



Appeal Decision

Site visit made on 25 August 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2021

Appeal Ref: APP/Q0505/W/20/3253430

Land to r/o 93-95 Alex Wood Road, Cambridge CB4 2EG

- 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 Naivyl Cainzos-Sola against the decision of Cambridge City Council.
 - The application Ref 19/1614/FUL, dated 15 November 2019, was refused by notice dated 12 May 2020.
 - The development proposed is the erection of a pair of semi-detached 1.5 storey two bedroom dwellinghouses on the land to the rear of 93 and 95 Alex Wood Road accessed from Montgomery Road (following demolition of existing garage).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a pair of semi-detached 1.5 storey two bedroom dwellinghouses on the land to the rear of 93 and 95 Alex Wood Road accessed from Montgomery Road (following demolition of existing garage) at land to r/o 93-95 Alex Wood Road, Cambridge CB4 2EG in accordance with the terms of the application, Ref 19/1614/FUL, dated 15 November 2019, subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the effect of the development on the living conditions of nearby occupiers, with particular regard to outlook and overshadowing.

Reasons

3. The appeal site comprises a verdant parcel of land which lies to the side of an existing property on Montgomery Road, and to the rear of several gardens associated with properties on Alex Wood Road. Planning permission has been granted on part of the appeal site for a single dwelling¹ (previous planning permission) but, unlike the appeal proposal, it involved a smaller building and excluded land to the rear of No 93 Alex Wood Road. Nevertheless, the principle of housing development has been established in this location.
4. The appeal proposal would involve the erection of two dwellings. It is put to me by the Council that the proximity of one of the proposed dwellings to the southern boundary of No 95, coupled with the overall scale and mass of the built form, would result in an overbearing impact for occupiers of this property.

¹ Cambridge City Council planning permission reference - 18/0543/FUL – granted March 2019

However, I have taken into account the relatively modest scale of the 1.5 storey dwellings, thus the eaves and ridge height would be lower than the comparable heights of dwellings nearby. I could also see from my site visit that existing trees significantly curtail the openness of this garden, and they would provide a substantial screen so as to restrict obtainable views of the proposed dwellings from this property.

5. Even if I was to accept that the trees within the garden of No 95 could be removed at some point in the future, the nearest of the proposed dwellings would be 17m away from the existing dwelling at No 95. Consequently, a spacious rear garden would be retained. Therefore, the built form proposed would only be particularly apparent towards the rear of the existing garden at No 95, as the use of a large proportion of the garden, including the area nearest to the existing house, would not be harmed as a result of the change in outlook. Similarly, overshadowing would only occur at certain parts of the day and affect an area of garden set away from the dwelling.
6. The proposed dwellings would also be close to the boundary of No 93 and be approximately 14m from the associated dwelling. However, the built form would not extend significantly along the rear garden boundary, and I am not persuaded that the overall scale and positioning of the development would be unduly dominant or oppressive when viewed from within No 93 or its associated rear garden. In respect of shading, given the resultant depth of the rear garden relative to the position and scale of the proposed dwellings, I am satisfied that any increase in shading would be limited such that the ability of occupiers of No 93 to enjoy their garden would not be unacceptably compromised.
7. The outdoor amenity space associated with the appeal scheme would run parallel with part of the rear garden associated with No 91. However, the occupiers of No 91 would be afforded an even greater garden length than the aforementioned neighbouring properties, so I do not accept that the impact of the built form would unacceptably affect the garden to the extent that it would appear oppressive; particularly as the area of garden closest to the house, where residents are more likely to sit out and relax, would not be significantly impacted by the development.
8. It is common ground between the main parties that the proposed dwellings would be designed in a manner so as to prevent the unacceptable loss of privacy for occupiers of nearby properties. Windows within the proposed dwellings would not directly face any of the dwellings or gardens at No's 93 or 95, and given the distance and position of rear facing windows as proposed, which would be in the ground floor elevation and roof slope only, there would be no unacceptable overlooking of the rear garden of No 91.
9. Finally, the front and rear elevations of the dwellings would generally be aligned with the corresponding elevations associated with nearby dwellings on Montgomery Road. Like the Council, I find that the development would not give rise to significant levels of overshadowing and overlooking, nor would it appear overbearing, for occupiers of the neighbouring property on Montgomery Road.
10. Therefore, in conclusion, the development would not unacceptably affect the living conditions of nearby occupiers. The development would accord with Policies 52, 55, 56, and 57 of the Cambridge Local Plan 2018 (Local Plan) which

requires, amongst other matters, that sufficient garden space around existing dwellings is retained, that development responds positively to local context, is successfully integrated into the surroundings, and does not adversely affect available views.

