



Appeal Decisions

Site visit made on 27 June 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal A: APP/Q0505/W/22/3297765

611 Newmarket Road, Cambridge CB5 8PA

- 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 Ivett and Reed Ltd against the decision of Cambridge City Council.
 - The application Ref 21/01487/FUL, dated 26 March 2021, was refused by notice dated 30 November 2021.
 - The development proposed is described as demolition of existing house and erection of eight flats and one maisonette (net eight new homes) together with ancillary works.
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Appeal B: APP/Q0505/W/22/3303855

611 Newmarket Road, Cambridge CB5 8PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Reed of Ivett and Reed Ltd against Cambridge City Council.
 - The application Ref 22/02127/FUL, is dated 5 May 2022.
 - The development proposed is described as demolition of existing house and erection of eight flats and one maisonette (net eight new homes) together with ancillary works.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed, and planning permission is refused.

Preliminary Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same site and each proposes a substantially similar scheme of development, albeit with minor differences. I have considered each on its individual merits, however, in order to avoid duplication, I have dealt with the appeals together, except where otherwise indicated.
4. The Council failed to determine the application subject of Appeal B. It has however supplied both an officer report and draft reasons for refusal. I have taken these into account in defining the main issues and in my assessment below.
5. The Council identified that both schemes would represent overdevelopment and would be cramped. This assertion arose as an aggregate of other reasons for refusal. I shall therefore address the matter in relation to each of those reasons as relevant below, rather than separately.

Main Issues

6. The main issues are:

- the effect of the developments on the living conditions of occupants of 609 Newmarket Road in relation to outlook and privacy;
- whether the developments would provide acceptable living conditions for future occupants in relation to (a) provision of amenity space; (b) noise; and (c) waste management;
- whether the developments would provide adequate cycle parking; and
- whether the scheme subject of Appeal B would provide adequate scope for inclusive access.

Reasons

Living conditions: No 609

7. The appeal site includes the existing dwelling at No 611, its back garden, and adjacent buildings and space currently in commercial use. The latter form a linear range partly to the rear of 613 Newmarket Road. No 609, which neighbours No 611, occupies a similarly linear plot which is bounded on the east and north sides by the appeal site.
8. Each of the appeal schemes would see a block of flats of similar form and design constructed in place of the existing commercial buildings and space towards the rear of No 613. This would comprise separate 2-storey and 3-storey components connected at the centre by a unit of single storey accommodation. In common with the existing commercial buildings, the west elevation of the block would run roughly parallel with the side boundary of the back garden of No 609. A reasonably narrow space roughly the width of the existing back garden of No 611 would separate the two.
9. The 2-storey component of the block would be greater in height than the existing commercial building, but only modestly so, whilst the single storey component would be of lesser height. In each case the relationship of built form with adjacent space would not undergo any significant change. Each would however form components of a larger block.
10. In this regard the overall height of the 3-storey component of the block would be similar to that of the ridge height of nearby 2-storey dwellings, some of which feature attic accommodation. However, unlike these dwellings it would be a fully 3-storey rectilinear structure. Consequently, it would be far bulkier, and its addition, partly within open space, would give rise to a marked change in the presence of built form. This would be clearly perceived from within the garden of No 609, in relation to which it would give rise to some overbearing. This would be further accentuated by the overall increase in built form parallel with the garden boundary.
11. The part of the garden that would be most directly affected falls within the rear half of the plot upon which No 609 stands. The adverse effects would however inevitably be felt across a broader proportion of the garden. These would only be partially alleviated by existing and/or enhanced boundary planting which would not wholly screen the development.

12. The west elevation of the existing commercial building is blank. By contrast, the west elevation of the block within both appeal schemes would feature windows, and balconies would be provided at first and second floor level. These balconies would feature limited screening within the scheme subject of Appeal A, and resulting scope for overlooking of the garden of No 609 would give rise to a significant diminution of privacy. This matter has been satisfactorily addressed within the scheme subject of Appeal B, within which balconies of a different design would feature greater screening.
13. Other windows at second floor level would provide only limited direct views towards the rear part of the garden at No 609. Those at first floor level would not exceed the height at which first floor windows are provided within other dwellings nearby. Nonetheless, their number and provision parallel with the rear garden of another dwelling appears atypical within context. The effect would be greatest in relation to the scheme subject of Appeal A, given that most of the windows within the west elevation would serve principal daytime living spaces. Existing and/or enhanced boundary planting could again only partially mitigate the effects.
14. In both cases the combined effects of overbearing and loss of privacy would harm the living conditions of occupants of No 609. The level of harm would be much greater within the scheme subject of Appeal A than that subject of Appeal B, but in neither case could such harm be fully mitigated.
15. The above effects are identified as contributing towards the Council's broader assertion that the appeal schemes would each represent overdevelopment. However, the form, arrangement and detailing of built form, rather than its amount, represents the root cause of the harm identified.
16. For the reasons outlined above I conclude that the developments subject of both appeals would have an adverse effect on the outlook and privacy of occupants of No 609. Each would therefore conflict with Policy 52 of the Cambridge Local Plan 2018 (the Local Plan) which requires development involving subdivision of garden land to protect the amenity and privacy of neighbouring properties, and Policy 56 of the Local plan which seeks to secure development whose design achieves the successful integration of buildings. Though avoidance of adverse impacts on neighbour amenity is not explicitly stated within this context, it is clearly one way in which integration, as a component of successful place making, can be measured.

Living Conditions: future occupants

(a) Amenity space

17. Policy 50 of the Local Plan requires all new residential units to have direct access to an area of private amenity space, the form and type of which may vary. The supporting text sets out the domestic functions that such space should support, such as clothes drying, sitting out and play, but without any defined space standards. It goes on to state that communal amenity space should additionally be provided in relation to flats, but does not explain why.
18. Within the scheme subject of Appeal A neither the ground floor flats nor the maisonette would be provided with access to private amenity space. The landscaping scheme further suggests that a large proportion of the external space within the site would be planted, limiting scope for its informal use.

Planting can clearly be controlled by condition. Nonetheless, it is far less likely that communal space would be used for the domestic functions described within the supporting text of Policy 50 than private space. The lack of private amenity space would significantly diminish the quality of life of the occupants of those units affected.

19. A different approach has been taken in relation to the scheme subject of Appeal B. In this case compact enclosed garden spaces would be provided for each of the ground floor flats and the maisonette. The garden space shown in relation to the maisonette would however extend into a currently enclosed space immediately to the rear of and presumably associated with No 613. This space is also shown as an open landscaped area within the scheme subject of Appeal A. The appellant has however failed to explain the way in which the occupants of the development and No 613 would interact. Moreover, the rear elevation of No 613 contains a back door and a number of windows which directly overlook the space. In relation to occupants of the maisonette, the amenity space would therefore lack an acceptable level of privacy.
20. Though the necessity for communal amenity space remains generally unclear, the Council has criticised the location and small size of that proposed in relation to the scheme subject of Appeal B. This is again similar to a landscaped area shown within the scheme subject of Appeal A. As this would be located within a peripheral overlooked corner of the site adjacent to the car park, its quality, usefulness and accessibility would indeed be limited.
21. My findings thus indicate that neither scheme would make adequate provision of private amenity space. The level of harm caused to the living conditions of future occupants would again be greatest in relation to the scheme subject of Appeal A.
22. The above effects are again identified as contributing towards the Council's broader assertion that the appeal schemes would each represent overdevelopment, and furthermore, that they would be cramped. However, in this case the root cause of the harm identified chiefly relates to the layout and subdivision of space, as illustrated by differences between the 2 schemes.
23. For the reasons outlined above I conclude that neither appeal scheme would make adequate provision of amenity space, and that in this regard neither would provide satisfactory living conditions for future occupants. I therefore conclude that both schemes would conflict with Policy 50 of the Local Plan as outlined above.

(b) Noise

24. The Council considered that the application subject of Appeal A was not supported by sufficient information in relation to daytime noise impacts from adjacent commercial activity. Greater detail was provided in relation to the scheme subject of Appeal B. The Council's outstanding concerns in relation to the latter revolve around whether all sources of commercial noise have been properly accounted for.
25. Either way the submissions indicate that the matter could be addressed by a design which enabled windows on the east elevation to remain shut. This could be secured through the imposition of a suitably worded condition securing fully verified design, construction and ventilation standards sufficient to provide an

acceptable internal acoustic environment. On that basis the residential accommodation and adjacent commercial activity could coexist without justified grounds for conflict or complaint.

26. Notwithstanding differences in the level of information provided in relation to the respective applications, the above would be similarly acceptable in relation to the scheme subject of Appeal A.
27. For the reasons outlined above I conclude that acceptable living conditions could be provided for future occupants of the flats within both schemes in relation to noise. Each would therefore comply with Policy 35 of the Local Plan which seeks to secure protection of human health and quality of life from noise, including through high quality acoustic design.

(c) Waste management

28. Both schemes would see a bin store provided within the block of flats. Insofar as the scheme subject of Appeal B would also provide a separate external store for the maisonette, it is apparent that the same could be secured by condition in relation to Appeal A. It is not unusual for the provision of bin stores to be secured in this way.
29. The identified bin collection point would be to the east of the flats, some distance from the maisonette. However, as occupants of existing dwellings fronting Newmarket Road clearly present their bins at the front of their properties, it is unclear why occupants of the maisonette could not do the same. The maisonette would after all be a replacement dwelling. Again, the matter could be addressed by condition, if necessary, within the context of a waste management plan.
30. The above issues are again identified as contributing towards the Council's broader assertion that the appeal schemes would each be cramped and represent overdevelopment. However, as the issues could be simply resolved within the context of the designs proposed, they do not lend support for this assertion.
31. For the reasons outlined above I conclude that both schemes would provide acceptable living conditions for future occupants in relation to waste management. They would therefore comply with Policy 57 of the Local Plan, which amongst other things seeks to secure functional integration in relation to waste. Though the Council also again cited Policy 52 of the Local Plan in relation to this matter, the policy makes no reference to waste.

Cycle parking

32. In relation to Appeal A, the cycle store provided for occupants of the flats would be 2 spaces short of the standard set out under Policy 82 of the Local Plan. Though the appellant has stated that the matter could be addressed by condition it has not been explained how, or where the additional storage could be provided. The layout of the store does not otherwise show any empty space within which the additional storage could be provided.
33. In relation to Appeal B, the Council claims that 2 cycle stands within the proposed store provided for occupants of the flats would be inaccessible. If so, this would again mean that provision was 2 spaces short of the requirement. The appellant has failed to provide any detailed response. Thus, whilst scope

might exist to rearrange the stands, I cannot therefore be certain that the development is capable of meeting the required standard.

34. Insofar as the absence of cycle parking for visitors has also been identified as an issue in relation to both schemes, sufficient external space exists near to the main entrances for the provision of stands or rings. This could be secured by condition.
35. In each case the shortfall in cycle parking provision would be small, but it would nonetheless limit the ability of future occupants to make convenient use of this sustainable mode of travel. This would compromise the overall environmental sustainability of the developments.
36. Once again, this matter has been identified as contributing towards the Council's broader assertion that the appeal schemes would each be cramped and represent overdevelopment. However, whilst the design changes required to address the matter could not be properly secured by condition, it is apparent that space would be available within the site for them to be addressed through redesign.
37. For the reasons outlined above I conclude that the scheme subject of Appeal A would provide inadequate cycle parking space for its occupants, and that it has not been demonstrated this matter would be resolved in relation to the scheme subject of Appeal B. I therefore conclude that both schemes conflict with the requirements of Policy 82 of the Local Plan.

Access

38. Policy 51 of the Local Plan provides the basis for application of optional standard M4(2) of the Building Regulations. This relates to the provision of accessible and adaptable dwellings, and is secured through the imposition of a condition. As the Building Regulations are a separate regime, planning permission cannot be properly refused on the basis of non-compliance. Policy M4(2) nonetheless seeks to establish in advance that the size, configuration, and internal layout of proposed dwellings would enable the requirement to be met, and in this particular case detailed floorplans have been provided.
39. Optional standard M4(2) requires that reasonable provision is made for most people to access the dwelling and that it incorporates features that make it potentially suitable for a wide range of occupants. It further sets out minimum requirements. These do not include any requirement to provide lifts. However, there is an expectation that step free access will be possible.
40. Flat 3 would be located on the first floor and reached solely via a staircase. Other flats at this level and above would be accessible via a conventional lift. Step free access would not therefore be provided in relation to Flat 3. This appears to be similarly true of the same flat within the scheme subject of Appeal A, in relation to which no conflict with Policy 51 was identified. In that case the staircase occupied much the same space as that within the scheme subject of Appeal B, but its design differed, providing greater space at ground floor level. This presumably offered the potential for adaptation, such as through the fitting of a platform lift. I cannot be certain that the same arrangement could be provided within the scheme subject of Appeal B without the need for broader modifications of the design. That being so I cannot conclude that this could be properly addressed through the conditional

requirement to comply with optional standard M4(2). The scheme would therefore be at odds with the Council's objective of achieving inclusive design.

41. For the reasons outlined above I conclude that the appellant has failed to demonstrate that an appropriate level of accessibility could be achieved in relation the scheme subject of Appeal B. The scheme would therefore conflict with Policy 51 of the Local Plan as outlined above.

Other Considerations

42. Given their close similarity, the appeal schemes would each deliver much the same range of social and economic benefits generated by provision of 8 additional dwellings. Insofar as No 611 and part of the broader site currently appear disused, the schemes would also make better use of the land. In each case these benefits would nonetheless be insufficient to outweigh the combined weight of the harms I have identified within my findings above, and particularly so in relation to the scheme subject of Appeal A. Both schemes are therefore unacceptable.

Conclusion

43. For the reasons set out above the effects of the development subject of both appeal schemes would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that Appeal A and Appeal B should be dismissed.

Benjamin Webb

INSPECTOR