



Appeal Decisions

Site visit made on 8 November 2022

by Ms Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2022

Appeal A Ref: APP/Q0505/C/22/3291432

Appeal B Ref: APP/Q0505/C/22/3291453

Land at 8 Kelsey Crescent, Cambridge, Cambridgeshire, CB1 9XT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeals are made by Mr K Ostani (Appeal A) and Mrs Z Ostani (Appeal B) against an enforcement notice issued by Cambridge City Council.
 - The enforcement notice, numbered EN/00002/22, was issued on 14 January 2022.
 - The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 19/0838/FUL granted on 30 August 2019.
 - The development to which the permission relates is: Conversion and extension of garage to habitable space and erection of carport. The condition in question is No 2, which states: "The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice."
 - The enforcement notice alleges that the condition has not been complied with because the extended garage structure has been built higher than plans passed and in addition, hosts a newly constructed adjoining overhang structure that is not shown on the plans listed on the decision notice.
 - The requirements of the notice are: (i) comply with condition 2 by reducing the height of the garage structure to that detailed on the approved plans as listed on the decision notice of planning permission ref: 19/0838/FUL; (ii) comply with condition 2 by removing the protruding light hole structure in the roof of the extended garage structure and reverting the roof form to that detailed on the approved plans as listed on the decision notice; (iii) comply with condition 2 by removing the overhanging structure in its entirety attached to the garage structure that is located in the rear garden of the premises; and (iv) remove all resulting materials from the premises.
 - The period for compliance with the requirements is: 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal C Ref: APP/Q0505/W/22/3290839

8 Kelsey Crescent, CAMBRIDGE, CB1 9XT

- 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 & Mrs K and Z Ostani against the decision of Cambridge City Council.
 - The application Ref 21/01125/HFUL, dated 10 March 2021, was refused by notice dated 4 January 2022.
 - The development proposed is the erection of an ancillary annexe.
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Decisions

1. Appeals A and B – The enforcement notice is quashed.

2. Appeal C - The appeal is allowed and planning permission is granted for the erection of an ancillary annexe at 8 Kelsey Crescent, Cambridge, CB1 9XT in accordance with the terms of the application, Ref 21/01125/HFUL, dated 10 March 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the 8 Kelsey Crescent and it shall at no time be independently occupied or let, used to accommodate bed-and-breakfast guests or other short-term visitors paying rent or fees.
 - 2) The fascia boards attached to the building hereby permitted shall be replaced in grey or spray painted grey to match the window frames of the annex within 3 months of the date of this decision and shall remain grey thereafter.

Applications for costs

3. An application for costs has been made by Mr K Ostani and Mrs Z Ostani against Cambridge City Council. This will be the subject of a separate decision.

Preliminary Matters

4. I have removed "retrospective planning permission for" from the description of development in Appeal C as these words are superfluous as they do not constitute an act of development.

Appeal C – the s78 appeal

5. The main issues are the effect of the building upon (i) the character and appearance of the area and (ii) the living conditions of neighbouring occupiers.
6. The building is at the end of the rear garden of 8 Kelsey Crescent and fronts onto Windermere Close. Windermere Close is characterised by garages built close to the back of the pavement. The former garage was in a similar position to the building subject of this appeal in relation to the highway and the path running down the side of the property.
7. I acknowledge that the appeal building fills the width of the plot but as there are double and triple garage buildings on Windermere Close, the width of the building is not inappropriate for its context. I am also mindful that the Council has already found that a building of the same width and of a similar height to be acceptable.
8. The skylight projects slightly above the flat roof but at my visit, I was unable to see it from the ground on Windermere Close or from the alley at the side. I accept that neighbours can see it from bedroom windows but it is a modest detail appropriate to a domestic property. It is therefore visually acceptable.
9. The height of the building was measured on site and it was agreed that it is about 3m at the highest point. This is not a materially different height to that of the approved scheme. Although taller than surrounding garages, there are also dormer bungalows and two storey houses surrounding the site. Therefore, its height is not out of character with its surroundings.
10. I note the neighbour's comments that the land slopes along the side elevation of the building. The slope is not shown in any submitted plans but it is very

slight and its change in level from the front to rear of the building is only about the height of one course of bricks. The slope, therefore, has no material effect upon the overall impression of the height of the building.

