



Appeal Decision

Site Visit made on 7 June 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2021

Appeal Ref: APP/Q0505/W/21/3269702

Good Technology, 355 Newmarket Road, Cambridge CB5 8JG

- 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 D Goodchild and Mr M McMonagle against Cambridge City Council.
- The application Ref 20/03535/FUL, is dated 20 August 2020.
- The development proposed as described on the application form is: 'demolition of existing and construction of eight dwellings and associated external works'.

Decision

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

Preliminary Matters

2. It is apparent from the evidence before me that revised plans¹ (the revised plans) were submitted during the planning application process. It is my understanding that the revisions were made in response to various concerns raised by the Council. The amendments include the omission of a single residential unit, internal reconfigurations, minor changes to external areas and alterations to the design of the Newmarket Road-facing elevation.
3. It is not entirely clear from the Council's Statement of Case if the revised plans were formally accepted and consulted upon at planning application stage. Nevertheless, even if they were not, I am satisfied that no one with a potential interest in the outcome of this appeal is prejudiced by me accepting them. Indeed, built development of essentially the same scale and footprint and a similar site layout is before me for determination. A lesser number of units (seven) is proposed when compared to that stated in the original description of development. I shall thus consider the appeal based on the revised plans and the associated intention to construct seven dwellings.
4. The Council has indicated that it would have refused planning permission had it been in a position to do so. Its main concerns relate to the standards of the intended shared amenity area and private amenity space to serve the future occupiers of Unit 1, the potential for noise from neighbouring commercial activities to adversely impact upon the living conditions of the future occupiers of Units 3, 5 and 7, and alleged loss of privacy and overbearing effects for potential future residential occupiers at Nos 351 and 353 Newmarket Road (Nos 351 and 353). I shall formulate the main issues accordingly.

¹ Ref: 19/1502/01A; 19/1502/02A; 19/1502/03A; 19/1502/04A; 19/1502/05A

Main Issues

5. The main issues are:

- Whether or not the proposal would provide acceptable living conditions for future occupiers, having particular regard to the intended makeup of the communal amenity area and of the external private amenity spaces to serve Unit 1;
- Whether or not it has been adequately demonstrated that the proposal would provide acceptable living conditions for the future occupiers of Units 3, 5 and 7, having particular regard to noise generated by neighbouring commercial activities; and
- Whether or not the proposal would provide acceptable living conditions for potential future residential occupiers of Nos 351 and 353, having particular regard to outlook and privacy.

Reasons

Living conditions – external areas

6. As set out in the supporting text to Policy 50 of the Cambridge Local Plan (October 2018) (the Local Plan), developments with flats will need to provide (in addition to private amenity space) high-quality shared amenity areas on-site to meet the needs of residents. It is also confirmed that one-bedroom dwellings would not be expected to provide space for children to play.
7. Each of the new units would be served by its own meaningfully sized external amenity space, consisting of either a balcony or private garden area (or, in the case of Unit 1, a private garden as well as a first-floor level terrace). I do not accept the Council's assertions that Unit 1's external spaces would be unduly enclosed or restricted in terms of available outlook or sunlight. Indeed, two separate spaces set at different levels and offering contrasting outlook opportunities are proposed and the orientation of the site, as well as the intended specification of the roof above the terrace, are factors that would promote Unit 1's external spaces receiving spells of direct sunlight.
8. The communal amenity area would not be insignificantly sized and would, to my mind, be of sufficient expanse and quality to perform its intended role. This is on the basis that each of the flats would have access to their own private external space that would be anticipated to cater for the bulk of each future occupier's requirements/desires in an external amenity sense. It is also important to note that seven units are proposed that would each offer no more than one bedroom, such that the communal area is not required to provide play space opportunities.
9. For the above reasons, the scheme would provide acceptable living conditions for future occupiers, having particular regard to the intended makeup of the communal amenity area and of the external private amenity spaces to serve Unit 1. The proposal accords with Policies 50, 56 and 57 of the Local Plan and with the National Planning Policy Framework (February 2019) (the Framework) in so far as these policies set out that provision is made for adequate amenity space and that all new residential units will be expected to have access to an area of private amenity space.

Living conditions – Units 3, 5 and 7 (noise)

10. The site is located adjacent to a supermarket and other vacant commercial buildings. The northernmost corner of the site sits alongside the supermarket's service area and, more specifically, adjacent to a delivery bay. Whilst I did not experience any deliveries take place during the course of my inspection, there is clear potential for noise to be generated by delivery activities adjacent to the site. I also experienced the hum of commercial plant noise when stood close to the delivery bay.
11. A revised Noise Impact Assessment (15 March 2021) (the NIA) has been submitted. This contains noise monitoring information and the assessment that there is significant adverse noise impact from both supermarket deliveries and plant noise at the proposed development site. On this basis, the NIA recommends that no windows should be contained within the façade that faces the delivery bay and that an area proposed as external amenity space (to the northernmost corner of the site) should not be used as a garden area.
12. The Council's Senior Technical Officer in its Environmental Quality and Growth Team has considered the NIA and confirmed his satisfaction to the recommendations/mitigation measures that are set out. Indeed, a compliance condition has been suggested in the interests of attaining assurances that the NIA's recommendations would be fully implemented. When factoring in my own on-site observations, I have no reason to disagree with the NIA's findings nor with the conclusions drawn by the Council's Senior Technical Officer.
13. However, it is evident that the NIA's recommendations are not reflected upon the revised plans. Moreover, the elevations plan² depicts three northwest-facing window openings and the site plan³ illustrates the northernmost corner of the site functioning as private amenity space for Unit 3.
14. In the event the appeal be successful, I am satisfied that a planning condition could be imposed to secure the submission of further revised plans detailing the omission of the northwest-facing window openings. A small number of openings would be impacted, and I find that such a condition could be precisely drafted. Furthermore, with the relevant windows omitted, each of the impacted rooms would continue to be served by alternative openings such that satisfactory standards of outlook for future occupiers would avail.
15. Nevertheless, there is a lack of clarity as regards the future intentions for the northernmost corner of the site. It is unclear what function it would provide and whom would have access to it. Indeed, I am unsure of the precise extent of land intended to comprise Unit 3's private amenity space. On this basis, I cannot be sure that an acceptable noise environment for the future occupiers of Unit 3 would necessarily prevail. The uncertainties discussed here lead me to find that a potential planning condition seeking to attain amendments to the revised site plan would not be suitably precise.
16. For the above reasons, whilst suitable assurances have been provided with respect to the future occupiers of Units 5 and 7, it has not been adequately demonstrated that the scheme would provide acceptable living conditions for the future occupiers of Unit 3 having particular regard to noise generated by neighbouring commercial activities. The proposal would thus likely cause harm

