



Appeal Decision

Site visit made on 28 June 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/Q0505/W/22/3294540

9 Almoners Avenue, Cambridge CB1 8NZ

- 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 Paul McGilly against the decision of Cambridge City Council.
 - The application Ref 20/05147/FUL, dated 15 December 2020, was refused by notice dated 7 December 2021.
 - The development proposed is Erection of a single dwelling with parking and supporting infrastructure along with revised access arrangements from the highway following the demolition of the existing former garage (resubmission of application reference 19/1731/FUL).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul McGilly against Cambridge City Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area; and,
 - The living conditions of future and neighbouring occupiers, with particular regard to privacy, noise and disturbance.

Reasons

Character and Appearance

4. The appeal site is a long, rectangular plot accessed from Almoner's Avenue and containing a detached dwelling at the front of the site. Almoner's Avenue is predominantly characterised by detached dwellings set spaciously in long gardens. Although the buildings within the area are varied, there is a sense of regularity with the pattern of development. I note some exceptions to this prevailing character, but I find that they do not significantly alter the character of the street scene as a whole.
5. The proposal, by way of subdividing the appeal site, would significantly reduce the length of the plot and would result in a dwelling set behind the rows of development facing Almoner's Avenue and Netherhall Way. In this way it would be an incongruous feature that would jar with the prevailing pattern of development within the street scene. This would be further exacerbated by the

creation of a new vehicular access serving the existing dwelling and the creation of a driveway to the new dwelling behind.

6. Although the development would primarily affect the rear garden the changes to the front of the site would be visible in public views and, moreover, the proposed dwelling and parking area would be visible from neighbouring properties. As such it would affect the appreciation of the character and appearance of the surrounding area.
7. Whilst there may be examples of buildings set behind the line of development, I understand that these are outbuildings ancillary to the use of the main dwelling. As a separate unit to the existing dwelling, the proposal would result in the doubling up of residential paraphernalia, and of activities usually associated with residential dwellings. Therefore, to this extent the character of the use would be different to an ancillary building which would typically share any existing paraphernalia and would not increase the activity on site. I have not been provided with details of the appearance of these buildings and so I have given this little weight in my determination.
8. Moreover, whilst the appellant has directed my attention to a number of approvals for infill dwellings, particularly on Almoners' Avenue, I find that they are not particularly relevant to the appeal proposal. Namely, the three permissions closest to the appeal site¹ all directly face on to Almoners' Avenue and so their relationship with the pattern of development is not similar to the proposal which is landlocked. Furthermore, the development at number 39 Almoners' Avenue² is within a different context to that before me, being set at the edge of the residential area and set off an existing spur, rather than within a block. Other examples of permissions³ within the wider area have been submitted but I find that these are so distant, and within such different contexts, that they are not relevant either.
9. In light of the above, the proposal would harm the character and appearance of the surrounding area by way of its location, layout and design. It would therefore, conflict with Policies 52, 55 and 57 of the Cambridge Local Plan (the CLP, October 2018). These policies require, amongst other matters, that developments respond positively to their context, the pattern of development and character of the surrounding area. The proposal would also conflict with Paragraphs 125(c), 126 and 130 of the National Planning Policy Framework (the Framework) which require, amongst other matters, that developments are of a high-quality, adding to the quality of the area and maintain a strong sense of place.

Living Conditions

10. The proposed driveway serving the new dwelling would introduce vehicular movements within the site that are not currently present. These would be close to a number of the surrounding gardens which are currently quiet and peaceful due to their distance from the road and any existing driveways and parking areas. Given the closeness of the driveway and parking areas to the neighbouring gardens the noise of motor vehicles accessing, manoeuvring and egressing the site would be disruptive to neighbouring occupiers using their

¹ 15/2241/FUL, 16/2232/NMA and 18/1140/FUL

² 19/0971/REM

³ 14/1653/FUL, 15/2020/FUL, 15/2241/FUL, 16/0641/FUL, 17/1272/FUL, 18/1625/FUL and 19/0095/FUL

rear gardens. I find that numbers 7 and 9 Almoner's Avenue and number 68 Netherhall Way would be particularly affected. The noise and disruption would harm the enjoyment of the neighbouring occupiers and would consequently be detrimental to their living conditions.

