

Appeal Decision

Site visit made on 9 October 2024

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/W0530/D/24/3347458

8 Gog Magog Way, Stapleford, Cambridge CB22 5BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Gros against the decision of South Cambridgeshire District Council.
 - The application ref. is 24/00635/S73.
 - The application sought planning permission for “Extensions with loggia, basement and erection of new front gates” without complying with a condition attached to planning permission ref. 22/05203/HFUL, dated 19 April 2023.
 - The condition in dispute is no. 2 which states that: “The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.”
Note: 11 plans are listed on the decision notice.
 - The reason given for condition no. 2 is: “In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.”
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Decision

1. The appeal is allowed and planning permission is granted for extensions with loggia, basement and erection of new front gates at 8 Gog Magog Way, Stapleford, Cambridge CB22 5BQ in accordance with the application ref. 24/00635/S73, without compliance with condition no. 2 previously imposed on planning permission ref. 22/05203/HFUL, dated 19 April 2023 and subject to the following conditions which are contained in the Schedule at the end of this Appeal Decision.

Matters of clarification, background and main issues

2. It was clarified at the site visit that the appellant’s surname is as recorded above. This accords with the version set out on the submitted plans rather than the surname given on the application and appeal forms.
 3. Planning permission has been granted for extensions with loggia, basement and erection of new front gates at the appeal property. That original planning permission will continue to exist whatever the outcome of this appeal. This appeal seeks permission to carry out the development without complying with condition 2 which requires the development to follow the approved plans. The intention is for
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the submitted plans to be followed instead of those previously approved. The differences are rather more than adding "...2 No. windows to existing recesses on the existing single storey right hand wing" as implied in the description of the proposal in the Council's decision notice.

4. I am aware that the original planning permission came about as a result of the resubmission of application ref. 21/05638/HFUL but there is no need to refer to that fact in the description of development as it is superfluous and could be potentially misleading to some readers.
5. The appeal site is situated within the Stapleford Conservation Area (SCA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (s72 of the Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. The main issues are the effects of the proposed development on the character and appearance of the host dwelling and the SCA and on the amenity and living conditions of the occupants of 4 Finch's Close with particular regard to the potential for overlooking and loss of privacy.

Reasons

7. My assessment of the main issues is based on the most relevant policies of the development plan, which are in the South Cambridgeshire Local Plan September 2018 (LP) and takes into account all other material considerations including the original planning permission, the Council's District Design Guide Supplementary Planning Document March 2010 (SPD), the SCA Appraisal and Management Plan 2021 (SCAAMP) and the National Planning Policy Framework (the Framework).

Character and appearance of the host dwelling and the SCA

8. The SCA encompasses the western end of Gog Magog Way which joins onto an attractive triangular green along with Mingle Lane and Church Street. The large detached house at no. 8 and the southern side of Gog Magog Way where it is situated typify the SCA's special character and significance as a designated heritage asset which stem from, amongst other things, its verdant appearance and tree cover, the diversity of substantial and distinctive detached houses mainly from the 19th and early 20th centuries, sizeable plots and the wide spaces between buildings and between buildings and the street.
9. Originally built in 1924, the central oblong block to no. 8 displays an attractive and formal neo-Georgian style. This original block is framed on both sides by sizeable, more modern ancillary ranges of buildings which run at right angles to the axis of the main steep single ridged hipped roof. It is this original part of the dwelling that is identified in the SCAAMP as a *Building Important to Character*.
10. The Council said the proposal by virtue of its excessive scale, massing and unsympathetic design would be at odds with the established appearance of the dwelling and the character and appearance of the SCA and would result in harm.
11. I am surprised that the Council refers to issues of scale and massing. The approved scheme envisages a 2½ storey full-width rear extension which would

involve removing the existing rear elevation and effectively doubling the depth of the house's original block. The sheer scale of that extension means that the elegant and fairly slender, hipped and single ridged roof, which is an important architectural component of the original construction, would be replaced by a far wider hipped crown-style roof. That approved development is carried forward into the appeal scheme. I am satisfied that the new elements put forward under the appeal scheme, including the enlarged rear loggia and the alterations to the rear first floor central bay, would be acceptable in terms of their scale and massing. The balcony would be very long but the balustrade would be finished in sheet glass and have only a minimal visual impact as a result.

12. What is markedly different is the bold approach to the design and materials of the resulting rear elevation. The contemporary design of the rear elevation would represent something of a modern facelift for the property at the rear. Such an approach would not be out of place at the rear given the secluded nature of the rear garden, the wholly new rear elevation already approved, the diversity of architectural styles in the SCA and the prompt in LP Policy NH/14 to respond to local heritage character including in innovative ways. Moreover, it is apparent that in proposing the scheme already approved by the Council, the appellant saw the opportunity to introduce full-height glazed openings across the whole ground floor rear façade contrasting with the presentation of more restrained and traditional neo-Georgian style fenestration on the floors above. Put simply, the appeal scheme would actually be a more honest interpretation of a modern design idiom.
13. The new elements would be extremely well designed and would not suddenly result in the development appearing dominant, jarring or unsympathetic to the building. The rectangular glazed bay to the centre of the first floor would be presented as an eye-catching feature of significant visual interest. The sleek lines of its Corten steel surrounds and the Corten steel banding between the upper and ground floor levels would reflect the symmetry and horizontal emphasis of the original rear elevation. The advanced loggia would also appear better integrated with the building than in the approved scheme. Whilst there would be new types of material which are not found within the host property, they would be similar in tone and colour to the brickwork whilst reflecting the modernisation of the development, and would not be so discordant to warrant refusal of the appeal scheme.
14. The character of the SCA does not hinge on the rear elevations of the buildings. In any event, the changes proposed at the rear of no. 8 would not be visible from the public domain and would only have very limited prominence from private viewpoints. Proposals must be judged according to their effect on the SCA as a whole and must therefore have a moderate degree of prominence. Given this, added to my considerations above, I find that the proposed plans for the rear would not be detrimental to the character and appearance of the host dwelling or the SCA and would thus preserve the significance of the SCA.
15. The design changes proposed for the prominent front elevation would enhance the symmetrical design by introducing 2 matching sash windows in currently blocked up openings within arcaded bays in the existing single storey right-hand wing. The front façade so altered would positively reinforce the character and appearance of the host property and enhance the character and appearance of the SCA.

16. Drawing these threads together, whilst acknowledging that judgements about design are necessarily subjective, I agree with the robust assessment provided in the appellant's Heritage Appeal Statement. I consider that the proposed development would exhibit a high, site-specific and sensitive design quality, be sufficiently complementary and sympathetic to the parent building in terms of size, scale, massing and design, be respectful of the local context and the surroundings in general and conserve the significance, character and appearance of the SCA.
17. I find on the first main issue that the proposed development would preserve the character and appearance of the host dwelling and the SCA. As such, there would be no conflict with the aims of s72 of the Act or LP Policies HQ/1 and NH/14. When read together, these policies require development proposals to reflect the principles of good design and to sustain and enhance the significance of designated heritage assets (such as conservation areas), including their settings. There would be respect for the Framework insofar as it relates to achieving well-designed and beautiful places and conserving and enhancing the historic environment, and also for the aims of the SPD.

Amenity and living conditions of the occupants of 4 Finch's Close

18. LP Policy HQ/1 explains that proposals must protect the health and amenity of occupiers from development that is overlooking. There is a high degree of privacy in this residential environment. It is right that protecting privacy and avoiding overlooking of neighbouring houses should be given a high priority, with due consideration being given to any relevant objections received from neighbours. The Council's decision notice confines itself to the potential impact on the occupiers of 4 Finch's Close. I have carefully studied the representations and accompanying photographs from the occupiers of that property. Under this main issue, the officer's report and the third party representations raise no objections to any feature of the plans other than the first floor balcony. This would be exceptionally long and would widen out in depth at the end closest to the boundary with 4 Finch's Close.
19. Assuming normal domestic use of the balcony, the natural angle of view from the western half of the balcony would be over the appellant's south-east facing garden and not obliquely towards the rear garden and the windows in the main rear elevation of 4 Finch's Close. However, there would be direct views from the wider eastern side of the balcony towards those areas. Such vegetation as there is on or close to the common boundary line cannot be relied upon to remain in perpetuity, especially given the risks to its vigour and growth that are well detailed in the third party representations. In any event, the separation distance and the existing intervening trees, given their high canopies and lack of density at first floor level, would not be sufficient to prevent direct views from this side of the balcony down onto the rear private amenity space of 4 Finch's Close. The overlooking would be intrusive. The occupiers there would feel under surveillance.
20. The Framework advises that decision makers should approach decisions on proposed development in a positive and creative way and consider whether otherwise unacceptable development could be made acceptable through the use of conditions. In this regard, the appellant clearly has no wish to adversely impact the privacy of the neighbouring occupiers. He is prepared to provide an obscure glazed end to the glass balustrade or even completely remove the balcony from the

proposals. The appellant would welcome planning conditions to secure these options if required. On the face of it, I judge that the former option does not go far enough because the glass balustrade would only approach waist height, whilst the latter would go too far in the other direction.

21. Instead, I consider there could be a balcony of reduced length reaching no further eastwards than the outer walling around the lounge area to the master bedroom, with a privacy screen being installed along the side of that reduced balcony facing 4 Finch's Close. This option would satisfactorily protect the neighbours' privacy and could be secured by a planning condition. The exact details could be agreed with the Council. There are different solutions for the privacy screen.
22. Subject to the condition I set out above, I find on the second main issue that the proposed development would not have a significant adverse impact on the amenity and living conditions of the occupants of 4 Finch's Close with particular regard to the potential for overlooking and loss of privacy. It would therefore respect the aims of LP Policy HQ/1, the SPD and the Framework.

Conditions

23. I have considered the 2 conditions suggested by the Council, in its questionnaire, in the event of the appeal being allowed.
24. The Planning Practice Guidance (PPG) indicates that a grant of planning permission under section 73 should not extend the time period for implementation. I have therefore amended the Council's first suggested condition to include the date of the original planning permission.
25. Given my findings, it is not necessary to comply with condition 2 of the original planning permission. In short, the Council's second suggested condition is imposed to the extent that I have replaced condition 2 with a new condition that refers to an amended list of approved plans to follow in order to provide certainty. This list includes 5 additional plans to the 6 set out on the Council's decision notice for the appeal application. The additional plans were all approved as part of the original planning permission and still appear to me to be relevant.
26. The PPG explains that where an application under section 73 is granted, the planning permission should repeat the relevant conditions from the original planning permission that continue to have effect. The parties will be familiar with these when reading the schedule of planning conditions below.
27. Finally, I have added a condition about reducing the length of the balcony and requiring a privacy screen to be installed along the side facing 4 Finch's Close for the reasons I set out under the second main issue.

Conclusion

28. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed. A new planning permission is granted.

Andrew Dale INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of 19 April 2023.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans numbered/titled:

20-J3340-201 Location Plan;

20-J3340-202 Rev A Proposed Site Layout;

20-J3340-203 Proposed Basement Plan

20-J3340-204 Rev B Proposed Ground Floor Plan;

20-J3340-205 Rev B Proposed First Floor Plan;

20-J3340-206 Rev A Proposed Second Floor Plan;

20-J3340-207 Rev B Proposed Front & Rear Elevations;

20-J3340-208 Rev B Proposed Side Elevations;

20-J3340-213 1.5 Storey Extension Elevation;

20-J3340-214 Proposed Driveway Gates; and

Arbtech TPP 01 Tree Protection Plan.
- 3) No development shall take place above ground level, other than demolition, until details of the materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development below or above ground, except for the erection of the gates at the front, shall commence until details of the following items have been submitted to and approved in writing by the Local Planning Authority: (a) details of windows and doors; and (b) typical details of eaves, soffits, verges, copings, dormers, window reveals and lintels. The works shall be carried out in accordance with the approved details.
- 5) No development below or above ground, except for the erection of the gates at the front, shall commence until a scheme for the disposal of surface water and foul water that can be maintained for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved scheme.
- 6) No development below or above ground, except for the erection of the gates at the front, shall commence until an Energy Statement has been submitted to and approved in writing by the Local Planning Authority. The Energy Statement shall demonstrate that a minimum of 10% carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The approved scheme shall be fully installed and operational prior to the occupation of the development and thereafter maintained in accordance with the approved details.

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

- 7) In the event of piling, no development below or above ground, except for the erection of the gates at the front, shall commence until a method statement detailing the type of piling, mitigation measures and monitoring, so as 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.
- 8) No development below or above ground, except for the erection of the gates at the front, shall commence until plan details of the following items have been submitted to and approved in writing by the Local Planning Authority: (a) a balcony of reduced length reaching no further eastwards than the outer walling around the lounge area to the master bedroom; and (b) a privacy screen to be installed along the side of the balcony so reduced facing 4 Finch's Close. The works shall be carried out in accordance with the approved details, with the privacy screen being fitted before the balcony of reduced length is first occupied and then retained as such thereafter.

End of Schedule