² Ref: 19/1502/05A

³ Ref: 19/1502/01A

and conflicts with Policies 35 and 56 of the Local Plan and with the Framework in so far as these policies set out that residential and other noise sensitive development will be permitted where it can be demonstrated that future users will not be exposed internally and externally to unacceptable levels of noise pollution/disturbance from existing or planned uses.

Living conditions – Nos 351 and 353 (outlook and privacy)

17. The appeal site adjoins Nos 351 and 353, a pair of former office units that front Newmarket Road and that are served by an external gravelled area to the rear (the external area) which I observed to currently provide parking and external storage opportunities. It has been brought to my attention that prior approval⁴ was granted on 15 September 2020 for a change of use of Nos 351 and 353 to become a pair of semi-detached dwellings. The accompanying location plan⁵ clearly indicates the external area to comprise part of the site considered.
18. The appellants have asserted that the prior approval application could have been submitted with the sole intention of establishing a residential use in advance of potential future plans for a comprehensive re-development utilising additional land to the rear. However, whilst a similar approach was taken to establish a residential use at the appeal site, this assertion has not been clearly substantiated. I note here that the land and buildings situated to the rear of the external area, whilst in consistent ownership, are served by a separate access.
19. Upon external inspection of Nos 351 and 353, I was able to observe conversion/renovation works actively taking place. Given that dwellinghouses are the subject of the prior approval consent, the layout and direct rear access opportunities that would avail for future occupiers lends the external area to function (at least in part) as private garden space. Thus, the evidence that is before me, as well as my own on-site observations, leads me to find that there is a strong likelihood of such arrangements soon materialising. I must consider the appeal proposal's effects in this context.
20. A comprehensive redevelopment of the appeal site is intended. Three stories of living accommodation would be created, and the new building's full height would be set down only marginally when compared to the height of the adjacent supermarket. The south-west facing elevation would be stepped back only a limited distance from the shared boundary with No 353 and would incorporate various openings and external balcony areas.
21. I accept that the site is situated in a tight urban environment and that realistic outlook and privacy expectations should be guided by these circumstances. I find that the new building would be stepped back sufficiently from the external area to avoid an overbearing relationship. Thus, to my mind, the outlook experienceable to any future residential user of the external area would not be unduly impacted by the scheme. This is particularly when noting the presence of the supermarket to the appeal site's immediate north-eastern side.
22. However, the various southwest-facing upper-floor openings and external balconies that are proposed would, with respect to the external area, offer significant overlooking opportunities. Indeed, most particularly from the intended second floor balcony areas, future occupiers would be able to attain

⁴ Ref: 20/03132/PRI03M

⁵ Ref: TQRQM20191185059723

direct views down into/across the external area from close distances. This would be to the detriment of suitable levels of privacy being attainable to any future residential user of the external space for amenity purposes.

23. For the above reasons, whilst suitable levels of outlook would avail, the scheme would likely cause harm by not providing acceptable living conditions for any future residential occupiers of Nos 351 and 353 having particular regard to privacy. The proposal conflicts with Policies 56 and 57 of the Local Plan and with the Framework in so far as these policies set out that proposals should create clearly defined public and private amenity spaces that are designed to be inclusive, useable, safe and enjoyable, and promote that a high standard of amenity is provided for existing and future users.

Other Matters

24. I have noted objections/concerns raised by interested parties with respect to matters including bin collection arrangements, the effect upon the character and appearance of the area and potential loss of privacy for local occupiers (other than at Nos 351 and 353, as covered under a main issue in this appeal). However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
25. In terms of the scheme's benefits, it is the case that seven residential units are proposed that would be designed to be accessible to all, and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. Nevertheless, seven additional units would not make a clear or noticeable difference to the City-wide housing supply situation and is a benefit that attracts relatively limited weight.
26. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. However, these benefits attract limited weight due to the somewhat modest scale of development under consideration.
27. The contributions associated with the delivery and subsequent occupation of the proposal would, when considered in cumulative terms, be relatively modest and would not outweigh the harms and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

28. Whilst I have found that the proposal would provide acceptable living conditions for future occupiers having particular regard to the makeup of external areas, I have identified that significant harms would likely be caused to the living conditions of any future residential occupiers of Unit 3 (having particular regard to the noise generated by neighbouring commercial activities) and of Nos 351 and 353 (having particular regard to privacy). These harms are the overriding considerations in this case.
29. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR