

Appeal Decision

Site visit made on 24 July 2019

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/Q0505/W/18/3218079
18 Chesterton Road, Cambridge CB4 3AX

- 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 Afterway Limited against the decision of Cambridge City Council.
 - The application Ref 18/0506/FUL, dated 28 March 2018, was refused by notice dated 10 October 2018.
 - The development proposed is described as 'Full Planning Application for the proposed erection of a mixed use scheme comprising of 12 flats and 2 retail units following demolition of existing buildings at 18, 18a, 18b, and 18c-d Chesterton Road, Cambridge.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development set out in the heading above is taken from the application form. During the course of the determination of the application the description was revised to refer to 11 flats and the application was determined by the Council on that basis. For the avoidance of doubt, I have considered the appeal based on the revised description and associated revised drawings.
3. The decision notice refers to policies of the Cambridge Local Plan 2006 and the then emerging Cambridge Local Plan 2014. The 2014 Plan has subsequently been adopted (and is now referred to as the Cambridge Local Plan 2018). Its policies, therefore carry full weight in the determination of the appeal.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of the occupiers of 1 Riverside Court, with particular regard to outlook;
 - whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the size of flat 10, bedroom 2, the outlook of the occupiers of flats 5 and 10, the external spaces available to the occupiers of flats 3, 4, 6, 7, 8, 10¹ and the size of the balconies of flats 5 and 9;

¹ The decision notice refers to flat 20. However, the Council has confirmed that this an error and the reference should be flat 10.

- whether the proposal would provide a sustainable surface water drainage scheme;
- whether the proposal would make adequate provision for cycle parking.

Reasons

Living Conditions of the Occupiers of 1 Riverside Court

5. The two storey dwelling at No 1 is located to the east of the appeal site and to the rear of the existing building. It has front-facing windows serving kitchen/dining areas at ground and first floor levels. I was able to see the view from these windows on my site visit. The existing view from these windows takes in a parking courtyard, the rear of 20 Chesterton Road and the side and rear of the existing building at the appeal site. There are appreciable spaces between No 20 and the existing building as well as to the rear of the existing building. These spaces contribute to the openness of what is otherwise a fairly confined outlook from the windows. The retaining wall on the common boundary between the appeal site and No 1 is also apparent in oblique views from the ground floor window in particular.
6. The side elevation of the appeal building would be chamfered at the upper floor levels and this would increase the gap between it and the side of No 20 compared with the existing situation. However, the side elevation of the proposed building would be significantly deeper and taller than the existing building. It would, therefore, close off the current gap to the rear of the existing building, notwithstanding that the new building would be set back from the boundary. This gap, and the sky view it affords is closer to the affected windows than the gap to the side of No 20. As such, it makes a considerably greater contribution to the outlook from the affected windows. Its loss, and replacement at close range with the three storey side elevation of the appeal building, would have a significantly enclosing effect on the outlook from both kitchen windows. The impact from the ground floor window would be particularly harmful.
7. In reaching this conclusion I have also had regard to the 'Neighbouring Outlook Study' submitted by the appellant. Whilst the views it depicts correspond reasonably well with what I saw on the site visit, inevitably, the static 'head on' and 'oblique' viewpoints used do not adequately convey the actual experience of looking out of the windows. The extent of the proposed building's enclosing effect shown in the oblique view is a truer reflection of the actual overall impact.
8. Consequently, I find that the proposal would have a harmful effect on the living conditions of the occupiers of No 1, with regard to outlook. As such, it would conflict with Policies 55 and 57 of the Cambridge Local Plan 2018 (LP). Amongst other things, these policies require development to respond positively to its context and to have a positive impact in terms of location, height, scale and form. Nor would the proposal accord with paragraph 127 of the National Planning Policy Framework (the Framework) to the extent that it requires proposals to ensure a high standard of amenity for existing users. The first reason for refusal also refers to LP Policy 56. However, this policy is mainly concerned with the creation of places and adds little to my consideration of this issue.

Living Conditions of future Occupiers

9. Policy 50 of the LP sets out internal space standards for residential units. Whilst all of the proposed units meet the overall requirements, bedroom 2 of flat 10 falls short of the floor area required for single bedrooms. The appellant argues that this shortfall should be seen in the context of the scheme as a whole. However, each flat would be occupied separately and the shortfall would be felt directly by the occupiers of flat 10. Moreover the bedroom would have a single, narrow and east-facing window which would be deeply recessed within the roof slope. This would significantly restrict the amount of light reaching occupants of the room, as well as their outlook.
10. The windows serving bedroom 1 of flat 10 and bedroom 1 of flat 5 would also be narrow. The windows without obscured glazing would be at right-angles to the main floor space of the rooms. They would, therefore, offer occupants a very limited outlook. The appellant describes the bedrooms as non-habitable. However, the rooms could be occupied for significant periods of the day and, therefore, should afford occupants a reasonable outlook.
11. The appellant has suggested that these matters could be addressed using a condition. However, no condition has been suggested and no drawings showing how the scheme might be revised to deal with the shortcomings have been submitted. Any such revisions would be likely to involve changes to the internal layout and external appearance of the building and could raise issues such as the character and appearance of the building and overlooking of neighbouring properties. In the absence of drawings showing how the appellant considers these matters would be addressed, it is not for me to cast round for a condition or put forward a non-material amendment to the scheme.
12. Policy 50 of the LP also expects all new residential development to have direct access to an area of private amenity space. The policy does not specify the size of external spaces sought, but requires them to be able to accommodate sitting out space, clothes drying and, where relevant, external bin storage and play space (for units with two or more bedrooms). The appeal proposal provides no external space for flats 3, 4, 6, 7, 8 and 10 and modestly sized balconies for flats 5 and 9.
13. I attach less significance than the appellant to the use of the word 'expects' in Policy 50. The supporting text goes on to say that private amenity space can make an important contribution to the quality of life of the City's residents. It gives no indication that such provision is optional, although it does acknowledge that the form of provision should take into account the context of the development.
14. I recognise that the appeal site is located within the urban area and fronts onto a fairly busy road. Notwithstanding, it has not been adequately demonstrated that some form of external space provision could not be made for each of the flats. Indeed, whilst noise from Chesterton Road may limit the useability of external areas facing it, I note some of the proposed flats with no provision do not face onto the road. Jesus Green is located on the opposite side of the River Cam. Although it offers an extensive area of public open space, level access to it is a significant distance from the appeal site. As such, I consider that it does not provide a convenient alternative to directly accessible external space for activities such as sitting out, clothes drying and the like.

15. Overall, therefore, I find that the proposal would not provide satisfactory living conditions for future occupiers, with regard to the size of flat 10, bedroom 2, the outlook of the occupiers of flats 5 and 10, the external spaces available to the occupiers of flats 3, 4, 6, 7, 8, 10 and the size of the balconies of flats 5 and 9. It would, therefore conflict with LP Policy 50. It would also conflict with paragraph 127 of the Framework insofar as it requires proposals to ensure a high standard of amenity for future users. The second reason for refusal also cites LP Policies 55, 56 and 57. However, these policies are concerned with the way development responds to its setting and specific detailed design matters. Consequently, they are of limited help in my consideration of this issue.

Surface Water Drainage

16. The application proposal was for surface water to be pumped to a mains connection. I understand that this method was found to be acceptable when an earlier proposal (application reference 17/0974/FUL) was considered by the Council. However, since that time the LP has been adopted and Policy 31 requires surface water to be managed close to its source with the aim of favouring sustainable drainage solutions. Framework paragraph 165 also requires major development to incorporate sustainable drainage systems unless there is clear evidence that it would be inappropriate. It also requires proposals to take account of advice from the Lead Local Flood Authority (LLFA) and have maintenance arrangements in place. Moreover, objections to the current proposal were received from Cambridge County Council as LLFA and the City Council's Sustainable Drainage Engineer. The consultation response from Anglian Water also found the proposed surface water strategy unacceptable. Although that response recommended the imposition of a condition requiring the provision of a surface water management strategy, it also recommended, amongst other things, consultation to develop a feasible drainage strategy, infiltration tests and sufficient evidence to prove that the surface water disposal hierarchy had been explored as stipulated in Part H of the Building Regulations.
17. The appellant has submitted further information with the appeal, including a drawing (drawing number 18/0363/100 Rev P1) showing proposals for surface water attenuation and a gravity connection to the main system, a letter to the LLFA and a set of surface water run-off calculations. However, I have not been made aware of the LLFA's response, if any. Nor is there evidence that the appellant has consulted with Anglian Water, or undertaken infiltration tests. I note that the appellant's letter states that infiltration and discharge to the River Cam would not be possible. However, little supporting information has been provided to substantiate these findings. In the absence of any constructive consultation with the relevant bodies, therefore, I am not convinced that the surface water hierarchy has been adequately explored. In these circumstances, it would be inappropriate to rely on the use of a condition since the outcome of further investigations may lead to changes to the scheme which could not be secured by condition.
18. Therefore, I conclude that it has not been adequately demonstrated that the proposal would provide a sustainable surface water drainage solution. Consequently, the proposal would conflict with LP Policy 31 and Framework paragraph 165.

Cycle Parking

19. Policies 57 and 82 of the LP require the provision of cycle parking in accordance with the standards at LP Appendix L. Amongst other things, these standards seek to avoid basement level cycle parking with ramps steeper than 1 in 4. Ramps should be provided on both sides of any stepped access and alternative provision made at ground floor level for non-standard cycles.
20. The proposal provides secure cycle parking at lower ground floor level. Access to the cycle parking is via a passageway to the side of the building and incorporates seven steps with a ramp to one side. The appellant says the ramp has a gradient of 1 in 2.5, which has not been disputed by the Council. Based on the Proposed Site Section (application drawing 391(PL)10 rev B), the cycle parking would be 1.25m lower than the footpath at the front of the site. As such, the proposed cycle parking would not be at basement level. Although the proposed access ramp would not meet the requirements for access from a basement, the height and length of the ramp would be significantly less than a ramp serving basement level provision and, therefore, less onerous to use. Alternative cycle parking, which could accommodate non-standard cycles, is available at the front of Nos 20-22 and would be convenient for visitors to the proposed retail units, albeit that it does not offer weather protection.
21. I have had regard to the Mitcham's Corner Development Framework Supplementary Planning Document (in particular paragraph 4.2.23, which is referred to in the officer's delegated report). However, it pre-dates the adoption of the cycle parking standards at Appendix L of the LP and does not specifically make the case for higher standards of provision.
22. Given the relatively modest number of cycles which would need to be parked, the site's sustainable location close to a range of facilities and services and the constraints arising from its limited size and tight confines, I consider that the proposed cycle parking would be sufficiently convenient in this case. Consequently, I find that the proposal would not conflict with LP Policies 57 or 82. Nor would it conflict with section 9 of the Framework to the extent that it encourages provision for cycling and safe and convenient access for all.

Other Matters

23. I recognise that the appellant has made significant changes to the scheme that was refused under application reference 17/0974/FUL and that further amendments were made during the course of the determination of the current proposal. Nevertheless, my decision is based on the merits of the scheme as determined by the Council.
24. I also recognise that the Council's urban design, landscape and trees officers did not object to the proposal. However, the absence of harm in respect of these matters does not amount to a positive benefit in favour of the proposal.
25. I have had regard to the other concerns expressed locally, but they have not led me to a different overall conclusion.

Conclusion

26. I have found that the proposal would have harmful effects on the living conditions of the occupiers of 1 Riverside Court and the future occupiers of flats 3, 4, 5, 6, 7, 8, 9 and 10. Nor has it been adequately demonstrated that the

proposed surface water drainage strategy would comply with national and development plan policy objectives for sustainable drainage. Whilst I have also found that the proposed cycle parking arrangements would be acceptable, that does not outweigh my other concerns. As such, the proposal would not comply with the development plan when read as whole and would not amount to sustainable development.

27. For these reasons, the appeal should be dismissed.

Simon Warder

INSPECTOR