

Appeal Decision

Site visit made on 27 September 2016

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th October 2016

Appeal Ref: APP/V0510/W/16/3154406

Land adjacent to 30 & 32, Roswell View, Ely, Cambridgeshire CB7 4JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Graham Harvey against the decision of East Cambridgeshire District Council.
 - The application Ref 16/00392/FUL, dated 15 March 2016, was refused by notice dated 7 July 2016.
 - The development proposed is the erection of a 3 bedroomed house.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Graham Harvey against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council acknowledges that it cannot identify a 5 year supply of deliverable housing sites. As such, paragraph 14 of the National Planning Policy Framework (the Framework) states that planning permission should be granted unless the impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted. I have considered the appeal on this basis.

Main Issues

4. The main issues are (i) the effect of the development on the living conditions of the occupants of 30 Roswell View, with particular regard to daylight, sunlight and outlook, and (ii) whether the development would preserve or enhance the character or appearance of the Ely Conservation Area (ECA).

Reasons

Living conditions

5. The appeal site is within a landscaped communal area of private amenity space associated with the nearby flats located off Roswell View. The site is set down
-

from Prickwillow Road and is adjacent to a storm water pond and an area of dense landscaping which lies between the site and Lisle Lane.

6. My attention has been drawn to a recent appeal on the site for the development of a three bedroom house. I have been provided with this decision and have taken its findings into account. The evidence from both parties has also given me an indication of the changes that have been made from the previous dismissed appeal.
7. 30 Roswell View has a first floor balcony on the side wall facing Lisle Lane which is accessed by a patio door. There are no other windows in this elevation and thus it provides the main source of light for the room. The orientation of the dwelling means that it would only receive direct sunlight during the morning. The previous Inspector noted that there would be times when the trees and mature landscaping around the site would also reduce the amount of sunlight reaching the living room during this period of the day. I saw nothing that would lead me to a different conclusion.
8. While the siting of the proposed dwelling has been moved further away from the side of No 30 when compared to the previous scheme, it would still take up a prominent position broadly south east of the balcony and patio door. The gap created between the buildings would not be significant and thus, when combined with the height and width of the dwelling, it is likely that it would reduce the amount of direct sunlight entering the room to an unacceptable degree. The effect on daylight is likely to be less severe. However, given the general proximity and relationship between the two buildings, it is still likely that the amount of daylight entering the room would be reduced below current levels. With no technical evidence to consider, this combination of factors leads me to conclude that the development would have a harmful overshadowing effect to the detriment of the living conditions of the occupants of No 30.
9. The proposed dwelling would also result in a significant change to the nature of the current outlook from the patio door and balcony of No 30. The existing open aspect across the grassed area running alongside Lisle Lane would be almost entirely lost. There would be a narrow gap between the dwellings, but this would be blocked off to an extent by the single storey element of the new house. As a result, the development would lead to a significant loss of outlook and an increase in the feeling of enclosure. Therefore, I find that the development would have an unacceptable overbearing and oppressive effect on the occupants of No 30 to the detriment of their living conditions.
10. The submitted plans indicate that the only window in the elevation facing the patio door would be glazed with obscured glass. This could be secured by condition and thus I do not agree with the Council's assertion that the development would have an unacceptable impact on privacy. I am also satisfied that there would be no undue privacy issues resulting from other windows in the dwelling. Notwithstanding this, the development would result in material harm to the living conditions of the occupants of No 30 in relation to sunlight, daylight and outlook. Accordingly, the development would be in conflict with Policy ENV2 of the East Cambridgeshire Local Plan (ECLP) (April 2015) which, amongst other things, seeks to ensure there is no significant detrimental effect on the living conditions of nearby residents. It would also

conflict with paragraph 17 of the Framework, which seeks to ensure that development secures a good standard of amenity for existing residents.

