
Appeal Decision

Site visit made on 25 August 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2020

Appeal Ref: APP/Q0505/W/20/3248409

1 Mere Way, Cambridge CB4 2JP

- 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 Oliver Trisic against Cambridge City Council.
 - The application Ref 19/1771/FUL, is dated 22 December 2019.
 - The development proposed is extension of existing house and conversion to create 4 one-bedroom flats and one studio apartment.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Oliver Trisic against Cambridge City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council has indicated that they would have been minded to refuse this application on the basis of the proposal being an inappropriate and overly dominant extension to the existing building and that it would have an unacceptable impact on the living conditions of adjacent residents with regard to outlook, loss of privacy, noise and disturbance. Furthermore, they consider the living conditions of residents in flat 3 would not be acceptable due to the segregated amenity space. Finally, they consider the development would not meet local housing needs by failing to provide a two-bedroomed family unit on the ground floor of the converted building.
4. The appellant has drawn my attention to amended plans that were submitted prior to the appeal being made (albeit quite close to the time the appeal was submitted). The changes proposed in these are relatively minor and do not alter the scheme significantly. Although these are not referred to by the Council, I am satisfied they were before them and that no interests would be prejudiced in accepting them. I have carried out the appeal on this basis.
5. However, the appellant has submitted a third set of plans with the appeal which seek further changes to the development. In particular, the inclusion of a second bedroom in one of the ground-floor flats. The appeal process should not be used to evolve a scheme and it is important that what I consider is essentially that which was considered by the local planning authority and on which interested persons' views were sought. In this case, the changes

proposed materially alter the nature of the proposal and were submitted at 'final comments' stage when there would be no opportunity for further comment. Accepting these plans could therefore prejudice the interests of both the Council and interested parties. In the interests of fairness, I have therefore not accepted these plans and have instead determined the appeal on the basis of those submitted as part of the application process.

Main Issues

6. With regard to the above, the main issues in this case are the effect of the development on:
- the character and appearance of the area;
 - the living conditions of the occupants of 3 Mere Way, with particular regard to outlook, privacy, noise and disturbance;
 - the living conditions of future occupants, with particular regard to private amenity space; and
 - local housing needs and mix.

Reasons

Character and appearance

7. The appeal relates to an end terrace property. The terrace is made up of a short row of dwellings which are 'bookended' by gable features which face the road. There is a high degree of symmetry in the design of the row and alterations to the front elevation have been minimal. Similar rows of terraces exist elsewhere in the immediate area, including directly opposite. The terrace is therefore a complementary feature in the street scene and contributes positively to the existing character of the area.
8. The development would largely fill the space between the end of the row and the neighbouring dwelling which fronts Arbury Road. Permission already exists for a detached dwelling in this gap. Notwithstanding this, by introducing an additional element beyond the gable, the development would substantially and detrimentally disrupt the symmetry of the row. This would result in a lopsided and unbalanced appearance out-of-keeping with the prevailing layout and grain of the area.
9. The flank wall of the extension would be angled to reflect the side boundary of the site. This would result in a somewhat contrived and cramped appearance where the extension had been squeezed into the available space with little regard to the character of the area. Furthermore, the angled wall and depth of the extension, would result in an asymmetrical roof profile, with the slope and eaves height to the rear being significantly different to that of the front. The elongated length of the roof slope to the rear and the much shallower pitch angle would also not reflect or be sympathetic to the character of the host dwelling or wider area.
10. The plans indicate a door and two shallow rectangular windows would be located in the flank of the extension. This would result in a large and mainly unbroken expanse of brickwork. While the existing side wall has no windows, this is much smaller than the extension and is thus less harmful. The flank of

the extension would be prominent in the street scene and its appearance would further emphasise its unduly large, cramped and unsympathetic nature.

11. The appellant has suggested that this element of design was carried out on the suggestion of the Council. Whether or not this is the case, I have considered the appeal on its merits based on my own observations. In my view, the angling of the flank wall would not constitute a good standard of design and would detract from the appearance of the host dwelling and the wider area.
12. In addition, the proposal would result in changes to the fenestration of the gable feature through the introduction of additional windows. The existing centrally located and horizontally scaled windows would be replaced with four squarely proportioned windows aligned to either side of the wall. The extension would also introduce vertically proportioned windows directly adjacent to the gable. Windows such as these are not apparent elsewhere in the terrace or on other examples in the area. These alterations would further emphasise and exacerbate the incongruous nature of the proposal.
13. The alterations to the rear would be equally significant in scale and nature. What is currently a simple two-storey pitched roof dwelling with a ground floor conservatory would become a complex arrangement of disparate features. As well as a significant increase in the footprint of the building, this would introduce alien features which are not present elsewhere in the immediate vicinity, including balconies or terraces at elevated levels and an extremely large and bulky roof extension.
14. Cumulatively, the alterations would result in an unduly large, bulky and domineering addition to the dwelling. The roof extension in particular would overwhelm the roof slope and appear as a third storey. The development as a whole would be out-of-keeping with other dwellings in the row and its terraced character. Indeed, taken together, the alterations would appear more akin to a three storey block of flats than an end terrace dwelling. This appearance would be emphasised not only by the balconies and screens, but also the predominance of full height French doors across the rear elevation. Again, there is a high degree of contrivance in the design in order to deliver the number of flats proposed which does not constitute a good standard of design.
15. The alterations to the rear would clearly be less prominent than those on the front. Nevertheless, at the very least, the large roof extension would be seen across the rear gardens from Fortescue Road. The development would also be highly visible from the private views of neighbours. The highly discordant nature of the development would be readily apparent from these locations. In addition, both local and national policy require development to be of a good standard of design. There is nothing to suggest that poorly designed and unsympathetic buildings are acceptable if they are not visually prominent.
16. The totality of the alterations proposed would constitute a poor standard of design that would have an unacceptably detrimental impact on the character and appearance of the host dwelling and the wider area. Accordingly, there would be conflict with Cambridge Local Plan (CLP)(2018) policies 55 and 58 which seek, amongst other things, to ensure development uses appropriate local characteristics to inform siting, massing and scale, that alterations reflect the existing building form and windows and roof profiles reflect the character and proportions of the existing building. There would also be conflict with paragraph 127 of the National Planning Policy Framework (the Framework),

which expects development to be visually attractive as a result of good architecture and sympathetic to local character.

Living conditions – neighbouring occupants

17. The ground and first floor elements of the rear extension would extend beyond the rear building line of No 3 by around 4.5 metres. The development would be a far taller and imposing structure than the existing conservatory. Although part of the flank wall would be made up of a privacy screen for the balcony, it would still be a tall and imposing structure abutting the common boundary. In my view, this would have an unduly intrusive and overbearing impact, which would create an unwelcome sense of enclosure. This would tangibly diminish the enjoyment of both any habitable rooms at ground floor level of No 3 and their garden area. Although the roof extension is stepped back, this would not mitigate the impact.
18. Some degree of overlooking is inevitable in a residential area and the existing upper floor windows already provide some opportunity to see into the neighbouring garden. However, I consider that the forward and elevated position of the balcony to flat 4, in such close proximity to the boundary, would create an unwelcome sense of being observed. The screens would clearly have some effect on the ability of occupants to see directly into the garden of No 3. However, the proximity of the balcony to the boundary means that it would have a somewhat looming presence over the space. In this context, it is unlikely that the screens would nullify the perception of being observed or the generally overbearing and unneighbourly characteristics of the proposal. The screening would also do nothing to reduce the physical prominence or intrusiveness of the structure.
19. It would also not be unusual for there to be some noise emanating from the gardens and amenity spaces of nearby properties. However, in this case, the noise from the balconies would be from an elevated position directly above the amenity space of the neighbour. This would differ from what might normally be expected and lead to unacceptable levels of disturbance. The appellant has suggested the noise from the development would be less than if the proposal were a House in Multiple Occupation (HMO). However, it is the specific issue of the relationship between the balcony and neighbour which is of concern here, rather than the number of people living in the building as a whole. In any event, the proposal would accommodate a number of people within different households. If each of these were utilising their outdoor amenity space at the same time, then the cumulative impact on neighbours could still be significant. The comparison to other forms of occupation does not therefore weigh in favour of the proposal.
20. Due to the distances involved and/or the relationship between No 1 and other properties, the Council has raised no substantive objections over the impact on other neighbours. I have seen nothing that would lead me to a different conclusion. Nevertheless, this does not alter the fact that the development would have an unacceptable impact on the living conditions of residents of No 3. Accordingly, there would be conflict with CLP policies 53 and 58. These seek, amongst other things, to ensure flat conversions are designed to avoid cumulative negative effects on neighbours, and that alterations do not unacceptably overlook or visually dominate neighbouring properties. There would also be conflict with paragraph 127 of the Framework, which includes an

expectation that development will provide good standards of amenity for existing users.

