



Appeal Decision

Site visit made on 30 July 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2019

Appeal Ref: APP/Q0505/W/18/3215047

Logic House 143-147 & 149 Newmarket Road, Cambridge CB5 8HA

- 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.
 - The appeal is made by Mr Simon Dazeley of Dernford Eastern Limited against Cambridge City Council.
 - The application Ref 17/1815/FUL, is dated 19 October 2017.
 - The development proposed is the demolition of No. 149 Newmarket Road and existing garage structures, the erection of new buildings producing a total of 11 residential units, the formation of a café space (use class A3) on the ground floor of Logic House, brick and tile tinting to Logic House and associated infrastructure and works.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The site address given on the planning application form refers only to 149 Newmarket Road. The appeal form and drawings show the site includes Logic House at 143-147 Newmarket Road and so I have included this in the heading above.
3. Since the application was submitted to the Council the name of the appellant company has changed and, as a result of the scheme having been amended during the application process, the description of the development has changed. I have reflected this change of description in the heading above.
4. The appellant submitted amended plans as part of the appeal. These drawings make internal layout changes to some of the proposed dwellings and the Council has considered these as part of its case. Having regard to the Wheatcroft principles¹ I am satisfied the development is not so changed from the scheme the Council was considering that third parties would be deprived from the opportunity to comment by my acceptance of these amended plans. Therefore, I have made my decision based on these amended plans.
5. The Cambridge Local Plan (the Local Plan) was adopted in October 2018 during the time when the Council was considering the application and I have determined the appeal on this basis. Since the application was submitted to the Council the National Planning Policy Framework (the Framework) has been revised. Both main parties have had an opportunity to comment on any

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

relevant implications for the appeal and any comments received have been taken into account in my reasoning.

Main Issues

6. Whilst no decision was issued by the Council, it has set out its concerns in its statement. The main issues are:
 - whether the development would provide a satisfactory standard of accommodation for future occupiers with particular regard to outlook and the size and quality of outdoor spaces;
 - the effect of the proposal on the character and appearance of the area including the Central Conservation Area and the setting of the adjacent listed church;
 - the effect of the development on the living conditions of the users of the gardens of Nos 30-40 Beche Road with particular regard to outlook, overshadowing and overlooking;
 - whether the proposal makes adequate provision for affordable housing; and
 - whether the proposal is capable of meeting Building Regulations requirement M4(2) in respect of accessible and adaptable dwellings.

Reasons

Standard of Accommodation

7. The bedroom windows of Flats F2 and F3 are close to the boundary of the site. It is proposed that these windows are fixed shut and obscure glazed restricting the outlook from these habitable rooms. The main outlook from Flat F4 would be on to a narrow terrace at the rear. This terrace would be surrounded by high screening to prevent overlooking. Whilst this flat would have other windows at the front, these are either high level slot windows or covered by a timber slatted screen. As such, the outlook from this flat would be significantly restricted.
8. Policy 50 of the Local Plan states that all new residential units will be expected to have direct access to an area of private amenity space such as a private garden, roof garden, balcony, glazed winter garden or ground-level patio with defensible space from any shared amenity areas. The policy further states that in providing appropriate amenity space, a development should address issues of overlooking and enclosure and design the amenity space to be of a shape, size and location to allow effective and practical use of the space by residents.
9. No private amenity space is proposed for Flats F3, F6 or S1. I am not satisfied this is acceptable in light of the specific wording of Policy 50. The amenity space proposed for Flats G2, G3 and G4 would be narrow and located immediately outside the front entrance of these flats. As such (unlike users of a balcony) users of these spaces would be clearly seen at eye level by others entering and leaving the development. The amenity spaces proposed for Flats F2 and F4 would be small with high screening at their edges making these spaces feel enclosed.
10. Taking all the above points together, the proposed development would not provide a satisfactory standard of accommodation for future occupants. In this

case I am not satisfied public open spaces are an acceptable substitute for private amenity space in light of the recently adopted development plan's expectations in this regard, particularly given a purpose of such space includes drying washing.

11. I appreciate the flats proposed with no private amenity space may exceed minimum internal space standards but from the information provided the excess would be very small and so I am not satisfied this is sufficient compensation for a lack of private amenity space in this case. I therefore conclude the proposal would not comply with Policy 50 noted above, or Policy 56 in this regard, which seeks that development is designed to be high quality with private amenity spaces that are designed to be usable and enjoyable.

Character and Appearance

12. The appeal site is within the Riverside and Stourbridge Common part of the Central Conservation Area. Therefore section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
13. The conservation area is predominantly characterised by 2 storey grey, gault brick terraced houses with natural slate roofs, interspersed with trees. The appeal site fronts a main road at the edge of the conservation area boundary. In this location there is a mixture of residential, commercial and educational uses and a wider variety of building types than is generally seen in the conservation area including taller modern buildings on the opposite side of the road.
14. The appeal site contains a 3 storey flat roof block known as Logic House, a 2 storey pitched roof terraced building at No 149 and a group of garages at the rear, accessed through a gap between Logic House and No 149. To the left of the appeal site is the church of St Andrew the Less. This is a detached grade II listed building which is surrounded by a churchyard and mature trees which together form a significant part of the church's setting.
15. The church's land extends along the rear boundary of the appeal site separating it from the rear gardens of a line of terraced houses on Beche Road. To the right of the appeal site are Nos 151-153 Newmarket Road which are 2 storey terraced houses.
16. The appeal scheme involves replacing No 149 with a new building, referred to as Block A, and the construction of a new building at the rear of the appeal site, referred to as Block B. This would replace the existing garages and sit behind Logic House which would be retained as part of the development.
17. In-keeping with other buildings on this side of the street, Block A would have a pitched roof. It would be slightly taller than the existing building at No 149 and the adjoining building at No 151. But the height of the pitched roof buildings on this side of the street is not consistent so in this context Block A would not look out of place in the street scene due to its height.
18. Block A would have a flat roof front dormer, a full height front bay feature and front windows with a vertical emphasis. This reflects the appearance of other development to the right when viewed from the street. Considering all of the

above points I am satisfied Block A would preserve the character and appearance of the conservation area.

19. Viewed from the existing houses at the rear of the appeal site, Block B would be set back behind the strip of land which separates the appeal site from the properties on Beche Road. This, together with the limited height of Block B compared to Logic House, means Block B would not appear dominant in views from the Beche Road properties. Moreover, its varied roof form would assist in breaking up the bulk of the building. Taking the above points together, I consider Block B would preserve the character and appearance of the conservation area.
20. Block B would not be materially closer to the church of St Andrew the Less than Logic House and would be lower than Logic House which dominates views from the street and churchyard. The significant gap containing mature trees between the church building and Logic House would not be affected by the development and in my judgement means Block B, even as a result of its length, would not harm the setting of the adjacent listed church, even in winter when the trees are not in leaf.
21. The area around the appeal site, in particular on Newmarket Road, contains a variety of building types and materials and the development would be seen within this context. Therefore, I am satisfied the palette of materials proposed for the development, including the amount of glazing, is acceptable in this context.
22. Overall, on this main issue I conclude the appeal development would not harm the character or appearance of the area, would preserve the character and appearance of the conservation area and the setting of the adjacent listed building. As such it would not conflict with Policies 55, 57 or 61 of the Local Plan which together seek that development responds positively to its context and preserves or enhances the significance of heritage assets and their settings.

