



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: 22nd February 2021

Appeal Ref: APP/Q0505/W/20/3253439

143-147 Logic House, 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 (Dernford Eastern Ltd) against Cambridge City Council.
 - The application Ref 20/01125/FUL is dated 30 January 2020.
 - The development proposed is the demolition of No.149 Newmarket Road and existing garage structures, the erection of new buildings containing a total of 10 residential units, the formation of additional floor space on the ground floor of Logic House for use incidental to the main building, brick and tile tinting to Logic House and associated infrastructure and works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of No.149 Newmarket Road and existing garage structures, the erection of new buildings containing a total of 10 residential units, the formation of additional floor space on the ground floor of Logic House for use incidental to the main building, brick and tile tinting to Logic House and associated infrastructure and works at 143-147 Logic House, Newmarket Road, Cambridge CB5 8HA in accordance with the terms of application, Ref 20/01125/FUL, dated 30 January 2020, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions drawn as part of the Council's statement, and I have treated those as the basis of the decision the Council would have made, had it been empowered to do so. I have drawn on the Council's concerns, together with other evidence before me, to inform the main issue in this appeal.
3. A previous appeal on this site, involving a similar proposal, was dismissed (reference - APP/Q0505/W/18/3215047). Both main parties have referenced this appeal in their evidence, and I have been provided with a copy of the appeal decision. I shall hereafter refer to it as 'the previous appeal'.
4. The main difference between the previous appeal scheme and the proposal concerns the internal arrangements of the buildings and the outdoor amenity

spaces. The number of residential units now proposed is also one less than previously.

Main Issue

5. Having regard to the foregoing, the main issue is the effect on the living conditions of future occupiers of the proposed development, with particular regard to outlook and the provision of outdoor amenity space.

Reasons

6. Policy 50 of the Cambridge Local Plan 2018 (Local Plan) sets an expectation that all new residential units will have direct access to an area of private amenity space. In this regard, there is no dispute between the main parties that each of the residential units proposed would provide their own area of accessible private amenity space. However, it is the overall quality of several of these spaces which is the focus of disagreement.
7. Policy 50 of the Local Plan does not prescribe minimum space standards for external amenity spaces but, rather, requires that account is taken of local character, the orientation of spaces in relation to the sun, privacy and outlook, and whether the spaces would allow effective and practical use by residents.
8. In respect of proposed ground floor units G3 and G4, the associated outdoor terraces would be approximately 2.2 metres in width, extending along the frontage of each of the flats. Contrary to the Council's assertion, I find that these external spaces would be distinctly larger in overall area in comparison with the corresponding spaces proposed as part of the previous appeal scheme¹. As such, they would be of sufficient size to ensure adequate circulation space for those using the terraces, along with room to place a small table and chairs.
9. The outer perimeter of these terraces, together with the edge of the terrace associated with flat F4, would include screens in order to provide privacy for future occupants. However, I am satisfied that the screening associated with the terraces would be sufficiently recessed from the windows of each of the respective flats, and the screening would not be elevated so as to significantly obscure obtainable views beyond the boundaries of the terraces from within each of the flats. Furthermore, the findings of the appellant's submitted Daylight/Sunlight Assessment demonstrates that visibility of the open sky from within each of the respective properties would not be unacceptably diminished. In short, when viewed from the interior of flats G3, G4 and F4, the terrace screening proposed would not appear oppressive and overpowering.
10. In respect of units F1 and F2, the balconies would be large enough for occupants to sit out and relax, with horizontal timber battens strategically located on the outer edge of part of each balcony to maximise privacy. Whilst the timber battens would restrict obtainable outlook from part of each balcony, the majority of each balcony would be surrounded by a balustrade, the metal slatted design of which would ensure a large degree of permeability. Consequently, even taking into account the extent of timber batten screening proposed, the balcony spaces would be sufficiently open so that future occupiers would not feel hemmed in when using them, thus allowing effective use of these balconies for the purposes of relaxation.

¹ According to the Council they would be approximately 0.7 metres wider

11. I appreciate that the courtyard facing position of ground floor units G1 and G2 would mean that users of the associated outdoor amenity spaces may be seen by others entering and leaving the development. However, given the proposed boundary screening associated with these terraces, and the transient presence of people entering and leaving the development, prolonged periods of direct overlooking of private external amenity spaces would be unlikely. Whilst this was a concern raised by the previous appeal Inspector, it was one of several issues which led to the overall conclusion that the previous proposal would not provide a satisfactory standard of accommodation for future occupiers. In any event, the proposed external spaces would be appreciably larger than the previous appeal scheme, and the limited loss of privacy arising as a result of their frontage location would be outweighed by the overall quality of the outdoor amenity spaces proposed.
12. In conclusion, the development would provide a satisfactory standard of amenity space for future occupiers without unacceptably compromising outlook. It would comply with Policies 50 and 56 of the Local Plan which require, amongst other matters, that new dwellings provide good quality space which is sufficient for basic daily activities and needs taking into account outlook, and that private amenity spaces are inclusive, usable, safe and enjoyable for future occupants.

