



Appeal Decision

Site visit made on 21 June 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 7 July 2022

Appeal Ref: APP/Q0505/W/21/3287857

Land to the rear of 56-58 Cherry Hinton Road, Cambridge CB1 7AQ

- 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 Andy Brand (Abbey Developments Cambridge Limited) against the decision of Cambridge City Council.
 - The application Ref 21/01521/FUL, dated 30 March 2021, was refused by notice dated 8 October 2021.
 - The development proposed is described as the erection of 7 apartments comprising 1 No. 2-bed and 6 No. 1-bed units, including bin and cycle storage facilities, together with reconfiguring the pedestrian access to 56A and 58A Cherry Hinton Road and installation of a new ground floor rear wall to the retained retail unit at 56-58 Cherry Hinton Road, following demolition of an existing warehouse building.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the living standards of the future occupiers.

Reasons

Character and Appearance

3. The appeal site comprises the redevelopment of a site comprising a vacant commercial building and a surfaced area used for both access to neighbouring dwellings and parking. The site is located to the rear of commercial properties fronting Cherry Hinton Road and dwellings fronting Rathmore Road. The site has a mixed character and appearance with dwellings fronting Rathmore Road which possess verdant gardens, commercial properties fronting Cherry Hinton Road where single storey additions have been built over what might previously have been gardens and The Mill which is a 3-storey apartment building with courtyard parking. At the time of the site visit, the rear of 54 Cherry Hinton Road was being redeveloped to provide artist studios.
4. The proposed development includes the erection of an apartment block with pedestrian and cycle access from Rathmore Road via an existing surfaced access. The Council's first reason for refusal refers to a number of matters which culminate in a concern that the erection of 7 flats would represent an overdevelopment of the site and resulting in a cramped form of development.

5. Included as part of the design of the proposed development is the installation of solar photovoltaic panels on the roof of the apartment building. The appellant's evidence indicates that the use of these panels would satisfy the policy requirements for the generation of renewable energy on-site. The Council has not adduced specific evidence that the use of other technologies is necessary elsewhere within the site to meet any renewable energy requirement. The appeal application was not specifically refused on this basis and the need for space within the site for other renewable energy technologies has not been demonstrated.
6. The appeal scheme is proposed to be car free. The existing well-established access, although used to access domestic garages and the servicing areas of the commercial properties, would be a direct route from the road to the proposed apartments and it would be suitable and appropriate for pedestrians and cyclists to use. There would be sustainable access to the proposed apartments. The current access from Rathmore Road is generally level and those people with limited mobility would be able use this route to access the proposed flats. The absence of parking spaces for less able occupiers is reflective of a car free scheme of the type proposed and no specific policy requirement has been identified which requires disabled parking to be provided.
7. Around the proposed apartment building there is limited open amenity space for the future occupiers which the Council claim contributes to the cramped form of the appeal scheme. However, although there is limited greenspace, the proposed flats would incorporate private amenity spaces in the form of balconies which would be available to the occupiers to use.
8. Reference is made by the Council to the third storey of the proposed apartment building being visible from Cherry Hinton Road. The properties fronting this road are a mix of 2 and 3-storey buildings and there are some gaps which afford views to the rear. By reason of height, the third floor of the apartment building would be visible but such views would be limited by the existing properties. The proposed building would neither be a visually prominent nor be so conspicuous so as to be an incongruous form development that would cause unacceptable harm to the character and appearance of the streetscene.
9. In making this assessment account has been taken of the choice of external materials for the proposed building which would not reflect those predominant within the properties fronting Cherry Hilton Road and Rathmore Road but the appeal site's location means it is not an integral part of these streetscenes.
10. On this issue it is concluded that the appeal scheme would not represent a cramped form of development and, as such, it would not cause unacceptable harm to the character and appearance of the surrounding area. It is further concluded that the proposed development would not conflict with Policies 55, 56 and 57 of the Cambridge Local Plan (CLP) which, amongst other matters, require a high quality of development which has to have a positive impact on the setting and development to respond positively to its context.

Living Standards

11. CLP Policy 35 is referred to in the Council's reasons for refusal but this concerns noise and vibration matters. CLP Policy 37 is specifically about air quality and, amongst other matters, refers to where a development is a

sensitive end-use then there will not be any significant adverse effects on health, the environment or amenity arising from sources of odour. The National Planning Policy Framework (the Framework) identifies that if the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.

12. There is an extraction flue associated with a near-by restaurant. The appellant has identified that the extraction equipment was erected without seeking the necessary approval pursuant to a planning permission and, as such, it is unlawful. Whether this equipment is unlawful is not a matter for this appeal to determine.
13. However, the extraction flue is the subject of complaints to the Environmental Health Officer from local residents because of what are claimed to be excessive odours emanating from the preparation and cooking of food. As identified by the appellant, there is no clear evidence that the Council has followed-up the odour complaints and remedial action is being, or will be taken, against the design and operation of the extraction equipment under other legislation. The appellant claims that this appeal scheme should not be responsible for installing filtration to the extraction equipment to address an existing concern.
14. The flue was observed during the morning site visit and was in operation with some cooking being undertaken within the restaurant's kitchen. There was a noticeable odour of cooking food emanating from the restaurant but whether what was experienced is representative of the normal operation of the business, especially during the evening/night-time is unknown.
15. The fact there a noticeable odour was detected during the site visit and the operation of extraction flue is the subject of complaints is indicative of a legitimate concern that odour pollution could potentially have a significant adverse effect on the future occupiers, including because of the proximity of the flue to openings for some of the proposed bedroom windows and the location of the apartment's balconies. This assessment recognises the predominant wind direction referred to by the appellant but wind would not always present to disperse the emissions from the flue. Accordingly, it is concluded that the proposed development would not result in satisfactory living standards for the future occupiers and, as such, there would be a conflict with CLP Policy 37 and the Framework.

Conclusion

16. Other matters have been raised by local residents, including rights of access and the impact of the appeal scheme on the living conditions of the occupiers of neighbouring properties. However, these matters do not alter the main issues which have been identified as the basis for the determination of this appeal. Although the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area, this matter is demonstrably outweighed by the failure to provide satisfactory living standards for the future occupiers. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR