



Appeal Decision

Site visit made on 26 July 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/Q0505/W/22/3312189

Land on the southeast side of 72 Canterbury Street, Cambridge CB4 3QF

- 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 Adrian Fairburn of Cardinal Healthcare Properties Ltd against the decision of Cambridge City Council.
 - The application Ref 22/01304/FUL, dated 16 March 2022, was refused by notice dated 1 June 2022.
 - The development proposed is erection of a 2-bed detached dwelling and associated works following demolition of existing garages.
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Decision

1. The appeal is allowed and planning permission is granted for a 2-bed detached dwelling and associated works following demolition of existing garages at land on the southeast side of 72 Canterbury Street, Cambridge CB4 3QF in accordance with the application, Ref 22/01304/FUL dated 16 March 2022 subject to the schedule of conditions at the end of this decision.

Preliminary Matter

2. Following determination of the planning application by the Council, the appellant has produced an Addendum Daylight, Sunlight and Overshadowing Report and Supplementary Arboricultural Report. I have paid regard to both documents in consideration of the appeal and I note that the Council have commented on their contents. Having regard to the Wheatcroft Principles I am satisfied that no interested parties have been prejudiced by my approach.

Main Issue

3. The main issue is whether the proposed development would provide adequate living conditions for future occupiers with regard to a nearby Robinia tree.

Reasons

4. The appeal site comprises a pair of timber garages neighbouring 1 Canterbury Close located within the Castle and Victoria Road Conservation Area. Sited within the rear garden of 70 Canterbury Street is a protected Robinia tree and a Silver Birch. The trees are very prominent due to their height and extent and make a positive contribution to the visual amenity of the area.
5. The Robinia tree has been subject to recent works involving removal of the lower limb. The proposed dwelling and much of the garden area would be located under the crown, and in close proximity, of the Robinia tree.
6. The appellant's Daylight and Sunlight Report, undertaken prior to the removal of the lower limb, and the Addendum Daylight, Sunlight and Overshadowing

Report carried out after the works were implemented, and both undertaken in accordance with British Research Establishment (BRE) guidance, indicate that the proposed habitable spaces would exceed the BRE target values in both the summer and winter months in respect of daylight and sunlight.

7. Furthermore, the reports set out that the garden area would receive an acceptable level of direct sunlight and dappled sunlight throughout the year through the tree canopy and would not be unduly overshadowed. It is also evident that the rear of the dwelling and the position of the windows have been designed with the location of the hedge, trees and their crown spread in mind. As such, the proposed development would receive acceptable levels of daylight and sunlight, rather than being overshadowed, providing a satisfactory living environment for future occupiers.
8. Taking the above into account and in the absence of any compelling information to suggest otherwise there is nothing to indicate that there would be a pressing need to reduce the crown of the Robinia tree, or that such works would materially affect its health. It is within the gift of the Council to consider any application for works to the tree on its individual merits, as they have done previously. Subsequently, I do not agree that the proposed development would directly lead to a reduction of the crown to the detriment of the visual amenity of the area or the tree's health.
9. The development would be constructed within the Root Protection Area of the protected Robinia tree. The appellant has provided an impact assessment indicating the use of small-bore pile foundations, permanent ground protection and 'no-dig' construction. Based on the evidence before me, I am satisfied that the proposed development would not negatively affect the roots and in turn the health of the tree.
10. I conclude that the proposed development would provide satisfactory living conditions for future occupiers having regard to the position, height and extent of the Robinia tree. It would accord with Policies 1, 50, 52, 55, 56, 57 and 71 of the Cambridge Local Plan (2018) which, amongst other things, require developments to provide appropriate external amenity space, the amenity of new properties to be protected and to preserve, protect and enhance existing trees and hedges that have amenity value as perceived from the public realm.

Other Matters

11. Given the layout of the proposed development and its relationship with surrounding properties, I have no reason to believe that the proposed development would result in an unacceptable impact on the living conditions of neighbouring occupiers, having regard to light, privacy, outlook, or proximity.

Conditions

12. I have considered the imposition of conditions in accordance with the National Planning Policy Framework and Planning Practice Guidance (PPG). In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council.
13. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. A condition relating to the external materials has been imposed in order to ensure the satisfactory appearance of the development.

14. In order to protect the trees a condition for an arboricultural method statement and tree protection measures during the construction works has been imposed. Conditions for details of a foul water drainage scheme and for the prevention of surface water flowing onto the highway have been imposed in the interests of sustainability.
15. In the interests of protecting the living conditions of neighbouring occupants a condition for the first-floor windows in the rear elevation to be obscurely glazed has been imposed.
16. The Council has suggested conditions requiring details for carbon reduction, water efficiency, accessibility and adaptability and electric vehicle charging points. However, the PPG is clear that conditions which require compliance with other statutory requirements will not meet the tests of necessity. These are matters for the Building Control Body and therefore such conditions are not necessary and have not been imposed.
17. The Council has suggested a condition for sheltered and secure cycle parking. However, given the development is for a single dwelling it is likely that ownership or use of bicycles would not be hindered by the absence of dedicated cycle storage. Therefore, the condition has not been imposed.
18. The Council has suggested a condition for a surface water drainage scheme. However, given the modest scale of the proposed development I am of the view that the condition is not necessary or reasonable.
19. The Council has suggested a condition limiting the construction working hours. However, taking into account the small scale of the development it is unlikely to result in significant levels of construction traffic or disruption. As such, I find the condition is not necessary.
20. A condition to secure Biodiversity Net Gain has been suggested, however, there is nothing to indicate that the site has any biodiversity value. In any case given the modest scale of the development I find that the imposition of such a condition would be unreasonable. As such, it has not been imposed.
21. I acknowledge that a condition for a pedestrian visibility splay has been suggested. However, the submitted information indicates that for an adequate visibility splay to be achieved it would have to cross the front garden of 1 Canterbury Close. It appears that this property is outside of the control of the appellant therefore there is no certainty that the development would achieve the required visibility splay. As such, it would be unreasonable to impose this condition.
22. Despite the above, given the relative infrequency of vehicles and pedestrians using Canterbury Close and the very low speed of traffic I am satisfied that whilst the visibility splay cannot be achieved this would not unacceptably affect highway and pedestrian safety.

Conclusion

23. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 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; Plans and Elevations As Proposed Drawing Number PR-201 Rev D and Site and Block Plan and Street Scene As Proposed Drawing Number PR-211 Rev B.
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 4) No development shall commence, above ground, until details of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The development shall not be occupied until foul water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) The upper floor windows in the rear elevation shall be fitted with obscure glazing (minimum Level 3) and top hung only prior to occupation of the dwelling and shall then be retained thereafter for the lifetime of the development.
- 7) The proposed driveway shall be constructed using a bound material and include measures to prevent water from draining onto the adopted public highway.