Other Matters

13. The development would be in an accessible, urban location on a brownfield site. Like the Council, I consider the location and type of development to be acceptable in principle.
14. The previous appeal Inspector concluded that the development would preserve the character and appearance of the Riverside and Stourbridge Common area of the Central Conservation Area and the setting of the adjacent Listed building². I have no reason to take a different view as the proposal would not be markedly different to the previous scheme, particularly when viewed from the street and within proximity of the adjacent church. The development would be of an appropriate scale and design so as not to adversely affect the significance of heritage assets, in line with the requirements of Policies 55, 57 and 61 of the Local Plan. It is noteworthy that no objections are raised by the Council in this regard.
15. The overall massing and scale of the proposal would be no more imposing on the occupiers of nearby properties than the previous appeal scheme, which was found to be acceptable by the previous appeal Inspector, even taking into account the change in land levels. The gardens of No's 30-40 Beche Road would not be unacceptably overshadowed or overlooked, subject to the window glazing mitigation set out in the conditions section below. Whilst the outdoor terrace screening associated with flat F4 would not completely eradicate obtainable views of gardens on Beche Road for future occupiers, it would provide a substantial screen for those sitting out on the terrace, thus I am satisfied that the privacy of neighbouring occupants would be adequately protected.
16. Given that the velux window proposed in unit G4 would be sited within a sloping roof angled away from neighbouring gardens, I see no reason why this

² Grade II Listed Church of St Andrew the Less

window should be obscure glazed. Overall, I am satisfied that the living conditions of nearby occupiers would not be unacceptably harmed by the development in terms of overlooking, overshadowing or loss of outlook.

17. Unlike the previous appeal scheme, the proposal would involve a net gain of 9 residential units. Therefore, there is no Local Plan requirement to provide affordable housing.
18. I am satisfied that the proposal is materially different to the previous appeal scheme which justifies me reaching a different conclusion to the previous Inspector. The development would comply with the development plan, subject to conditions as outlined below.

Conditions

19. The Council have suggested a number of planning conditions which I have considered against the relevant guidance contained within the Planning Practice Guidance (the PPG). I have amended some of them for clarity and in order to meet the PPG, and to avoid repetition.
20. I have applied the standard '3 year' time limit condition, and the 'approved plans' and 'materials' condition, in the interests of certainty and to preserve the character and appearance of heritage assets. I have amalgamated several conditions suggested by the Council in relation to materials, into a single condition.
21. The Council's suggested condition relating to 'traffic management' lacks precision. Instead, I have re-worded the condition to make it clear that it relates to mitigating the environmental effects of the development during the construction phase only. As part of the condition I have also incorporated several other mitigation measures I find necessary in order to protect the occupiers of nearby properties from adverse impacts during construction, as well as ensuring no significant impact on highway safety. This condition is required prior to works commencing on site as it relates to construction mitigation measures.
22. Drainage conditions are required so that full sustainable drainage details can be agreed with the Council, with an additional condition requiring that details of long-term management and maintenance of drainage features are agreed and approved. Conditions are required in relation to land contamination to protect the surrounding natural and built environment. Some of these conditions are pre-commencement as they require analysis of ground conditions before any building works take place. However, the Council have not justified the reason for an additional condition in relation to imported materials. Given that one of the contaminated land conditions I have imposed would require the submission of post-remedial sampling and analysis details, and information relating to imported materials, I do not consider such a condition to be necessary.
23. The need for a condition requiring archaeological investigation has not been demonstrated, particularly considering the site's previously developed nature. As such, I have not imposed the condition suggested by the Council.
24. Conditions relating to water consumption, carbon dioxide emissions, cycle storage, a Travel Plan, and a plan for electric charging points are required by the Local Plan and in order to ensure a sustainable form of development.

25. I have imposed a landscaping condition along with a requirement to submit boundary treatment details, in the interests of biodiversity and character and appearance, and the living conditions of future occupiers of the development respectively. A condition requiring the installation of privacy glass and limitations on the window opening in relation to Flat F3 is required to protect the privacy of the occupiers of nearby properties.
26. I have imposed an additional condition relating to biodiversity enhancement, as even though this was not identified by the Council, it forms part of the enhancements necessary as outlined in the submitted ecological report.
27. I appreciate that trees outside the site boundary are protected due to their location within the Conservation Area. Whilst I am not clear as to the extent to which the construction works would affect trees outside the site boundary, the relative importance of those trees close to the boundary means that conditions are necessary to protect them and their roots.
28. A condition is required in order to ensure that the development provides accessible homes in line with Policy 51 of the Local Plan. Both the Council and the appellant have had sight of the recommended condition and raise no objection to it, and there is nothing to persuade me that the requirements of Part M4(2) of Building Regulations could not be met.
29. I have imposed additional noise conditions based on the submitted Noise Impact Assessment which recommends that noise mitigation and ventilation details are provided, along with details of any plant to be installed. This is required in order to ensure the living conditions of future occupiers and neighbours would be adequately protected from excessive noise disturbance.

Conclusion

30. For the reasons set out, the development would comply with the development plan. Therefore, 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 listed in schedule C221 P3207; C221 P3208; C221 P3209; C221 P3210; C221 P3211; C221 P3213; C221 P3214; C221 P3215; C221 P3216; C221 P3217; C221 P3218; C221 P3219; C221 P3220; C221 P3221; C221 P3222; C221 P3223; C221 P3224; C221 P3225; C221 P3226; C221 P3227; C221 P3230, Flood Risk Assessment ref – 47482, Preliminary Ecological Appraisal 2017 ref – 65216, Noise Impact Assessment ref - SV/CC/P16-1166/04 Rev A
- 3) No development shall take place above slab level until full details of all the materials to be used in the construction of the external surfaces of buildings, including external features such as brickwork (including brick patterning, bonding, coursing, colour and type of jointing), non-masonry walling systems (standing seam zinc), roofing, windows and reveals, dormers, horizontal timber battens, balconies, rain water goods and coping, and the tinting of existing bricks and concrete tiles associated with Logic House, have been submitted to and approved in writing by the local planning authority. This should include a materials schedule, and where deemed necessary by the local planning authority largescale drawings and/or samples. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) the management of vehicles carrying abnormal loads;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) noise and vibration attenuation from construction and a scheme to ensure compliance; and,
 - viii) delivery, demolition and construction working hours.

The development shall be carried out in accordance with the approved details and measured shall be retained throughout the construction period.

- 5) No development above slab level shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the principles within the Flood Risk Assessment (ref: 47482) and shall also include:

- a) Full calculations detailing the existing surface water runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;
- b) Full results of the proposed drainage system modelling in the above referenced storm events (as well as 1% AEP plus climate change) , inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance;
- c) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers;
- d) Full details of the proposed attenuation and flow control measures;
- e) Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants;
- f) Full details of the maintenance/adoption of the surface water drainage system;
- g) Agreement from third party to connect into their system; and,
- h) A timetable for implementation.

The development shall be carried out in accordance with the approved details and timetable.

- 6) No part of the development shall be occupied until details of the long-term maintenance arrangements for the surface water drainage system (including all SuDS features) has been submitted to and approved in writing by the local planning authority. The submitted details shall identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The development shall be carried out in full accordance with the approved details.
- 7) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority in relation to ground contamination:
 - (a) Desk study to include:- Detailed history of the site uses and surrounding area (including any use of radioactive materials), General environmental setting, Site investigation strategy based on the information identified in the desk study.
 - (b) A report setting set out what works/clearance of the site is required in order to effectively carry out site investigations.
- 8) No development shall take place (with the exception of works agreed under condition 7) until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - (a) A site investigation report detailing all works that have been undertaken to determine the nature and extent of any contamination, including the results of the soil, gas and/or water analysis and subsequent risk assessment to any receptors

(b) A proposed remediation strategy detailing the works required in order to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters. The strategy shall include a schedule of the proposed remedial works setting out a timetable for all remedial measures that will be implemented.

No part of the development shall be occupied (or each phase of the development where phased) until the remediation strategy approved under (b) been fully implemented in accordance with the approved details.

- 9) No part of the development (or phase of the development where phased) shall be occupied until the following has been submitted to and approved in writing by the Local Planning Authority:
- (a) A completion report demonstrating that the approved remediation scheme as required by condition 8 has been undertaken and that the land has been remediated to a standard appropriate for the end use.
- (b) Details of any post-remedial sampling and analysis (as defined in the approved material management plan) shall be included in the completion report along with all information concerning materials brought onto, used, and removed from the development. The information provided must demonstrate that the site has met the required clean-up criteria.
- Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.
- 10) If unexpected contamination is encountered whilst undertaking the development which has not previously been identified, works shall immediately cease on site until the Local Planning Authority has been notified and the additional contamination has been fully assessed and remediation approved following steps (a) and (b) of condition 8 above. The approved remediation shall then be fully implemented under conditions 8 and 9.
- 11) No part of the development shall be occupied until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and each cycle storage facility shall be constructed in full prior to occupation.
- 12) No development shall take place above slab level until a scheme of hard and soft landscaping has been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include finished ground levels, layout of car parking and pedestrian access and circulation areas, details of materials to be used in hard surfacing. Soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. The approved hard and soft landscaping shall be carried out in accordance with the approved details and implementation programme, with the soft landscaping scheme to be carried out in the first planting and seeding seasons following the first occupation of the development or as specified. Any trees or plants which, within a period of five years after

planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.

- 13) No development shall take place above slab level until a scheme to ensure that dwellings achieve a water efficiency standard of 110 litres or less per person per day (unless otherwise agreed in writing with the local planning authority through a demonstration that this requirement for sustainable water use cannot be achieved on technical or viability grounds) shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 14) No part of the development shall be occupied until an Energy Statement has been submitted to and approved in writing by the local planning authority. The Energy Statement shall include an assessment of the predicted carbon dioxide emissions of the development once occupied and measures to be introduced in order to achieve a reduction of at least 19% in carbon dioxide emissions below the normal requirement set by the Building Regulations 2013 Part L baseline. The development shall be carried out in accordance with the approved details, with any agreed mitigation measures to be installed prior to the occupation of any residential unit.
- 15) No part of the development shall be occupied until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatments and balcony privacy screens to be erected. Development shall be carried out in accordance with the approved details and the boundary treatments and balcony privacy screens shall be completed before the development is occupied and shall be retained thereafter.
- 16) Residential unit F3 hereby permitted shall not be occupied until the window of this property on the north facing elevation has been fitted with obscured glazing (meeting Pilkington Standard Level 3 as a minimum), and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The development shall be retained as approved thereafter.
- 17) No development above slab level shall commence until a scheme of biodiversity enhancement, which shall include details such as permanent bat roosting feature(s) and or nesting opportunities for birds, has been submitted to and approved in writing by the local planning authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme. The scheme shall include, but not limited to, the following details:
 - a) Description, design or specification of the type of feature(s) or measure(s) to be undertaken
 - b) Materials and construction to ensure long lifespan of the feature/measure
 - c) A drawing(s) showing the location and where appropriate the elevation of the features or measures to be installed or undertaken.
 - d) When the features or measures will be installed and made available.

- 18) Notwithstanding the approved plans, the building (Block B) hereby permitted shall be constructed to meet the requirements of Part M4(2) standard in accordance with *Building Regulations 2010 Access to and Use of Buildings*.
- 19) No part of the development shall be occupied until full details of the plant to be installed, along with any mitigation necessary to meet the noise levels set out in the approved Noise Impact Assessment (ref - SV/CC/P16-1166/04 Rev A), have been submitted to and approved in writing by the local planning authority. The mitigation details shall be installed prior to any plant being brought into use, and shall be retained thereafter.
- 20) No development shall take place above slab level until details of measures to reduce noise levels from external sources, and provide appropriate methods of ventilation, within the approved buildings, based on the details set out in section 5.1 of the approved Noise Impact Assessment (ref - SV/CC/P16-1166/04 Rev A), have been submitted to and approved in writing by the local planning authority. The approved sound insulation and ventilation measures shall be implemented in accordance with the approved details prior to the occupation of the development.
- 21) No development shall take place until, in accordance with BS5837 2012, a phased tree protection methodology in the form of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) has been submitted to the local planning authority for its written approval. In a logical sequence the AMS and TPP will consider all phases of construction in relation to the potential impact on trees and detail tree works, the specification and position of protection barriers and ground protection and all measures to be taken for the protection of any trees from damage during the course of any activity related to the development, including supervision, demolition, foundation design, storage of materials, ground works, installation of services, erection of scaffolding and landscaping.
- 22) The approved tree protection methodology set out in condition 21 shall be implemented throughout the development and the agreed means of protection shall be retained on site until all equipment, and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protected in accordance with approved tree protection plans, and the ground levels within those areas shall not be altered nor shall any excavation be made without the prior written approval of the local planning authority. If any tree shown to be retained is damaged, remedial works as may be specified in writing by the local planning authority will be carried out.
- 23) If any tree shown to be retained in the approved tree protection methodology is removed, uprooted, destroyed or dies within five years of project completion, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

End of Schedule