

Appeal Decisions

Site visit made on 13 January 2023

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal A Ref: APP/Q0505/W/22/3299534

Land to the rear of 368-370 Milton Road, Cambridge CB4 1SU

- 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 Kevin Francis, Stemma Land & New Homes Ltd against the decision of Cambridge City Council.
 - The application Ref 21/03508/FUL, dated 29 July 2021, was refused by notice dated 14 January 2022.
 - The development proposed is the erection of 2 no. dwellings with associated access and landscaping works.
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Appeal B Ref: APP/Q0505/W/22/3308934

Land to the rear of 368-370 Milton Road, Cambridge CB4 1SU

- 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 Kevin Francis, Stemma Land & New Homes Ltd against the decision of Cambridge City Council.
 - The application Ref 22/02444/FUL, dated 24 May 2022, was refused by notice dated 7 October 2022.
 - The development proposed is the erection of 2 no. dwellings with associated access and landscaping works.
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Decision

1. Appeal A is allowed and permission is granted for the erection of 2 no. dwellings with associated access and landscaping works on Land to the rear of 368-370 Milton Road, Cambridge CB4 1SU, in accordance with the terms of the application, Ref 21/03508/FUL, dated 29 July 2021, subject to the attached schedule of conditions.
2. Appeal B is dismissed.

Main Issues

3. The main issues are:
 - the effect of the proposals on the character and appearance of the area; and
 - whether the proposals would provide adequate parking and turning space for vehicles, and adequate bin and bike storage.

Reasons

Character and appearance – Appeals A and B

4. The two similar appeal proposals are for a handed pair of low profile 3-bedroom detached dwellings at the end of the rear gardens of Nos 368 and 370 Milton Road. The properties would front onto the rear access track from Kendal Road which serves a series of garages, outbuildings and an area of allotments, and in each case would be about 12.3 m deep, 6.8 m wide with a height of 5.5 m. The first floor of each dwelling would be rectangular, but the ground floor would be L shaped to allow an undercroft space. In the case of Appeal A this would provide access to the front door and a single parking space about 2.5 x 5 m in size, whilst in the case of Appeal B a smaller space would provide cycle and bin storage with the front door located on the front elevation. No parking spaces would be provided for the dwellings in Appeal B.
5. The wider neighbourhood is characterised by roads of traditional semi-detached houses with long rear gardens. The rough surfaced track along the rear of the properties facing Milton Road serves a series of flat or low pitched roof garages, outbuildings and parking spaces leading to an informal parking and turning area which also provides access to the Kendal Way allotments. On either side at the entrance to the track are No 1A Kendall Way, a two-storey detached infill dwelling built to the rear of No 366 Milton Road but facing Kendal Way, and the side elevation and single storey outbuilding of No 1 Kendal Way, the first of the semi-detached houses in that road.
6. Whilst introducing residential properties into a currently secondary location, the dwellings would be aligned with No 1A, strengthening and replicating the line of garages and outbuildings which line the track. The well-designed, interesting, contemporary buildings would be only 1.5 storeys in character, with their flat roofs about the same height as the eaves level of No 1A and the nearby semi-detached houses. The result would be a low profile scheme that would not be particularly visible from Kendal Way, and the carefully selected materials, buff brick at ground floor level with timber boarding above and a low pitched aluminium/zinc roof to the front, would be distinctive but suitably sympathetic amongst the nearby houses and outbuildings. Single storey lean-to elements on each side would reduce the width at first floor level and with the shallow sloping pitched roof at the front the visual impact of the two dwellings along the access track would be minimised.
7. For these reasons neither proposal would significantly harm the character and appearance of the area and both would comply with Policies 52, 55 and 57 of the Cambridge Local Plan 2018 (the CLP). These allow the subdivision of a plot when the form, height and layout of the proposal is appropriate to the surrounding pattern of development, where proposals respond positively to their context to help create distinctive and high quality places, and where proposals have a positive impact on their setting.

Car parking, turning, bin and bike storage – Appeal A

8. One car parking space per dwelling would meet the standards in Appendix L of the CLP. The Council claims that the space in front of each dwelling 'appears' to be cramped and inadequate for vehicles to park and manoeuvre to leave in forward gear. However, the car tracking analysis in Section 6.1 of the Design and Access Statement Technical Addendum clearly shows cars would be able to reverse and turn in front of the properties to exit the track onto Kendal Way in forward gear. The committee report accepts this in paragraph 8.28. With only two parking spaces proposed in total, the increase in traffic along the track

would be small and with the track already providing access to a number of garages and parking spaces the effect on the safety of other track/road users would be minimal. A condition could be imposed to improve the surface of the track up to the dwellings and to provide lighting, thus benefiting all track users.