Character and appearance of Conservation Area

11. In considering this issue, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is also reflected in Paragraph 131 of the National Planning Policy Framework (the Framework), which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
12. I do not have a Conservation Area Appraisal before me and the Council has not described the significance of the area in any detail. The information I have been provided with, along with my own observations, leads me to conclude that its significance lies in the age and quality of the built form associated with the historical importance and growth of Ely. This part of the Conservation Area is typified by modern two and three storey residential development. The site is well screened from Prickwillow Road by the dense trees and landscaping around the edge of the site. The site sits well below the level of Prickwillow Road and the difference in levels help to minimise its visibility from this road. The line of trees continues along Lisle Lane, before thinning out toward the junction with Roswell View. The road flattens out at this point and is roughly at the same level as the site. The site becomes more visible through the gaps in the trees at this location.
13. I acknowledge that the previous Inspector concluded that the proposal before them would have a neutral impact on the character and appearance of the Conservation Area and thus did not dismiss the appeal on these grounds. The appellant has argued that there is little material difference between the scheme before me and that which was previously considered. I do not agree with this assertion.
14. The earlier application was for a dwelling that would have been attached to the side of No 30 and 32 and only a small part of the house would have protruded in front of the existing building line. The proposed dwelling has been moved further forward of Nos 30 and 32 than previously proposed and further out toward Lisle Lane and the trees. Part of the dwelling would also overlap across the front of No 30, bringing the building closer to Roswell View. Therefore, the dwelling would intrude significantly further into the space between the two sets of flats and be considerably more prominent, particularly from Roswell View itself and those parts of Lisle Lane where the site is clearly visible between the trees. In my view, there is a clear material difference between the two proposals.
15. The extent to which the development would be sited beyond the front of the neighbouring building, and the fact there would be a gap between the buildings, would remove any sense of continuity with the original scheme. It would not reflect the existing 'stagger' of the building line and would clearly be a separate and divorced building. The siting of the development, and the proposed relationship with the existing buildings, would appear cramped and awkward. The overlapping of the buildings in particular would appear as an artificial and forced attempt to squeeze the dwelling into the space with little regard to the existing character or relationship between the buildings. The

significant reduction in space between the buildings would also have a detrimental impact on the quality of this well-proportioned and laid out group of dwellings. While I accept the site is well screened, the dwelling would still be visible in closer views and would result in an incongruous form of development detrimental to the appearance of the area.

16. There is no doubt that the trees in and around the site are an important part of this area's character and help to create an attractive and verdant entrance to this part of the Conservation Area. While the previous Inspector did identify any concerns relating to trees, I have already noted that there is a material difference in the siting of the dwelling. In this regard, the dwelling would be nearer to the trees and thus may lead to different effects.
17. The development would lead to the felling of some trees and the pruning of another to accommodate the dwelling. The Council have not raised any significant concern on this and I am satisfied that the removal of those trees identified would not in itself have a harmful effect on the character of the area or in terms of biodiversity. This is largely due to the number of trees that would be retained. The Council have raised a concern, however, that there would be increased pressure for additional pruning or felling of the retained trees as a result of their proximity to the dwelling and the nuisance falling debris might cause. The appellant's tree protection plan confirms that there would be a need for periodic pruning, albeit every 5-10 years, and clearing of debris from gutters and the roof from some of the trees.
18. The Council have acknowledged that any significant works to trees would require Conservation Area consent. While this provides the Council with some control, I consider it would be more difficult for them to refuse consent once the dwelling is in place, particularly if the trees were considered to be having a harmful effect on the enjoyment of the property. In my view, the proximity and relationship of the trees to the dwelling is likely to lead to some effect on the occupiers of the dwelling, including an increased nuisance. It is reasonable to assume, therefore, that the pressure to reduce or remove the trees in the vicinity of the site would increase. As there is no certainty that such pressure could be reasonably resisted, and as the retained trees add to the quality of the environment, the increased level of risk would not be in the interests of preserving the character or appearance of the area.
19. The detailed design of the dwelling would be in keeping with that of other dwellings in the immediate area, but this does not overcome my concern that the development would have a materially harmful effect in terms of its relationship with other dwellings and the potential risk to retained trees. I find, therefore, that the development would fail to preserve or enhance the character and appearance of the Conservation Area. Accordingly there would be conflict with Policies ENV2, EN7 and ENV11 of the ECLP which, amongst other things, seek to ensure that development, particularly within a conservation area, is of a high quality of design which has regard to local context and that environmental features including trees are protected.
20. The harm to the significance of the Conservation Area would be 'less than substantial' in the context of Paragraph 134 of the Framework. Such harm should be weighed against the public benefits of the proposal. I address this matter below.

Benefits and Planning Balance

21. The provision of one additional dwelling provides a small contribution to the housing land supply. This must be considered as a public benefit in the context of the acknowledged deficiency in East Cambridgeshire's housing land supply. I also acknowledge that the site is in a relatively accessible location with good access to services and facilities. However, the weight given to these benefits is inevitably reduced when considering the harm to living conditions that I have already identified would result from the development.

Conclusion

22. While the Framework recognises the need to boost housing delivery, it also emphasises the need to protect local character and the importance of heritage assets. It also seeks to ensure that residents should have a good standard of amenity.
23. In my view, having regard to Paragraph 14 of the Framework, the adverse impacts of allowing the development proposed here, as outlined above, would significantly and demonstrably outweigh the benefits of one additional dwelling to the housing land supply. Furthermore, the public benefits of the development do not outweigh the failure of the development to preserve or enhance the character and appearance of the Conservation Area, which gives rise to conflict with Paragraph 134 of the Framework. I therefore conclude that the appeal should be dismissed.

S J Lee

INSPECTOR