Living Conditions

23. In respect of outlook, the appeal development would be separated from the gardens of Nos 30-40 Beche Road by the strip of land running along the rear boundary of the appeal site. The evidence indicates this strip is approximately 7m deep. The appeal development would rise to 3 stories of accommodation at one point on this boundary and would appear raised up above the level of the Beche Road gardens due to the change in land levels. Even so, in my judgement, the appeal development would be far enough away from these gardens so as not to have any significant enclosing or overbearing effect on the outlook of users of these gardens.
24. In respect of overshadowing the gardens of properties on Beche Road, a well-lit garden receives at least 2 hours of direct sunlight over 50% of its area on 21 March in any given year. Existing vegetation affects sunlight enjoyed by neighbouring properties in the area and, based on the shadow analysis comparison provided, the development would not result in the above test not being met for any of the properties on Beche Road. Therefore, I am satisfied the development would not have a harmful effect in terms of overshadowing.

25. In respect of overlooking, there are 4 windows proposed at ground floor level in Block B facing the gardens of Nos 30-40 Beche Road. These would be high level windows and so I am satisfied occupants of the development could not use these windows to overlook the neighbouring gardens as these windows would be above eye level.
26. In Block B there are 2 windows in Flat F3 and a rooflight in Flat G4², each at first floor level, and a rooflight in Flat F2 at second floor level, which would face the gardens of Nos 30-40. But each of these is proposed to be fixed shut and obscure glazed and so they would not result in overlooking into the neighbouring gardens. At first floor level Flat F4 has an outdoor terrace at the rear but this would be surrounded by horizontal timber battens to prevent overlooking.
27. Considering all of the above points I am satisfied the development would not harm the living conditions of users of the gardens of Nos 30-40 Beche Road with regard to outlook, overshadowing or overlooking.

Affordable Housing

28. Policy 45 of the Local Plan seeks that affordable housing is secured as part of residential developments where there is a net increase in the number of units on the site of 11 or more. The appeal scheme would result in a net gain of 10 units and as such, in this case, on the basis of this policy, no affordable housing is required as part of the development.
29. My attention has been drawn to paragraph 63 of the Framework in this regard, which states that provision of affordable housing should not be sought for residential developments that are not major developments. Based on the definition in the glossary of the Framework, the appeal scheme is a major development. But the wording of paragraph 63 does not state that affordable housing must be sought on major developments.
30. In light of this and the threshold stated in Policy 45, I am satisfied no affordable housing is required in this case and that there is no conflict with Policy 45 in this regard. I note the Council's intention to seek affordable housing on schemes of 10 or more units but I have no information that satisfies me this approach accords with the adopted development plan in this regard or that a new or updated policy has been formally adopted in this respect.

Building Regulations

31. Policy 51 of the Local Plan seeks that all housing development should be of a size, configuration and internal layout to enable Building Regulations requirement M4 (2) 'accessible and adaptable dwellings' to be met. The Council considers that the proposal fails to provide inclusive access and is contrary to Policy 51 but limited information has been provided to explain the Council's assessment in this regard.
32. Moreover, the Council has suggested a condition to require the proposed dwellings to meet the requirements of Part M4 (2). As the Council considers the matter is capable of being dealt with by condition in this case, and, limited information has been provided to satisfy me it is not, this matter should not be

² The appellant's statement identified this flat as F5 but drawing C107/P3011 revision pl3 shows it is Flat G4.

a reason for resisting this development. I conclude on this main issue the proposal is capable of meeting Building Regulations requirement M4 (2) in respect of accessible and adaptable dwellings and would not conflict with Policy 51 noted above.

Planning Balance

33. The appeal scheme would make a more efficient use of brownfield land and under the Framework, substantial weight must be given to this consideration. I appreciate the proposal would provide 11 new dwellings in a location where there is good access to services and facilities and pressure for housing. I also appreciate the proposal would improve the appearance of Logic House and provide street level activity and employment from a new café at ground floor level.
34. Economic benefits would also arise from employment during construction of the development and an increase in spending levels from occupants of the new dwellings. But the benefits of the scheme must be balanced against the harm. Whilst I have found in favour of the appellant in respect of some issues, I am not satisfied that the development would provide a satisfactory standard of accommodation for future occupiers. As such, I find conflict with the development plan overall and notwithstanding the benefits, I consider the development would be harmful overall.

Conclusion

35. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR