



Appeal Decision

Site visit made on 6 November 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2024

Appeal Ref: APP/Q0505/W/23/3321735

52 Wulfstan Way, Cambridge CB1 8QH

- 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 Kidman against the decision of Cambridge City Council.
 - The application Ref 23/00534/FUL, dated 14 February 2023, was refused by notice dated 11 April 2023.
 - The development proposed is the demolition of existing garage/workshop facing Hulatt Road and the construction of a two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. All references to the Framework in this decision relate to the revised document. The main parties have had the opportunity to comment on the relevance of the revised document to this appeal.

Main Issues

3. Reason for refusal number 8 on the Council's decision notice refers to a tree at Number 50 Wulfstan Way. This tree is no longer present, and the Council confirms that it is not defending this reason for refusal. As such, the main issues are:
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on the living conditions of the occupiers of nearby properties, with particular regard to outlook and privacy.
 - Whether or not there would be adequate car parking, cycle parking and refuse storage facilities to serve the proposed development.
 - Whether or not the proposed development would provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to interior space.
 - Whether or not the proposed development would be at an unacceptable risk of flooding or would increase flood risk elsewhere, with particular regard to the site being in a surface water flood risk area.

Reasons

Character and appearance

4. The part of Hulatt Road in the area of the appeal site is relatively narrow with a 'back lane' character, defined by the rear garden boundaries and small garden buildings that front onto it. The absence of tall buildings in rear gardens contributes to a relatively spacious garden scene over which the backs of the long rows of mostly 2 storey houses, including those on Wulfstan Way, can be seen. The hierarchy of buildings sizes, ranging from the low height small garden buildings close to the road, with the larger mostly 2 storey dwellings set further away from it, gives this part of Hulatt Road a well-ordered and consistent appearance.
5. Further to the south, the character of Hulatt Road is different and is fronted on both sides by dwellings, mostly of two storeys in height and some with roof dormers, which are set close to the back edge of the road. The scale and style of the proposed dwelling would reflect the dwellings that front onto the same side of Hulatt Road further to the south, and which the evidence suggests includes those recently built on land at the rear of Numbers 90–92, and 104 Wulfstan Way. Although those dwellings are visible from the appeal site, they occupy wider plots and are set amongst residential buildings of varying styles that front Hulatt Road on both sides. In these respects, the dwellings referred to by the appellant are set in a part of the Hulatt Road with a different character and context to the appeal site.
6. In contrast, the proposed dwelling would be set amongst small low rise garden buildings and would be the only dwelling fronting onto this narrow part of Hulatt Road. In this position the height, scale and massing of the proposed dwelling would project noticeably above its immediate surroundings of garden boundaries and buildings, where it would appear as a dominant and incongruous feature in views from the road and nearby properties. The pitched roofed dormer and front projecting gable would draw the eye to the proposed dwelling and emphasise its incongruity in this part of the townscape.
7. For these reasons, the proposed dwelling would be visually incongruous in the street scene, and it would erode the 'back lane' character and appearance of the area. The proposed building materials for its external surfaces would not alter this conclusion. Repositioning the proposed dwelling as suggested by the appellant would result in a materially different proposal and I have necessarily determined the appeal on the drawings used by the Council and my observations at my site visit.
8. I conclude on this issue that the proposed dwelling would harm the character and appearance of the area. As such, it would conflict with Policies 52, 55 and 57 of the Cambridge Local Plan, October 2018 (the CLP), which amongst others, requires development on gardens to be appropriate to the surrounding pattern of development and the character of the area in terms of the form, height and layout of the proposed development, and to respond positively to its context and the wider townscape.
9. CLP Policy 59, cited in the first reason for refusal relates to landscape design and public realm. As the appeal proposal does not directly relate to either, I do not find this policy to be determinative to my considerations on this main issue.

Living conditions of nearby occupiers

10. The rear garden scene of the host property and the flanking properties is generally characterised by open gardens, with low height garden buildings set mostly at the rear of the plots. The height and massing of the proposed dwelling would be greater than those garden buildings, and it would be visible from the gardens and rear windows of nearby properties, particularly Numbers 50, 52 and 54 Wulfstan Way.
11. The proposed dwelling would be set relatively close to the ground floor rear facing windows and rear garden of Number 52, which would be shortened to accommodate the proposed dwelling. It would also be set relatively close to the rear gardens of Numbers 50 and 54, and in particular to the parts of those gardens closest to their rear walls, which are likely to be most valued by occupiers for relaxation and recreation.
12. In views from the gardens of Numbers 50, 52 and 54, and the rear facing ground floor windows in Number 52, which appeared to serve a kitchen, I find that the scale, massing and bulk of the proposed dwelling would have a visually dominant and overbearing effect that would unacceptably harm the occupiers' outlook from those properties. The absence of any objection from the occupiers is not determinative and is not a reason to allow development that would be unacceptable. Although the proposed dwelling would be visible from the rear facing rooms in Numbers 50 and 54, it would not be sited directly behind these buildings, and therefore I do not find that it would have a dominant or overbearing effect on the occupiers' outlook from those rear facing rooms.
13. The rear gardens of properties fronting Wulfstan Way already experience some overlooking, particularly from the upper floor windows of the existing dwellings. The rooflights serving the bedroom are relatively small and would be set at an angle to match the roof slope, thus restricting the field of vision from out of this room. Given the likely occupancy levels of this bedroom, views out of the rooflights would not lead to a harmful loss of privacy for the occupiers of the properties on Wulfstan Way when using their gardens and rear facing rooms.
14. I have limited information regarding the circumstances under which the recently been built dwellings at the rear of Numbers 90-92, and 104 Wulfstan Way were granted planning permission. I am not bound by the decisions of the Council, and I have necessarily determined this appeal on its individual merits based on the evidence before me and my observations at the site visit. As such, those planning permissions are of limited relevance to my considerations on this issue.
15. For these reasons, I conclude on this issue that the proposal would have a harmful effect on the living conditions of the occupiers of Numbers 52, 54 and 56, with particular regard to outlook. Although I have found there would be no harm to privacy, the proposal would nonetheless be contrary to CLP Policies 52 and 57, which seek, amongst other requirements, to protect the amenity of existing neighbouring properties.
16. CLP Policy 56 appears to relate to the structuring elements of creating successful places, including spaces between buildings, built frontages, street furniture and clearly defined public spaces. Compared to the CLP Policies referred to above, I do not find CLP Policy 56 to be determinative to my considerations on this main issue.

