



Appeal Decision

Site Visit made on 6 September 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Friday, 24 September 2021

Appeal Ref: APP/Q0505/W/21/3273909

115 Mowbray Road, Cambridge, CB1 7SP

- 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 D Vesey against the decision of Cambridge City Council.
 - The application Ref: 20/03783/FUL, dated 10 September 2020, was refused by notice dated 16 February 2021.
 - The development proposed is described as a change of use of the garage to the rear of 115 Mowbray Road from a store to a 1 bedroom with 1 bed space dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - i) whether the proposed development provides adequate living conditions for future occupiers of the proposed dwelling with particular regard to privacy; and
 - ii) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Living conditions

3. Policy 50 of the Cambridge Local Plan (2018)(LP) stipulates that in providing amenity space, development should address issues of overlooking which may otherwise impact detrimentally on the proposed dwelling.
4. As a result of the subdivision of the rear garden of 115 Mowbray Road (the host dwelling), the common boundary and private outdoor amenity space of the proposed dwelling would be positioned some 10 metres from the host dwelling, taking the Council's measurements, which have not been disputed by the appellant.
5. As a result, the proposed private amenity area would be directly overlooked by windows within the first floor of the host dwelling and there would be a strong perception of overlooking from first floor windows of neighbouring dwellings. This would result in an unacceptable degree of overlooking thus impacting privacy and would make the outdoor space unpleasant for use by future occupiers.

6. Notwithstanding the existing common boundary treatment, to my mind, based upon my observations at the site visit, these do not substantially reduce the potential for overlooking from first floor windows. Whilst the inclusion of trellis has increased the overall height of the boundary treatment, in the absence of a solid surface there remains considerable opportunity for partial views through the trellis. I observed the presence of climbing plants, however, these are not mature to an extent that any significant degree of screening is provided by them. Even once they have reached maturity, seasonal changes would affect the ability of foliage to provide year-round cover and these plants could easily be cut back, die or be removed. As such, I find that the existing fencing and the additional trellis and planting would not overcome the harm that I have identified. The appeal scheme would therefore result in a materially harmful effect upon future occupiers of the proposed dwelling.
7. Therefore, I conclude that the proposed development fails to provide an adequate standard of living conditions for the future occupants of the proposed dwelling with regards to privacy. Thus, there would be conflict with LP Policies 50, 52, 56 and 59 insofar as these policies require high quality development which considers the needs of all users and protects the amenity and privacy of proposed properties.

Character and appearance

8. Along this part of Mowbray Road, a strong build line exists, with properties set towards the front of their plots, with small areas of garden and parking to their front. Dwellings are typically comprised of two storey semi-detached and terraced dwellings. Rear gardens are long and generously sized and extend through to Hulatt Road, which is a quiet cul-de-sac with development positioned only to one side of the highway. There are a number of examples of outbuildings positioned within rear gardens in close proximity of Hulatt Road. However, these are relatively modestly sized and appear to be in ancillary use to their host dwelling. As such, it is likely that there is not an intensive level of activity associated with them and this concurs with my observations at the time of the site visit.
9. I recognise that the building is already in existence and that the garage door has been removed and windows inserted in line with permitted development rights. Nevertheless, due to the absence of dwellings in rear garden locations in the surrounding area and the increased level of activity that the proposed residential use would bring taken together with its' independent access from Hulatt Road, the appeal scheme would be an anomaly in terms of its location. In its proposed usage as a dwelling, the appeal scheme would be set-back considerably from Mowbray Road meaning that it would be at odds with the prevailing building line of dwellings. Accordingly, the proposal would unduly conflict with the spatial pattern of development and it would be uncharacteristic of the surrounding area.
10. The appellant has sought to reduce domestic paraphernalia being visible at the front of the appeal site and, in addition, it would include the use of materials that are commonly found within garden locations and additional landscaping. I have had regard to these matters, however, they would not overcome the harm I have described above.
1. Accordingly, I find that the proposed development would have a harmful effect on the established pattern and character of development within the

surrounding area. Thus, the proposal would conflict with LP Policies 55, 56, 57 and 59 insofar as they require high quality development that responds positively to its context and key characteristics of the surrounding area.

Other Matters

2. The appellant suggests that the Council's failure to refer to LP Policy 52 in its second reason for refusal implies that the Council are content that the proposed development would be appropriate to the surrounding pattern of development and the character of the area. I disagree with this view. Whilst I accept that it did not form part of the Council's reason for refusal, it was considered within the officer's report, and in my view, I consider there would be some conflict with subsection (a) of this policy.
3. Reference has been made to a number of other developments at Wulfstan Way. However, on the basis of the limited evidence before me, in my view, the particular circumstances of these developments are not directly analogous to the appeal scheme. In particular, one development formed a continuation of the build line of dwellings onto Hulatt Road and in the second, the development concerned the construction of an annexe that is restricted by condition to a use that is ancillary to its host dwelling. As such, a comparison is of limited relevance in this instance. I have therefore considered the appeal before me on its individual planning merits.
4. My attention has been drawn to a previous appeal decision¹ at the appeal site. Where relevant, I have had regard to this in reaching my decision.
5. The proposal would provide an additional dwelling and it would make effective use of the land. The appeal site is located with good access to bus and rail services and sustainable modes of travel are available, including a cycle network. Future occupants would provide support to local services and facilities. The proposal would generate jobs during construction, albeit this would be for a temporary period. Overall, these benefits way in favour of the proposed development.
6. It is suggested that there is an absence of single bedroomed dwellings, however, little evidence has been put before me to substantiate this view.
7. No adverse impacts on the living conditions of neighbouring occupiers have been identified by the Council. As such, the absence of harm is a neutral matter that weighs neither for nor against the proposal.

Conclusion

8. Taking all matters into consideration, I find that the appeal scheme conflicts with the development plan and there are no material considerations of sufficient weight that justify a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

E Brownless

INSPECTOR

¹ APP/Q0505/A/11/2143628