9. The Council argue that cycle parking within the rear gardens of the properties would not be satisfactory, forcing users to walk their bikes through the side passage. Whilst contrary to the requirements of CLP Appendix L, this is a common arrangement and unlikely to significantly deter cycle use in practice. Suitable bin and cycle storage facilities could be provided in the rear gardens as confirmed by paragraphs 8.26 and 8.31 of the committee report.
10. For these reasons, in the case of Appeal A, adequate parking and turning space for vehicles, and adequate bin and bike storage, would be provided. There would consequently be no significant conflict with CLP Policies 80 and 82 which prioritise walking, cycling and public transport and require compliance with the car and cycle parking standards in CLP Appendix L.

Car parking, turning, bin and bike storage – Appeal B

11. No car parking spaces would be provided in this instance. The Council officer report states that CLP Policy 82 allows 'car free' development in some cases, for example where the site is within a sustainable central location. However, the policy actually sets three criteria for acceptability, one of which is 'where the car-free status of the development can realistically be enforced by planning obligation and/or on-street parking controls'. In this location there are no parking controls nearby on Kendal Way and even with a planning obligation there would be no effective way of enforcing a car free development. Whilst Milton Road has good bus services and there are a range of services and facilities in the neighbourhood, there is every likelihood that the occupiers of the 3-bedroom dwellings would have a car and would park it nearby on Kendal Way. This would lead to increased competition for spaces and potentially inconsiderate parking leading to highway safety concerns.
12. Although the Council state that the cycle parking facilities in the undercroft of each dwelling would not meet the necessary size standards, the appellant submitted amended plans with the appeal which would address the issue.
13. For these reasons, in the case of Appeal B, whilst adequate bin and bike storage could be provided, the absence of parking space for vehicles would conflict with CLP Policy 82 which only allows car free development where it can realistically be enforced.

Other matters

14. Due to its slight set back from the boundary, low profile, lean-to side element and sloping front roof the nearest dwelling would not appear overbearing when seen from the rear facing windows of No 1A, particularly as the ground floor room is dual aspect. The distance between the rear facing first floor windows and those of Nos 268 and 270 would be sufficient to ensure a reasonable level of privacy and there would only be oblique views into adjacent rear gardens, a common situation. There would be no windows on the side elevations of the two dwellings and only high level velux windows to the front, thus preventing direct overlooking of neighbours. There would be some overshadowing of the end of the rear garden of No 272 in the afternoon but this would be relatively

short lived. Noise and disturbance from extra residents would be no more than expected in a residential area, the impact on local infrastructure and public services would be marginal and use of the dwellings for multiple occupation would require a further permission.

15. The Council suggested various conditions should an appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty and to require accessible and adaptable dwellings to maximise flexibility for occupiers. Further conditions are necessary to control the materials to be used and the details of hard/soft landscaping together with its maintenance to ensure the satisfactory appearance of the development in relation to its setting. Due to the constrained nature of the site, conditions are necessary to remove permitted development rights for curtilage buildings, extensions, alterations and windows.
16. In addition, conditions are also necessary to control surface water drainage and its maintenance and foul water drainage to prevent flooding and pollution. Further conditions are necessary to ensure electric charging points are provided and to minimise carbon emissions/water usage to mitigate and adapt to climate change, also to require biodiversity enhancement to maximise ecological benefits. Finally, conditions are necessary to control the hours of work during construction and details of any piling to protect the amenities of nearby residents and to ensure the access track is surfaced and lit in the interests of highway safety.

Conclusion

17. Both schemes would provide two additional small dwellings which would make a useful contribution to local housing needs and have economic and social benefits for the city. In addition, neither scheme would harm the character and appearance of the area and suitable bin and cycle storage could be provided. In the case of Scheme A acceptable car parking and turning facilities would be available whereas Scheme B would not provide car parking and would be likely to lead to on-street parking nearby. This would conflict with CLP Policy 82 and tips the planning balance decisively against Scheme B. Scheme A however would comply with CLP policies and can go ahead.
18. Having regard to the above Appeal A should be allowed and Appeal B dismissed.

David Reed

INSPECTOR

Schedule of conditions for Appeal A

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan
Site Plan 2025 102 Rev A
Proposed Floor Plans 2025 201 Rev A
Proposed Elevations 2025 301 Rev A
Bin and Bike Store 2025 6-11 Rev 1
- 3) No development above slab level shall take place, other than demolition, until full details (and samples if requested) of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out strictly in accordance with the approved details.
- 4) No construction or demolition work including deliveries shall be carried out and no plant or power operated machinery operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, unless otherwise previously agreed in writing by the Local Planning Authority.
- 5) In the event of piling, no development shall commence until a method statement detailing the type of piling, mitigation measures and monitoring to protect local residents from noise and/or vibration has been submitted to and approved in writing by the Local Planning Authority. Potential noise and vibration levels at the nearest noise sensitive locations shall be assessed in accordance with the provisions of BS 5228-1&2:2009 Code of Practice for noise and vibration control on construction and open sites. Development shall be carried out in accordance with the approved method statement.
- 6) No permanent connection to the electricity distribution network shall be established until a dedicated electric vehicle charge point scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that one active electric vehicle charge point per parking space will be designed and installed with a minimum power rating output of 7kW per charge point to serve the approved allocated on-plot parking spaces for the proposed residential units. The approved scheme shall be fully installed before the development is first occupied and retained at all times thereafter.
- 7) No development shall be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and in accordance with Cambridge City Council local plan policies, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied.

The scheme shall include:

- a) Details of the existing surface water drainage arrangements including runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;
 - b) Full results of the proposed drainage system modelling in the above-referenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with a schematic of how the system has been represented within the hydraulic model;
 - c) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers, details of all SuDS features;
 - d) A plan of the drained site area and which part of the proposed drainage system these will drain to;
 - e) Full details of the proposed attenuation and flow control measures;
 - f) Site investigation and test results to confirm infiltration rates;
 - g) Full details of the maintenance/adoption of the surface water drainage system;
 - h) Measures taken to prevent pollution of the receiving groundwater and/or surface water;
 - i) Formal agreement from a third party if discharging into their system is proposed, including confirmation that sufficient capacity is available.
- The drainage scheme must adhere to the hierarchy of drainage options as outlined in the NPPF and PPG.

- 8) Details of the long term maintenance arrangements for the surface water drainage system (including all SuDS features) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the buildings hereby permitted. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full at all times thereafter.
- 9) No development above ground level shall commence 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 subsequently be implemented in accordance with the approved details prior to the first occupation of any part of the development or in accordance with an implementation programme agreed in writing by the Local Planning Authority.
- 10) The development shall not be first occupied until carbon reduction measures have been implemented in accordance with a Carbon Reduction Statement which shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that all new residential units shall achieve reductions in CO₂ emissions of 19% below the Target Emission Rate of the 2013 edition of Part L of the Building Regulations, and shall include the following details:
 - a) Levels of carbon reduction achieved at each stage of the energy hierarchy;
 - b) A summary table showing the percentage improvement in Dwelling

Emission Rate over the Target Emission Rate for each proposed unit; Where on-site renewable or low carbon technologies are proposed, the statement shall also include:

- c) A schedule of proposed on-site renewable energy technologies, their location, design, and a maintenance programme; and
- d) Details of any mitigation measures required to maintain amenity and prevent nuisance.

Where grid capacity issues subsequently arise, written evidence from the District Network Operator confirming the detail of grid capacity and a revised Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved revised Carbon Reduction Statement shall be implemented and thereafter maintained in accordance with the approved details.

- 11) No dwelling shall be first occupied until a water efficiency specification based on the Water Efficiency Calculator Methodology or the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition) has been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that the dwellings are able to achieve a design standard of water use of no more than 110 litres/person/day. The development shall be carried out and thereafter maintained in accordance with the agreed details.
- 12) No development above slab level shall commence until a biodiversity enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. It shall include the consideration of native planting, hedgehog habitat and connectivity and the proposed specification, number and locations of internal and/or external bird and/or bat boxes on the new buildings and any other measures to demonstrate that there will be a net biodiversity gain on the site of at least 10% (unless an alternative target is otherwise agreed by reason of viability). The biodiversity enhancement scheme as approved shall be carried out prior to the first occupation of the development and subsequently maintained in accordance with the approved scheme for the lifetime of the development.
- 13) No development above ground level other than demolition shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed finished levels or contours; means of enclosure including provision for gaps in fencing for hedgehogs; car parking layouts, other vehicle and pedestrian access and circulation areas; and hard surfacing materials. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme.
- 14) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first occupation of any part of the development or in accordance with a programme approved in writing by the Local Planning Authority. Maintenance shall be carried out in accordance with the approved schedule. Any trees or plants (existing retained or proposed) that, within

a period of five years after planting (or replanting if previously failed), are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of the species, size and number as originally approved, unless the Local Planning Authority gives its prior written approval for any variation.

- 15) Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that order with or without modification), the provision within the curtilage of the dwelling houses of any building or enclosure, swimming or other pool shall not be allowed without the granting of specific planning permission.
- 16) Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order with or without modification), the enlargement, improvement or other alteration of the dwelling houses shall not be allowed without the granting of specific planning permission.
- 17) Notwithstanding the provisions of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order with or without modification), no new windows or dormer windows (other than those expressly authorised by this permission), shall be constructed without the granting of specific planning permission.
- 18) Prior to the first occupation of the dwellings hereby permitted, the access track within the red line plan shall be resurfaced and include lighting in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The access track shall be constructed so that its falls and levels are such that no private water from the site drains across or onto the adopted public highway and uses a bound material to prevent debris spreading onto the adopted public highway. The access shall subsequently be maintained in accordance with the approved details for the lifetime of the development.
- 19) Notwithstanding the approved plans, the dwellings 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).