Living conditions – future occupants

21. The Council's concern in this regard relates primarily to the outdoor amenity space provided for flat 3. The Council's appeal statement appears to refer to the proposal as set out in the original plans. The amended plans submitted with the application show a large 'community garden'. However, these still identify small areas dedicated to flats 1 and 2. In either proposal, all flats apart from flat 3 would have direct access to private outdoor space of some kind, whether it be a balcony or patio area.
22. The occupants of flat 3 would need to leave from the front door and traverse a fairly long passage along the side of the building to reach any space they could use. This would not be a convenient way to access the garden, particularly if it were needed for such things as drying clothing. Whichever set of plans was preferred by the appellant, I do not consider either arrangement offers a satisfactory approach to the provision of amenity space for flat 3. Indeed, a community garden would be of even less use, as it would provide no degree of privacy or defensible space for occupants of this flat. The lack of directly accessible, convenient or defensible garden space for the occupants of flat 3 would have an unacceptable impact on their living conditions.
23. Accordingly, there would be conflict with CLP policies 50 and 53 which seek, amongst other things, to ensure all new residential units have direct access to an area of private amenity space and that conversions to flats provide a good standard of amenity for its occupiers. There would also be conflict with paragraph 127 of the Framework, which includes an expectation that development will provide good standards of amenity for future users.

Housing mix

24. Policy 53 of the CLP sets out requirements for conversions of dwellings into flats. Criterion b. states that the ground or lower floor includes a family unit with garden access. As submitted, the proposal would not meet this requirement.
25. The Council's appeal statement does not elucidate on their concerns about housing mix, referring only to the policy's requirements in the most basic of terms. Moreover, the supporting text to the policy provides little information as to the need for a family unit to be provided. The appellant claims that it is not mandatory for there to be a family unit to comply with policy. However, this is not my reading of the policy. In my view, to be fully consistent with Policy 53 all criteria should be met.
26. The lack of a two-bedroom flat would therefore be contrary to this aspect of Policy 53. However, given the lack of evidence relating to any harm that might arise from this conflict, this is not something to which I have attributed significant weight in my decision.

Other Matters

27. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

28. The appellant has expressed concern at the way in which the application was considered by the Council. This includes concerns that matters the Council objected to in their statement were not raised with the appellant. However, this is a matter between the parties and is outside the scope of this appeal. Moreover, this has not prejudiced the appellant's ability to respond to the Council's concerns or precluded me from coming to my own conclusions.
29. The appellant has raised the issue of the need to promote economic growth as a result of the COVID-19 pandemic. However, I do not consider such growth should be carried out at any cost. This does not justify allowing a harmful form of development. Similarly, the appellant has drawn my attention to the Government's White Paper on planning reform and changes to permitted development rights. However, there is nothing before me to suggest the development would meet the limitations of existing or proposed permitted development rights. This appeal is being considered under section 78 of the Town and Country Planning Act (1990) and, as such, it is incumbent on me to consider the development against the policies of the CLP. Again, any allusion to the Government seeking to remove barriers to development does not justify a proposal which is in clear conflict with the development plan.
30. The appellant has indicated that similar schemes were considered acceptable at 339 Milton Road and 45 Perne Road. Although some drawings have been provided, I do not have the full details of the developments, including any indication of their context. I cannot conclude with any certainty that they are directly comparable to the proposal before me in terms of their specific impacts on local character or nearby living conditions. The effect of development on these factors will be dependent on the individual circumstances of each case. For the same reasons, the alterations referred to at 241 Arbury Road do not carry any particular weight in favour of the proposal. I have considered the impact of the development on its own merits based on my observations of the site and its surroundings.
31. The Council raised no other concerns over and above those referred to above, including in relation to the loss of light, the effects on other neighbours or impacts on highway safety. Other matters such as refuse storage could also be adequately addressed by condition. These factors have been put forward as positives by the appellant. However, a lack of harm is neutral and weighs neither for nor against the development.
32. I am conscious that permission already exists for a detached dwelling on the site. Nonetheless, the effect on the character of the area and living conditions from the development would be very different to that of a standalone house in the existing gap. As such, this adds little weight in favour of the proposal.
33. Taken together, there are therefore no material considerations which outweigh the conflict I have identified with the development plan as a whole. The proposal would therefore also conflict with CLP Policy 1 which expects development to be consistent with the plan.

Conclusion

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

S J Lee INSPECTOR