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## Appeal Decision

Site visit made on 21 September 2023

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> October 2023**

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**Appeal Ref: APP/Q0505/W/22/3290444**  
**572 Newmarket Road, Cambridge, CB5 8LL**

- 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 Alexander Kidd against the decision of Cambridge City Council.
  - The application Ref 20/02392/FUL dated 14 May 2020, was refused by notice dated 12 July 2021.
  - The development proposed is described on the application form as "Demolition of existing outbuilding and construction of 1 No. 1.5 storey 2-bed dwelling".
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published on 5 September 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework<sup>1</sup>. As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

### Main issues

3. The main issue is the effect of the development on highway and pedestrian safety.

### Reasons

4. The appeal site is made up of two distinct parts;- (1) a detached single storey building and associated land that make up the southern half of what was previously the rear garden to No 572 Newmarket Road, a 2-storey terraced property that has planning permission to be converted into 3 apartments with frontage parking<sup>2</sup>; and (2) a narrow private unsurfaced track that provides vehicular and pedestrian access from Cut Throat Lane to the rear gardens of properties on Newmarket Road and a small detached bungalow that lies to the rear of No 560 Newmarket Road<sup>3</sup>.

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<sup>1</sup> National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

<sup>2</sup> Planning Permission 17/2225/FUL granted 28 March 2018.

<sup>3</sup> Planning Permission 18/1108/FUL granted 18 October 2018.

5. The area to the north, south and east of the appeal site has a suburban character with a mixture of 2-storey terraced, semi-detached and detached housing on Elfleda Road, Whitehill Road and Newmarket Road. The Abbey Stadium (home to Cambridge United Football Club) lies to the west.
6. Cut Throat Lane, a narrow vehicular highway without any pedestrian footways, runs between Elfleda Road and Newmarket Road, providing access to the Abbey Stadium and the private unsurfaced track which forms part of the appeal site.

*Highway and pedestrian safety*

7. The appellant states that the new 1.2 metre wide tarmac footpath running between the front of the proposed dwelling and Cut Throat Lane would improve pedestrian safety. However, by reason of; - (1) the tight and narrow width of the unsurfaced vehicular track; and (2) the proposed footpath being level with this, I have significant concerns that drivers would stray into the path of pedestrians on the footpath, particularly in poor weather when the unsurfaced track is soft underfoot or when attempting to protect their car paintwork from the vegetation that lies adjacent to the southern boundary.
8. Furthermore, the restricted width of the unsurfaced vehicular track would preclude 2 cars passing one another, which would necessitate vehicles giving way to each other and/or having to reverse to allow the other to pass. This would create significant danger to pedestrians, cyclists and other vehicles, particularly at the entrance on Cut Throat Lane where the visibility in both directions is extremely poor. It would also give rise to significant pedestrian danger from residents stepping out onto the new footpath from an obscure position behind the tall boundary fences that divide the rear gardens on Newmarket Road. Whilst I recognise that the local highway authority has not objected in respect of these matters, this in itself does not demonstrate a lack of harm.
9. I also observed from my site visit that the Cut Throat Lane surface was extremely poor with large potholes and broken tarmac surrounding the entrance to the unsurfaced vehicular track and extending as far south as Elfleda Road. As a consequence, this would preclude disabled people and those with mobility issues from accessing the site safely and easily.
10. I also have significant concerns relating to the safety of pedestrians using what would be a dark unlit single width track at night with very little surveillance from properties and which contains many obscure positions behind fencing and garden buildings. I recognise that there is a public street light close to the site entrance on Cut Throat Lane, but this would not provide sufficient illumination for the full length of the unsurfaced track. As a consequence, the scheme would put highway users, particularly pedestrians and cyclists, at a high risk of crime and disorder at night and increase the fear of crime.
11. In support of the appeal, the appellant has drawn my attention to the modern bungalow at the rear of No 560 Newmarket Road, a scheme where the case officer raised no highway safety concerns in their report. Despite this property being much closer to the junction with Cut Throat Lane, I agree with the appellant that it shares many of the same characteristics as the proposed development. However, I have the same concerns about this bungalow as I do the appeal scheme before me and am not of the view that the pursuit of

consistency in itself should be used to justify a further erosion of highway and pedestrian safety. In any event, the proposed development would further increase the intensity of use of the existing unsurfaced track and exacerbate the harm I have identified.

12. The appellant has also drawn my attention to the presence of two other schemes at Nos 10<sup>4</sup> and 23 Elfleda Road<sup>5</sup>. However, I am not aware of the particular circumstances where planning permission was granted for these and in any event, I did not find the highway visibility in these locations to be as restrictive as the scheme before me.
13. I have further concerns that if the development was allowed to take place, it would be used in support of similar schemes on neighbouring garden plots where the same issues are involved, just as has been the case with the bungalow to the rear of No 560 in this appeal. Allowing the scheme to proceed would therefore make it more difficult to resist further planning applications for similar developments and the resultant cumulative effect would exacerbate the harm I have described above.
14. In view of the above, I conclude that the development would prejudice highway and pedestrian safety. The scheme would therefore conflict with Policies 56 and 57 of the Local Plan<sup>6</sup>, which seek, amongst other things, to ensure that development;- (1) is safe and accessible by all users; (2) meets the principles of inclusive design, with particular regard to the needs of disabled people, the elderly and those with young children; and (3) creates inclusive, usable and safe public spaces.
15. I also conclude that the scheme conflicts with Paragraphs 110, 112 and 130 of the Framework which state that development should;- (1) ensure safe and suitable access to the site by all users; (2) minimise the scope for conflict between pedestrians, cyclists and vehicles; and (3) create places that are safe, inclusive and accessible.

#### *Planning balance*

16. Although the Local Plan is approximately 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
17. Policies 56 and 57 of the Local Plan are broadly consistent with the Framework insofar as they relate to the main issue of the case and I am satisfied that the proposal conflicts with the development plan when taken as a whole. In light of this, and the absence of any evidence indicating a shortfall in housing land supply, the Framework's presumption in favour of sustainable development is not engaged in this instance.
18. In view of the harm that I have identified, I do not consider the scheme to constitute a suitable site within an existing settlement for a home. As a consequence, I have not given great weight to the benefits of using it in accordance with Paragraph 69 of the Framework. Furthermore, whilst the

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<sup>4</sup> Planning Permission 12/1092/FUL.

<sup>5</sup> Planning Permission C/01/1213.

<sup>6</sup> Cambridge Local Plan, October 2018, Cambridge City Council.

scheme would result in an efficient and effective use of under-utilised land as required by Paragraphs 120 and 124 of the Framework, it would nonetheless conflict with Paragraphs 119 and 124 insofar as it would be at the expense of safe living conditions and not result in a well-designed place with the scope to promote sustainable travel modes that limit future car use.

19. I recognise that the scheme would result in benefits from;- (1) the provision of a dwelling making an efficient & effective use of land in a sustainable location towards the Council's housing land supply and an identified need for smaller housing units; (2) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; and (3) local employment during construction. However, given that only one dwelling is proposed, I consider these benefits to be of limited value and that the adverse impacts of the scheme would outweigh these, when assessed against the policies in the development plan and other material considerations.
20. Although the appellant states that the scheme would result in the reuse of brownfield land, the Framework's definition of this specifically excludes land in built up areas such as residential gardens, which this site previously was. However, even if this was not the case and the land was deemed to be brownfield, it would not have altered my decision or outweighed the harm I have identified.
21. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

### **Conclusion**

22. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

*Robert Fallon*

INSPECTOR