Other Matters

11. Irrespective of the Council's robust housing land supply position, this is not a maximum target and is no reason to withhold planning permission for a development that meets the development plan.
12. Contrary to the views of some objectors, I agree with the Council that the development would be designed so as to provide sufficient light and outdoor amenity space for future occupiers of the dwellings. Whilst I acknowledge that the gardens would be smaller than those nearby, I am satisfied that adequate light and outdoor amenity space would be provided. I find nothing objectionable about the design of the dwellings, which would have modest proportions and simplistic facades, in keeping with the understated appearance of dwellings on the street.
13. Trees within the appeal site would be removed. There is no evidence before me to refute the appellant's arboricultural assessment which shows that only one of the trees is assessed as being in a 'good' condition². In any event, none of the trees are protected, and a number of other trees and shrubbery around the site would be retained. Moreover, the Council does not object to the development on arboricultural grounds, and a small area of planting would be provided to the front of the proposed dwellings. Therefore, the loss of trees would not harm the overall character of the site and surrounding area.
14. I saw nothing on my site visit to suggest that the area suffers from significant parking stress. Whilst the garage related to No 95 would be lost, the proposal would provide off-street car parking for a single vehicle at each dwelling. The Council raises no objection to the parking provision or the access arrangements, and I have no reason to take a different view.
15. The appeal site lies in Flood Zone 1 indicating a low probability of flooding from the rivers or the sea. In order to prevent excess surface water runoff, attenuation would be provided below permeable paving associated with the car parking area. Consequently, the proposal's contribution to the risk of flooding would be reduced to an acceptable level.
16. Finally, there is no reason why the development would encourage excessive noise from future occupiers given its location in an eminently urban residential area. Moreover, non-planning legislation exists to control noise nuisance.

Conditions

17. The Council have provided a list of conditions that should be imposed in the event I was to allow the appeal. I have considered these in light of the Planning Practice Guidance (PPG).
18. I have applied the standard '3 year' time limit condition, and the 'approved plans' condition in the interests of certainty and character and appearance.

² Based on BS 5837:2012 – Trees in relation to design, demolition and construction

19. The Council recommends a condition requiring that the 'curtilages' of the dwellings are laid out in accordance with the approved plans. However, the building of the houses without their associated garden spaces would likely undermine their market value and attractiveness for prospective occupiers, buyers or tenants, and I see no reason for such a condition. Consequently, it does not meet the test of *necessity* as set out in paragraph 56 of the National Planning Policy Framework (the Framework).
20. Limited details of boundary treatments have been provided. Given the proximity of the site to nearby gardens, such a condition would be necessary so that the dimensions and materials associated with boundary treatments could be agreed, in the interests of the living conditions of nearby occupiers.
21. In the absence of specific reasoning from the Council, I am unclear why the removal of permitted development rights relating to roof alterations would be necessary in this case, given the distance and orientation of the dwellings in relation to existing, and having regard to the PPG which advises that restriction on the future use of permitted development rights may not pass the test of reasonableness or necessity.
22. A condition is recommended by the Council concerning the provision and maintenance of visibility splays at either side of the vehicular access. However, it appears that street trees potentially lie within the visibility splays thus maintenance of these trees is likely to fall outside of the appellant's control. In any event, I have nothing before me to suggest that excessive speed is a particular problem within the vicinity of the appeal site even if visibility at the access is partially obscured. Consequently, such a condition is not necessary.
23. The Council have not justified the reasons why conditions relating to construction hours, and construction noise and dust mitigation, would be required, having regard to the existence of other non-planning legislation to control adverse environmental effects, and the relatively small scale of the development proposed. Similarly, I do not know why a condition requiring the submission of foundation details would be required as no potential adverse impacts have been highlighted. Furthermore, I have not been provided with a copy of the Council's Air Quality Action Plan and, in any event, it does not appear to form part of the Local Plan, thus no justification for an electric charging point has been provided. Mindful of the PPG, such conditions would not pass the tests of reasonableness or necessity, so I have omitted them.
24. A condition requiring compliance with Standards M4(2) of the Building Regulations (2015) would ensure the provision of housing units which would be accessible, as required by Local Plan policy.
25. A condition is necessary in order to limit the runoff of surface water onto the public highway, in the interests of highway safety. I have consolidated the suggested tree protection conditions into a single condition, requiring the submission of tree protection measures as set out in the relevant section of the Arboricultural Impact Assessment, to be agreed pre-commencement in the interests of the visual amenity of the area. Furthermore, the details of the additional trees proposed in the front garden are also required, in order to ensure that the adverse visual impacts of the development are mitigated.

Conclusion

26. Subject to the following conditions, the appeal is allowed.

Matthew Woodward

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans:- PL(21)01; PL(21)02; PL(90)01, P1249-AIA01 V2.
- 3) Prior to the occupation of any dwelling hereby approved, details of boundary treatments serving the respective dwellings, including their position, height, and materials, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details and implemented in full prior to the occupation of any of the dwellings.
- 4) The development hereby approved shall be constructed so that water from individual plots does not drain onto the public highway.
- 5) No development, including demolition or ground works, shall commence until an Arboricultural Method Statement and Scheme of Works which provides for the retention and protection of trees, shrubs or hedges on or adjacent to the site, in accordance with BS5837: 2012 and the submitted Arboricultural Impact Assessment (ref – P1249-AIA01 V2), has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be implemented prior to the commencement of development, including demolition or ground works.
- 6) The development shall not be occupied until a landscaping scheme, including details of numbers of trees, species, and planting size have been implemented within the first planting season following the substantial completion of the development in accordance with details that have first been submitted to and approved in writing by the local planning authority. Any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Notwithstanding the approved plans, the dwellings hereby permitted shall be constructed to meet the requirements of Part M4(2) 'accessible and adaptable dwellings' of the Building Regulations 2010 (as amended).

End of Schedule