Car parking, cycle parking and refuse storage facilities

17. The main parties disagree on the dimensions of the proposed dwelling's garage. Even taking the appellant's evidence, which indicates that the garage would be sufficient to accommodate a car, the dimensions of the garage would fall short of the minimum dimensions shown in CLP Appendix L. Therefore, I cannot be certain on the evidence before me that it would provide sufficient space to accommodate the requisite number of parked cycles alongside a car, and with circulation space to allow cycles to be pushed past a parked car. As such, this arrangement would be likely to dissuade future residents of the proposed dwelling from owning and using cycles.
18. I have limited evidence to demonstrate that there would be sufficient space on the site frontage, either side of the entrance door, to ensure that the requisite number of refuse and recycling bins could be stored relatively unobtrusively in a bin storage facility and without encroaching onto the road. As such, the proposal would likely lead to bins being stored in the open or close to the road, resulting in clutter and visual harm.
19. For these reasons I conclude that the refuse storage and cycle parking facilities to serve the proposed development would not be adequate, contrary to CLP Policies 57 and 82, which amongst others, requires developments to successfully integrate functional needs such as refuse and recycling, and to provide minimum levels of cycle parking.

Living conditions for future occupiers

20. Based on the section drawing through the proposed dwelling and the shape of its roof, I cannot be certain that a condition requiring the first floor ceiling heights within habitable rooms to be increased to meet the minimum height requirement of Part (i) of CLP policy 50 would be achievable. As such, the interior space within the proposed dwelling would be inadequate and would not provide acceptable living conditions for future occupiers. I acknowledge that a previous proposal included a rear dormer which added space to the upper floor rooms, however no such dormer is proposed in this appeal, which I have determined on the drawings and evidence before me.
21. For these reasons, I conclude on this issue that the proposed development would not provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to interior space. As such, it would be contrary to CLP Policy 51, which requires new residential units to meet or exceed the residential space standards set out in the Government's Technical Housing Standards.
22. CLP Policy 56 appears to relate to the structuring elements of creating successful places, including spaces between buildings, built frontages, street furniture and clearly defined public spaces. Compared to the CLP Policies referred to above, I do not find CLP Policy 56 to be determinative to my considerations on this main issue.
23. The Council cites a conflict with CLP Policy 51, which requires Building Regulations requirement M4 (2) 'accessible and adaptable dwellings' to be met. However, I see no basis to disagree with the Council Officer's Report that compliance with this element of the Policy could have been secured by condition.

Flood risk

24. The appeal site is at risk of surface water flooding, which requires detailed analysis. Section 4.3 of the Cambridgeshire Flood and Water Supplementary Planning Document, adopted by the City Council in December 2018, requires a site-specific flood risk assessment (FRA) to be undertaken for development in an area of significant surface water flood risk. In the absence of a FRA, the appellant has failed to demonstrate that the flood risk to the proposed development would not be unacceptable or that it would not increase flood risk to third party land and property. Furthermore, there is insufficient evidence on flood risk to determine if, in accordance with the Paragraph 169 of the Framework, it would not be possible to locate the development in an area with a lower flood risk.
25. I do not have full details of the recently built nearby housing developments at the rear of Numbers 90–92, and 104 Wulfstan Way. I cannot be certain that they are at the same risk of flooding as the appeal site, and if they are, whether they were supported by flood risk assessments that adequately assessed and mitigated the risk. Therefore, the examples drawn to my attention are of limited relevance to my considerations in this appeal and do not alter my conclusions on this issue.
26. On the evidence before me, I conclude on this issue that the proposed development would be at an unacceptable risk of flooding and would increase flood risk elsewhere with particular regard to the site being in a surface water risk area. As such, it would be contrary to CLP Policy 32, which permits development where an assessment of flood risk is undertaken in accordance with national policy.

Conclusion

27. The proposed development would harm the character and appearance of the area, and the living conditions of the occupiers of nearby properties. It would not provide adequate living conditions for future occupiers and would fail to successfully integrate refuse and recycling bins, and provide sufficient cycle parking. It would be at an unacceptable risk of flooding and would increase flood risk elsewhere. These harms would bring it into conflict with the development plan as a whole. I give significant weight to the appeal proposal's conflict with the development plan in this regard.
28. There are no material considerations of sufficient weight to outweigh the conflict with the development plan or indicate that a decision should be made other than in accordance with the development plan. Having considered all matters raised, I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR