
Appeal Decision

Site visit made on 2 March 2022

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/Q0505/W/21/3284082
62 Oxford Road, Cambridge CB4 3PW

- 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 Mark Tavare against the decision of Cambridge City Council.
 - The application Ref 21/02377/FUL, dated 21 May 2021, was refused by notice dated 27 August 2021.
 - The development proposed is new studio dwelling in the garden of 62 Oxford Road, following demolition of outbuilding, along with associated landscaping works and new boundary treatments.
-

Decision

1. The appeal is allowed and planning permission is granted for new studio dwelling in the garden of 62 Oxford Road, following demolition of outbuilding, along with associated landscaping works and new boundary treatments at 62 Oxford Road, Cambridge, CB4 3PW in accordance with the terms of the application Ref 21/02377/FUL, dated 21 May 2021 and subject to the conditions in the attached schedule.

Procedural Matters

2. An application for costs was made by Jubilee Cottage Ltd against Cambridge City Council. This application is the subject of a separate Decision.
3. The site is located within the Castle and Victoria Conservation Area (Conservation Area). Although effects on the Conservation Area are not a main issue, in deciding this appeal I am mindful of the duties under s72 Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issue

4. The main issue is whether the proposal would create acceptable living conditions for occupants when particular regard is paid to the size and outlook afforded to the garden space and privacy conditions for both the garden and habitable rooms of the new dwelling.

Reasons

5. There is a measure of inconsistency between the Council's decision notice and officer report regarding any concerns they have about the size of the garden spaces that would result for both the existing dwelling (No.62) and the new dwelling. The Council have declined the opportunity to clarify in a statement of case. Examining the evidence, and for the avoidance of doubt, I have considered the effect on both properties.
6. In relation to the size of the garden areas, no governing planning policy or guidance setting a specific metric standard for such spaces has been drawn to my attention. In their officer report, the Council refer to resulting garden spaces of 22sqm for No.62 and just over 15sqm for the new dwelling. These figures are not disputed by the Appellant.
7. The existing garden of No.62 is already smaller than the immediate neighbours due to the presence of the outbuilding. However, the question of acceptability is not about simple consistency with neighbours. It is instead focused on whether acceptable living conditions would result.
8. In this regard, I am satisfied that the garden space for No.62 would be adequate when regard is paid to the size of the dwelling that it is intended to serve. It is also of a sufficient size to allow the activities set out in paragraph 6.34 of the Cambridge Local Plan (Local Plan) to take place.
9. Whilst the removal of the lean to extension has already taken place, there is sufficient photographic and other evidence to confirm that this occurred quite recently and is therefore of relevance. The size and composition of the garden space of No.62 resulting would not be materially different to that which existed when the lean to was in situ.
10. Enhancing the utility of the front garden space of No.62 is of relevance. However, it clearly performs a different function to a rear garden due to the increased level of enclosure and privacy. As such, this enhancement attracts limited weight.
11. Nevertheless, overall, I conclude that the size of the garden space for No.62 resulting from the proposal would allow for effective and practical use of the space by residents. Acceptable living conditions would therefore result.
12. Turning to the garden space for the new dwelling. The size of the garden would limit its overall usability. Whilst most of the activities set out in paragraph 6.34 of the Local Plan could occur, the circulation space for multiple people would be more limited and it would not be particularly useable as an area for children to play in.
13. However, when regard is paid to the likely number of users of the garden resulting from the low level of occupation, the accompanying garden space would be of an acceptable size.

14. On the related question of quality of outlook from the garden of the new dwelling. It is noteworthy that the garden would be positioned away from the main dwellings in the terrace and would benefit from a view beyond it towards the townscape gap provided by Wentworth Road. This positioning would provide outlook and a perception of openness beyond the garden that would serve to mitigate any degree of enclosure and more immediate limitations on outlook resulting from fencing at the border of the garden.
15. In relation to privacy, the rear facing first floor windows in the closet wings of No.62 and the neighbouring No.60 would have views towards the garden space and main living area patio window of the new dwelling. As the relevant window in No.62 is obscure glazed, there would be no resulting effects on privacy when it is closed.
16. In relation to No.60, views into the garden space of the new dwelling would be broken by existing and proposed boundary fences. Given the angled nature of the view and privacy level that already exist to the garden of No.62, I am satisfied that acceptable privacy conditions would result for the garden of the new dwelling, paying regard also to the urban nature of the area and degree of mutual overlooking that is to be expected.
17. Views into the main living area of the new dwelling through the patio window would be less encumbered by boundary features. Given this, and the differing privacy expectations relating to internal living space, the question of whether acceptable living conditions would result is more borderline.
18. However, views from the first floor window are at a closest distance of 8 metres and are at an angle. The main views of concern are also limited to a single window.
19. Weighing this issue in the round, including the general standard of accommodation and amenity that would be afforded to future occupants of the new dwelling, I am satisfied that the effects in terms of levels of privacy to the internal living space of the new dwelling would be acceptable.
20. In conclusion on this issue, the proposal would create acceptable living conditions for occupants. Consequently, there is no conflict with Policies 50, 52 and 56 of the Local Plan relating to the creation of high quality living environments.

Other Matters

21. I have paid regard to comments from other interested parties. Comments relating to the main issue have been considered as part of my conclusions elsewhere in this decision.

22. I have considered other potential amenity impacts that have been drawn to my attention. Whilst the concerns are understood, the degree of potential effects set out do not lead me to conclude that unacceptable living conditions would result or that impacts on other amenities should be added as a main issue in this appeal.
23. In terms of amenity impacts on the neighbouring No.60, there would inevitably be a greater feeling of lived presence and activity resulting from the new dwelling as compared to the existing outbuilding. However, there is nothing in the evidence that leads me to conclude that normal residential use of the new dwelling would lead to a level of intensification likely to have a harmful impact on living conditions.
24. Similarly, the effects on No.56 and other properties that are further away than No.60 would be acceptable, including potential for noise and disturbance, given the relatively modest uplift in overall residential use.
25. Comparisons with previous proposals for the site and other development in the area is of general relevance but can be given limited weight due to the need to consider each proposal on its own merits.
26. I have paid regard to all other comments received, which do not affect my conclusions on the main issue.

Conclusion

27. For the above reasons the appeal is allowed, subject to the conditions discussed below.

Conditions

28. I will consider conditions by reference to the numbering in the attached schedule. In imposing conditions, I have paid regard to the Council's suggested list, and the Appellant's response to it. Where used, I have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness.
29. (2) is necessary in the interests of certainty.
30. (3) is to ensure a satisfactory standard of external appearance.
31. (4), (5) are necessary to ensure that appropriate provision is made for drainage. From the Council's evidence, I am not satisfied that the detailed requirements in their suggested conditions relating to surface water drainage would be proportionate to the scale and type of development proposed, and therefore be reasonable. Condition (4) would allow for a more proportionate response to be agreed.
32. (6) is necessary to ensure suitable provision is made for bike/bin storage. I am not persuaded from the Council's evidence that a requirement for agreement of further details above and beyond what is indicated on the plans would be necessary.

33. (7) is necessary to secure compliance with Policy 51 of the Local Plan.
34. (8) is necessary to secure carbon reduction and water efficiency standards that are in line with those required by the Local Plan. I have not used the Council's suggested conditions relating to these matters as the evidence on whether the requirements are aligned with the Local Plan has not been set out in sufficient depth to allow me to confirm whether they are necessary.
35. The Council have not provided compelling clear justification for their suggested removal of national permitted development rights. Nor do I see an obvious issue that would necessitate such a condition.
36. Similarly, there is limited justification for using the planning system to restrict hours of building work, given the scale and type of development proposed. Any serious amenity issues related to this could be adequately addressed using other regulatory regimes.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

P-00-01 A (Existing plans and elevations, 24th May 2021); P-01-01 (Location plan, 24th May 2021); P-01-02 B (Site plan, 14th June 2021); P-02-01 A (Proposed plans, 24th May 2021); P-03-01 B (Proposed elevations, 24th May 2021); P-03-02 A (Street scenes, 24th May 2021); P-04-01 A (Proposed sections, 24th May 2021).

3. No development shall take place above ground level, except for demolition, until details of all the materials (including roof material) for the external surfaces of the development 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 unless otherwise agreed in writing with the Local Planning Authority.
4. No development shall take place above ground level, except for demolition, until a surface water drainage scheme for the site has been agreed in writing with the local planning authority. The scheme shall include details of existing and proposed drainage arrangements (including consideration of sustainable drainage solutions) and maintenance. The scheme shall be implemented in accordance with the approved details prior to first occupation of the development and shall be maintained as such for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
5. No development shall take place above ground level, except for demolition, until a scheme for the provision and implementation of foul water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of the development and shall be maintained as such for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
6. The bin/bike store shown on the approved plans shall be provided prior to first occupation of the development and shall remain available for its intended purpose for the lifetime of the development, unless otherwise agreed in writing with the local planning authority.

7. Notwithstanding the approved plans, the dwelling hereby permitted, shall be constructed to meet the requirements of Part M4(2) 'accessible and adaptable dwellings' of the Building Regulations 2010 (as amended 2016), unless alternative arrangements are agreed in writing with the local planning authority.
8. Prior to first occupation of the dwelling hereby permitted, carbon reduction and water efficiency measures shall be implemented in accordance with a Statement which shall first be submitted to and approved in writing by the local planning authority. The statement shall demonstrate accordance with any relevant standard set out in the Cambridge Local Plan and accompanying guidance.