extension does not assist in offsetting its visual impact to any great degree. Whilst there are clearly other single storey flat roofed extensions in the vicinity, as far as I was made aware none have a similar overall depth or proximity to the back garden boundary compared with the extension in this appeal. Being constructed of unfinished blockwork, the west-facing external wall adds to the failure of the extension to integrate with the dwelling. Boundary planting does not significantly offset the poor external appearance of the blockwork and in any event, such planting is not a year-round, permanent solution.
6. In addition, due to the extension's scale and the proximity to the site boundaries, a much greater portion of the back garden is either occupied by or immediately adjacent to substantial built form compared with prior to its erection. The back garden is now considerably more modest in size and there is a noticeably greater sense of enclosure compared with the generally more open and expansive back gardens in the locality, thus creating a more built-up feel in the environs. This is markedly different from extensions and outbuildings at other residential property in the vicinity, which, even where substantial in scale, for the most part sit comfortably within their respective plots.
7. The above has all led to the extension being seen as an incongruous feature in its surroundings, failing to respect or reflect the character of the dwelling and appearing entirely at odds with the spacious qualities of the prevailing pattern

of local development. Whilst there might be few public views of the extension, the resulting visual harm is readily apparent from adjoining residential property. In any event, limited availability of public views is not a good reason to permit visually unacceptable development as it could be repeated too often, with further adverse visual consequences.

8. In reaching the above conclusions, I have also had regard to the planning permission granted by Article 3, Schedule 2, Part 1, Class E of the GPDO<sup>1</sup> to erect an outbuilding within the curtilage of a dwelling where it is required for a purpose incidental to the enjoyment of the dwelling as such, provided the relevant limitations on the size, height and location are met. In May 2019, a Lawful Development Certificate (LDC) under s192 of the Act was granted for a proposed outbuilding at the site<sup>2</sup>. Even so, the LDC scheme was significantly smaller than the extension. There would have been a substantial amount of space between the dwelling and the outbuilding, considerably and appreciably offsetting its visual impact. I accept that even a small gap from the enlarged dwelling is likely to mean that an outbuilding could still fall within Class E. In this respect, I acknowledge the findings of an Inspector in a recent appeal at another location<sup>3</sup>. Even so, there was little clear and compelling evidence to indicate that a structure with a footprint similar to or larger than the extension would be required for a purpose incidental to the enjoyment of the dwelling. In any event, the extension must be considered as a whole. The available evidence does not show that the extension was erected other than as one continuous building operation. As a result, in my judgment the adverse visual consequences of the extension are not materially similar to what would have resulted from a Class E development.
9. I also note that the GPDO Article 3, Schedule 2, Part 1, Class A provides for erecting a larger single storey rear extension. However, that is subject to prior approval being obtained. Moreover, the overall depth of the extension considerably exceeds Class A limits. Accordingly, that Class has limited relevance to the appeal.
10. For the above reasons, I find that the extension causes unacceptable harm to the character and appearance of the area. By failing to achieve a high quality design that is attractive and respects its location and surroundings, the extension does not accord with criterion in Core Policy 8 of the Slough Local Development Framework Core Strategy Development Plan Document (CS). Similarly, the failure of the extension to reflect high quality design in terms of scale, building form and visual impact does not accord with criteria in Policy EN1 of the Slough Local Plan (LP), whilst for corresponding reasons the extension does not accord with LP Policy EN2. In addition, by not being of a high quality design in keeping with the site and the character of the surrounding area, the extension does not accord with LP Policy H15. Not achieving a well-designed place means that the extension is inconsistent with the revised Framework.
11. Nevertheless, if the part of the extension approximately 2.5 m in width adjacent to the pre-existing enlargement were to be removed, physically severing the extension from the dwelling, the remaining footprint and built envelope would then correspond with that shown on the drawing accompanying

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

<sup>2</sup> Council Ref: P/04013/002.

<sup>3</sup> Appeal Ref: APP/N5090/X/20/3261594.

the LDC scheme. Modifying part of the development described in the notice, for which permission has been sought under the deemed planning application pursuant to ground (a), would be involved. At s177(1)(a), the Act provides that planning permission may be granted in respect of the whole or part of the breach described in the notice. Therefore, it is appropriate to consider whether permission should be granted for part of the extension under ground (a).

12. The above works would bring the modified extension within the size and height limitations at Class E, paragraph E.1. I am given to understand that the appellant requires a gym facility for reasons of their health and wellbeing and that of their family. Use as a home gym would be functionally related and therefore incidental to the primary residential use of the dwelling. During my visit, I observed that part of the extension equating to the footprint of the development in the LDC scheme was in such a use. The LDC outbuilding would have been used for similar purposes. Therefore, it is not unreasonable to find that an outbuilding is required in relation to the dwelling. In turn, this leads me to conclude that there is a realistic prospect of an outbuilding under Class E being erected with similar dimensions to the LDC scheme, in the event the appeal failed.
13. Given the above circumstances, requiring the extension to be totally demolished would serve no useful planning purpose, as a substantial part could simply be re-erected under Class E almost immediately after. Planning enforcement action is intended to be remedial, not punitive. Moreover, modifying the extension as set out above, with the resulting reduction in scale and the significant sense of space created between the extension and the dwelling, would also appreciably reduce its visual impact on the surroundings. Modifying the extension to physically sever it from the dwelling and comply with the LDC scheme would therefore overcome the planning difficulties at less cost and disruption and represents an obvious alternative to the requirements of the notice.
14. As a result, modifying the extension as described above would not cause unacceptable harm to the character and appearance of the area and accords with CS Core Policy 8 and LP Policies EN1, EN2 and H15, being consistent with the SPD guidance on residential outbuildings and the revised Framework.

#### *Living conditions*

15. One of the residential back gardens adjoining the west boundary of the site is that of 5a Blenheim Road (No 5a). This back garden is foreshortened. Also, an electricity sub-station wraps around part of the back garden. These factors mean that No 5a has a back garden of modest size compared to the more expansive back gardens typical of the locality. There is a garden building of relatively modest size and height towards the end of part of No 5a's back garden. Prior to erecting the extension, the pre-existing enlargement adjoined a significant part of the far end of No 5a's back garden but partly sat behind that property's garden building. However, given its overall depth the extension adjoins a much greater portion of No 5a's back garden boundary, as well as the sub-station. Whilst the extension is lower than the 3m maximum height limit in the SPD, it is considerably taller than the boundary fencing and No 5a's garden building. Neither the relatively limited distance between the rear elevation of No 5a and the far end of its back garden or the garden building assist significantly in offsetting the visual presence of the extension.

16. Due to the above factors, the extension is seen as a considerable, unrelieved expanse of built form adjacent to the boundary, appearing as a substantial and obvious built feature a relatively limited distance from the rear-facing windows and in the back garden at No 5a. Whilst there has been no significant erosion of natural light or increased overshadowing, the above has given rise to the occupiers of No 5a experiencing a substantially greater and more oppressive sense of enclosure at the back of their property, thereby considerably eroding the level of outlook that they might otherwise reasonably expect to enjoy.
17. However, complying with the LDC scheme would also create a significant amount of space between the modified extension and the dwelling, appreciably reducing the sense of enclosure experienced by the occupiers of No 5a. Consequently, as modified the extension would not cause unacceptable harm to the living conditions of occupiers of adjoining residential property. As the extension would not then have a significant adverse impact on the amenity of adjoining occupiers, it accords with criterion in LP Policy H15. In addition, providing a high standard of amenity for existing and future users would be consistent with the revised Framework.

#### *Other matters*

18. I am given to understand that the extension was erected whilst the appellant was self-isolating during the COVID-19 pandemic and that part of it had enabled him to work from home. However, such circumstances are not particularly unusual and given that the UK is at present recovering from the effects of the pandemic this carries limited weight in relation to retaining the extension as built.

#### **Conditions**

19. After seeking the views of both main parties, I intend to impose two conditions. The first condition requires the extension to be modified to comply with the drawing accompanying the LDC scheme to physically sever it from the dwelling and to give the more visible portion of the west-facing external wall an appearance which is more visually harmonious with the external walls of the dwelling. The condition is necessary to overcome the harm to the character and appearance of the area and to the living conditions of occupiers of adjoining residential property.
20. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the required modification works, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the development granted planning permission may only remain if the appellant complies with its requirements. It would be a relatively straightforward matter for an experienced small building contractor to be engaged and to undertake the modification works within a few months. The condition is precise and reference to the drawing accompanying the LDC scheme means that there is certainty in exactly what has to be done to achieve compliance. The requirement to remove demolition materials is intended to prevent external storage and does not preclude incorporating salvaged elements into other works at the site where it is reasonably necessary to do so. Accordingly, in my view the requirements of the condition are proportionate and reasonable.

21. Additionally, I shall impose a condition restricting the use of the development other than for purposes incidental to the enjoyment of the dwelling. In doing so, I am mindful that an outbuilding erected pursuant to Class E is not prevented from subsequently being used as primary living accommodation in association with the relevant dwelling. Nevertheless, in my view the condition is necessary to safeguard the living conditions of occupiers of adjoining residential property. In any event, as this is a deemed planning application arising from a ground (a) appeal, Class E does not apply.

### **Ground (f) appeal**

22. The ground of appeal is that the notice requirements are excessive.
23. At s173(4) the Act provides that an enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or the purpose of remedying any injury to amenity that has been caused by the breach. Although the notice does not state as such, its purpose must be to remedy the breach. The notice requires nothing less than demolition of the extension, by which the site would be restored to its condition before the breach took place.
24. Modifying the extension to comply with the drawing accompanying the LDC scheme as an alternative to demolition has been dealt with on ground (a). In relation to ground (f), reducing the size of the extension and severing it physically from the dwelling would not remedy the breach as the entire structure was erected unlawfully. Neither would cladding part of the west-facing wall, either by itself or in combination with a reduction in size. Only total removal of the extension would remedy the breach, as only that would restore the site to its condition before the breach took place. Consequently, the notice requirements are not excessive for the intended purpose and the appeal on ground (f) fails.

### **Conclusion**

25. For the reasons given above I conclude that the appeal should succeed in part only, namely for part of the extension, and I will grant planning permission for this part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as they are inconsistent with the permission which I will grant by virtue of s180 of the Act.

### **Formal Decision**

26. The appeal is allowed insofar as it relates to the part of the second single storey rear extension shown on drawing number 201937-01 attached to this decision and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the erection of that part of the second single storey rear extension on the land at 10 Marlborough Road, Slough SL3 7LH referred to in the notice, subject to the conditions in the Schedule at the end of this Decision.
27. The remaining part of the appeal concerning the part of the second single storey rear extension not shown on drawing number 201937-01 is dismissed, the enforcement notice is upheld and planning permission is refused in respect of the application deemed to have been made under section 177(5) of the 1990

Act as amended for the erection of that part of the second single storey rear extension on the land at 10 Marlborough Road, Slough SL3 7LH.

*Stephen Hawkins*

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be totally demolished and all resulting demolition materials removed from the site, unless within three months of the date of this decision the following have been completed:
  - a) The development has been altered and reduced in size to accord with drawing number 201937-01 attached to this decision, so that the remaining structure is physically severed from the dwelling with no part of the external walls or roof not shown on that drawing being retained, using external materials to match the external walls of the dwelling, with the resulting demolition materials removed from the site; and
  - b) The west-facing external wall of the development between 1.8 m above ground level up to the eaves level has been finished with brick slips to match the external walls of the dwelling.

Following compliance with a) and b) above, the external wall materials of the development shall be maintained.

In the event of a legal challenge to this decision, the operation of the time limit specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The development hereby permitted shall only be used for purposes incidental to the enjoyment of the dwelling and shall not be used as primary living accommodation.





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# Appeal Decision

**by Gareth Symons BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

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**Appeal Ref: APP/J0350/X/20/3266034**  
**2A Chestnut Avenue, Slough SL3 7DE**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr N Singh against the decision of Slough Borough Council.
  - The application Ref: P/05413/006, dated 25 September 2020, was refused by notice dated 19 November 2020.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is a side dormer extension to the existing roof.
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## Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

## Main Issue

2. Planning permission granted for the appeal property in 1982 (Ref: P/05413/001) included condition 8 which reads: *"Notwithstanding the provisions of the Town and Country Planning General Development Orders 1977-1981, no additional windows or other openings shall be constructed in the northern and southern elevations of the dwelling hereby approved without prior written approval of the local planning authority"*. The reason given for the condition is *"To help safeguard the privacy and visual amenity of the occupiers of adjacent properties"*.
3. The appeal proposal is for a dormer extension in sloping roof on the North elevation of the house. The Council does not raise any concerns that the dormer would not meet the conditions and limitations of the planning permission granted under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 2015 for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Based on the evidence before me, I have no reason to disagree.
4. The Council is though concerned that the dormer extension would be an opening on the North elevation of the house which would contravene condition 8, thus making the proposal unlawful. I shall examine as the main issue

whether, as a matter of fact and degree, this would be the case. This is a legal determination in which matters of planning merit are not relevant.

### **Reasons**

5. I recognise that during the construction of the extension there would be a temporary opening in the roof on the North elevation. However, the application is not for an opening in the roof, temporary or otherwise. It is for a dormer extension which the submitted plans show, as a matter of fact, when complete would not have any permanent openings or windows in its North elevation. It would be solid/blank finished with materials to match the existing property. There would be a small window in each side cheek of the extension, but they would clearly be in the East and West elevations of the dwelling.
6. Moreover, whilst matters of planning merit are not relevant, given that there would be no windows or openings in the North elevation, the purpose of the condition to help safeguard the privacy and visual amenity of adjacent residential occupiers would also be fulfilled.
7. In view of the above, the proposed development would not contravene condition 8 of planning permission Ref: P/05413/001 and there is no other reason why the development would not be lawful under s191(1)(2) of the 1990 Act. I therefore conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a side dormer extension to the existing roof was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*Gareth Symons*

INSPECTOR



## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 25 September 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It would not contravene the restrictions of condition 8 of planning permission Ref: P/05413/001 and it would have planning permission granted by Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 2015.

Signed

*Gareth Symons*

INSPECTOR

Date 20 October 2021

Reference: APP/J0350/X/20/3266034

### **First Schedule**

Side dormer extension to the existing roof.

### **Second Schedule**

Land at 2A Chestnut Avenue, Slough SL3 7DE

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

This is the plan referred to in the Lawful Development Certificate dated: 20 October 2021

by **Gareth Symons BSc(Hons) DipTP MRTPI**

**Land at: 2A Chestnut Avenue, Slough SL3 7DE**

**Reference: APP/J0350/X/20/3266034**

Scale: Do not scale.



**MEMBERS' ATTENDANCE RECORD 2021/22**  
**PLANNING COMMITTEE**

<b>COUNCILLOR</b>	<b>26/5</b>	<b>23/6</b>	<b>28/7</b>	<b>15/9</b>	<b>13/10</b>	<b>10/11</b>	<b>15/12</b>	<b>19/1</b>	<b>16/2</b>	<b>16/3</b>	<b>13/4</b>
Ajaib	P	P	P	P	P						
A Cheema	P	P	P	P	P						
Dar	P	P	P	P	P						
J Davis	P	P	P	Ap	P						
R Davis	P	P	P	P	P						
Gahir	P	P	P	P	P						
Mann	P	P	P	P	P						
Muvvala	P	P	Ap	P	P						
S Parmar	P	P	P	P	Ap						

P = Present for whole meeting  
Ap = Apologies given

P\* = Present for part of meeting  
Ab = Absent, no apologies given

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