11. The canopy has no supporting walls as it is cantilevered from the main roof. It is not a bulky structure and although it adds to the length of the roof, it adds little to the overall bulk of the building.
12. However, the white plastic facias that wrap around the perimeter of the roof, including the canopy, are very deep in comparison to the facias on most of the other nearby dwellings and outbuildings. This depth, in combination with their length, shiny white appearance and sharp contrast with the red bricks and dark grey fenestration results in them being a strident and uncharacteristic feature within the street-scene. I appreciate that facias were approved in the garage extension, however, the ones installed are deeper than approved. Furthermore, the bricks of the previous garage were of a different colour, which would have been less of a contrast. Nevertheless, this matter could be addressed by changing the boards or spraying them with a darker colour so that they would be better assimilated.
13. The annex looks more residential than the surrounding garages. However, whilst I recognise that the cul-de-sac end of Windermere Close has garages fronting onto it, the development is in a residential area and therefore, its residential appearance is not out of character.
14. I note that an evergreen tree has been removed which the neighbour says was removed to make way for the outbuilding. However, this had no protection and from what I can see from the photograph submitted by the neighbour, the tree was not particularly big, it was set back from the highway within the rear garden and, in my assessment, would have had negligible amenity value to the street-scene. Its loss is therefore acceptable.
15. In respect of living conditions, the outbuilding is single storey and is partially screened from the objector's windows and rear garden boundary by the garage to No 6 Windermere Close, a gazebo, and a garden fence. The building is also separated from the rear windows of the properties on Windermere Close by their rear gardens and an alleyway, which provide an adequate separation distance, especially considering that the appeal building is only single storey. Therefore, the annex does not have an overbearing impact from either the garden areas of adjacent properties or from their habitable room windows.
16. I conclude that the outbuilding neither harms the character or appearance of the area nor harms the living conditions of neighbours. Therefore, I find no conflict with Policies 55, 56 and 57 of the Cambridge Local Plan 2018 which, in combination, seek to ensure that development is high quality, responds to its context, and protects the character and appearance of the area.

Other Matters

17. I note comments from a neighbour that the development has led to cars being parked on the highway, however, whilst I appreciate that the former garage is no longer available for parking, I have no substantive evidence that parking on the highway leads to a highway safety problem. Windermere Close is a quiet cul-de-sac and I observed a lack of on-street parking pressure in the vicinity at

my visit. Furthermore, the loss of the garage for parking has already been considered acceptable by the Council.

18. The annex has a door giving access directly off Windermere Close which has led to concerns from a neighbour that it might be used as an independent dwelling. However, there are also doors to the annex directly off the garden which retain a functional link with the house. Moreover, the outbuilding is applied for as an annex rather than a separate dwelling. If it were used independently to 8 Kelsey Close it would require a further grant of planning permission. A proposal for a separate dwelling is not before me.
19. I also note comments from the neighbour regarding a new rear gate which has been inserted into the fence of the appeal site. However, this is not part of the proposal before me.

Appeals A and B - the appeals against the enforcement notice

20. The enforcement notice alleges a breach of condition. However, the planning permission which the breach of condition pertains to has not been implemented because the garage which had permission to be extended has been demolished and no extension has been constructed. The actual breach is the construction of a residential annex without planning permission.
21. I have powers to correct the notice. However, S.180(1)(a) of the Town and Country Planning Act provides that where, after the service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
22. As I have granted planning permission for the building, there is no benefit in me correcting the notice and the notice is therefore quashed.

Conditions

23. I have considered the Council's suggested conditions. I have not imposed a plans condition as the building has already been constructed. A condition is imposed to restrict the use of the building as ancillary to the main dwelling and to prevent its use as bed and breakfast as the proposal has only been considered on the basis of an annex. I have also imposed a condition relating to the fascia in the interest of the character and appearance of the area. In respect of the wording of the fascia condition, I have taken account of representations from the main parties.

Conclusion

24. For the reasons above I allow Appeal C and quash the enforcement notice.

Ms Siobhan Watson

INSPECTOR