11. It is also likely that there would be a level of overlooking between the existing dwellings along Netherhall Way and the front and rear gardens of the proposed dwelling. However, such overlooking already affects the appeal site and I find that within built-up areas some degree of overlooking is to be expected. Moreover, front gardens are not typically expected to be private. Therefore, whilst there would be some overlooking it would not be so significant as to unacceptably affect the privacy of the future occupiers.
12. Nevertheless, the proposal would result in harm to the living conditions of neighbouring occupiers as a result of noise and disturbance. The proposal would therefore conflict with CLP Policies 52, 56 and 57 which, amongst other matters, require that developments protect the amenity of existing and neighbouring properties and create useable and enjoyable private amenity spaces. The proposal would therefore also conflict with Policy 130 of the Framework which requires that development provide a high standard of amenity for existing and future users. Whilst the Council referred to CLP Policy 50 in their decision notice, I do not find it to be particularly relevant to this issue.

Fallback Position

13. The appellant has submitted that they have a certificate of lawful development⁴ for a building within the rear garden to be erected under permitted development rights. The proposed building would be used for various purposes ancillary to the dwelling, including a home office, pool and gym. From the plans before me it appears that the building would be largely the same as the appeal scheme.
14. However, whilst the two buildings would be visually similar, the proposed uses would be significantly different, and the fallback scheme would not include all of the development contained within the appeal proposal. Most importantly though, the fallback scheme is not for a separate dwelling and as such would not achieve the same purposes as the appeal proposal. Consequently, I do not find that there is a realistic prospect for the fallback position to be carried out as it would not achieve the appellant's aims set out under this appeal.
15. Nevertheless, I find that the use of the dwelling, the subdivision of the site and the proposed driveway would cumulatively result in a development that is significantly different, with regards to character and appearance, from the fallback position. Furthermore, the lack of a driveway to the rear of the site under this position would prevent any noise related harm to the living conditions of neighbouring occupiers. It is from these matters, as outlined above, that harm would arise. Therefore, should the fallback proposal be carried out, it would result in less harm.
16. I am mindful that the appellant has suggested that they could demolish the garage and provide a driveway to the rear of the house under permitted development rights. Whilst this may be the case, I have not been provided with

⁴ 20/02503/CL2PD

any evidence to demonstrate that this would be possible at the appeal site. I find that these works would also, on their own or cumulatively with the outbuilding above, not serve the same purposes as the appeal proposal. I again, therefore, find there would not be a realistic prospect of these works being carried out.

17. Whilst I have been mindful of the appeal at number 70 Mowbray Road⁵, the appeal centred on the conversion of a building that was already present and served by an existing access. In contrast, and as noted above, the appeal before me includes the erection of a building, the provision of a driveway and of a new vehicular access. It therefore appears from the information before me that any changes to the character or appearance of the area surrounding number 70 would have been more limited than those before me.
18. Given the above, whilst development of a superficially similar nature may be able to take place, I find that it is unlikely that they would. Moreover, even if such works were to be carried out, I find that they would not result in harm equivalent to the appeal proposal. Therefore, I do not find that there is a fallback position that justifies the harm which would result from the appeal scheme.

Other Matters

19. The appellant has made reference to a number of paragraphs within the Framework which are not directly relevant to the main issues set out above, namely, Paragraphs 11, 38, 60, 62, 69 and 120. However, these are relevant to my overall consideration of the appeal, and I have been mindful of them, including in the planning balance below.

Planning Balance and Conclusion

20. The government's objective is to significantly boost the supply of housing and the proposal would provide one new dwelling. The dwelling would also likely meet an identified need for bungalows suitable for older occupiers. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal, these benefits attract modest weight.
21. Conversely, the proposal would, by way of its location and design, harm the character and appearance of the surrounding area and the living conditions of neighbouring occupiers. These matters attract significant weight and outweigh the benefits associated with the proposed development.
22. The proposal would therefore conflict with the development plan and there are no other considerations, including the National Planning Policy Framework, that outweigh this conflict. Therefore, and for the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR

⁵ APP/Q0505/W/21/3280165