



Appeal Decision

Site visit made on 4 December 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/Q0505/W/24/3349124

Land Rear of 6 Friars Close, Cambridge, CB1 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Puran Investment Ltd against the decision of Cambridge City Council.
 - The application Ref is 23/04054/FUL.
 - The development proposed is residential development containing 4 flats, along with access, car parking and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was updated during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes and no parties have been prejudiced as a result.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area, including the effect on protected trees; and
 - the effect of the proposal on the setting of the nearby listed building; and
 - the effect of the proposal on ecology and biodiversity; and
 - the effect of the proposal on the living conditions of neighbouring residents with particular regard to privacy and noise and disturbance.

Reasons

4. The appeal site is currently comprised of existing shrubbery and trees and is an existing parcel of land, which the appellant describes as "unused leftover garden land", to the rear of No. 6 Friars Close; a two-storey semi-detached dwelling. The appeal site has been separated from the dwelling at No. 6 Friars Close. Friars Close is a residential cul-de-sac of similar two-story semi-detached dwellings which are partially visible from Cherry Hinton Road which borders the rear of the appeal site.

5. Opposite the site, on Cherry Hinton Road, is The Church of Jesus Christ of Latter-Day Saints, a place of worship, and Queens House, a development of residential properties. Neighbouring the site to the west lies Springfield, 443 Cherry Hinton Road, a Grade II listed dwelling. Further west lies Cherry Hinton Hall which sits within an area of protected parkland and is close to an area of woodland which was previously the Cherry Hinton Bird Sanctuary and is a City Wildlife Site.
6. To the east of the appeal site, on the corner of Cherry Hinton Road and Cherry Hinton High Street, is Giants Grave, a semi-natural green space, which has been designated as protected open space and is a City Wildlife Site.
7. The proposed development is the erection of four flats (2 x 1 bed and 2 x 2 bed), access, car parking and associated landscaping. The existing semi-detached dwelling at No. 6 Friars Close would be retained. The proposal also includes a communal garden to the rear of the proposed building, private amenity space for each of the flats, new landscaping and car and bicycle parking. Access to the development would be via a new access road from Cherry Hinton Road.

Character and appearance

8. Though clearance works have taken place and mature trees have been removed, the site has retained its open, natural character and appearance. A number of protected trees remain in situ, some mature, some more recent replacements, along with an expanse of vegetation and hedgerow along the boundary of the site with Cherry Hinton Road. This green boundary along the edge of Cherry Hinton Road is a key feature.
9. At present the site contributes positively to the verdant, green and spacious character which characterises this part of Cherry Hinton Road. Views through the mature trees and planting in the immediate vicinity of the appeal site are towards Giants Grave and the spacious rear garden areas of properties along Friars Close. When viewed from the road, the appeal site itself appears as an open, natural site which is largely free from built form.
10. I note that further along, and on the opposite side of, Cherry Hinton Road a number of buildings front the street and the character changes. However, in the direct context of the appeal site the character and appearance is notably different.
11. The proposal would result in the introduction of a large building, a long driveway, bin storage, cycle storage and areas of hard surfacing along with four car parking spaces in an area which is currently free from development. Though areas of soft landscaping are proposed a significant proportion of the site would be occupied by the built form. Furthermore, the access to the site would require the removal of a large section of the boundary planting and of a section of the green verge which occupies the space between the site boundary and the pavement.
12. Consequently, whilst I acknowledge the appellant has sought to reduce its massing through its design, due to the scale, height, size and bulk of the proposed building and the amount of the site which would be developed, the proposal would substantially erode, and cause harm to, the open and green character and appearance of the appeal site and of the wider area.

13. I note that the site is part of the rear garden area of No. 6 Friars Close and, though it is currently physically separated from this property and is described by the appellant as unused, could be used as such. However, the physical structures and domestic paraphernalia associated with a residential garden would not be comparable to the structure which is proposed as part of this appeal and, even if the site were to be used in this way, the open and green nature of the area would be retained.
14. Additionally, installation of some of the new hard surfaces for the proposed site access, bin store and cycle store encroach within the root protection area (RPA) of a number of the protected trees on, and neighbouring, the site. Tree T004, a mature Beech tree on site, is classed within the Arboricultural Impact Assessment (AIA)¹ as a category A2 tree with a high visual importance. Trees G002, two off-site trees, one Ash and one Sycamore, are within category B2 and of high visual importance. The hard standing would be constructed within the RPA of these trees. As such, the AIA recommends that, provided that the practicalities are workable, the surfaces should be attended to by the use of no-dig construction methods. The AIA goes on to say that the exact specification must be designed by a Civil Engineer who can confirm that this is achievable. The Council's evidence states that, due to ground levels on site, no-dig construction of the hardstanding would be unsuitable. Given the lack of certainty I am not satisfied that the proposal could be achieved without causing harm to protected trees of a high amenity value. Damage to, or loss of, these trees would cause substantial harm to the character and appearance of the area.
15. For the reasons set out above, the proposal would cause harm to the character and appearance of the area. As such, the proposal would conflict with Policies 55, 56 and 57 of the Cambridge Local Plan, October 2018 (LP). Amongst other things, these policies seek to ensure that development responds positively to its context in respect of siting, scale and form and landscape design and creates distinctive and high quality places.
16. The development would also fail to accord with LP Policy 71 which relates specifically to trees and states that development will not be permitted which involves felling, significant surgery (either now or in the foreseeable future) and potential root damage to trees of amenity or other value, unless there are demonstrable public benefits accruing from the proposal which clearly outweigh the current and future amenity value of the trees. I have not identified demonstrable public benefits which would carry sufficient weight to outweigh the amenity value of the trees.

Listed building

17. Springfield, which neighbours the appeal site, is a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (The Act), requires that I have special regard to the desirability of preserving the setting of a listed building which is a heritage asset. Paragraph 202 of the Framework states that heritage assets, as irreplaceable resources, "should be conserved in a manner appropriate to their significance" and paragraph 212 confirms "great weight" should be given to their conservation. This is supported locally by Policy 61 of the LP which stresses the importance of conserving and enhancing Cambridge's historic

¹ Tree Survey, Arboricultural Impact Assessment by Hayden's Arboricultural Consultants dated 13/10/2023

environment and sets out that proposals should, amongst other things, demonstrate a clear understanding of the significance of the asset and of the wider context in which the heritage asset sits, alongside assessment of the potential impact of the development on the heritage asset and its context.

18. The list description for Springfield states "Early C19; 2 storeys; gault brick; hipped tile roof; projecting eaves; band at 1st floor window cill level; 3 windows, flat brick arches, glazing bars; central doorcase with simple pilasters, plain frieze and moulded cornice". The Heritage Statement² (HS) provided as part of the evidence before me indicates that a house in the position of Springfield is shown on the 1806 parish enclosure map. The HS also indicates that, prior to the development of Friars Close after 1960, the appeal site was an area of open space which abutted, but did not appear to form part of the formal curtilage of, Springfield. Once the properties at Friars Close were completed the appeal site became part of the rear garden of No. 6. The HS concludes that Springfield is now seen as a large house within its original garden and a verdant setting of mature trees.
19. The open and verdant character of the appeal site and the space it creates between the buildings in the area makes a positive contribution to the setting of the listed building. Indeed, the importance of open space and trees is made clear in paragraph 7.1 of the LP which states that "an essential aspect of Cambridge's attractiveness as a place to live, work, study and visit is its character. This character stems from the interplay between its rich architecture and the spaces between buildings. Trees and high quality public realm also play a significant role".
20. The historic maps are clear in showing that Springfield has historically been situated within an undeveloped setting. Though, over time, this setting has been eroded, the appeal site, along with the other rear gardens of properties along Friars Close and the nearby wildlife sites such as that at Giants Grave, ensure that a sense of the historic setting of the building remains in tact. On approaching Springfield from the crossroads between Cherry Hinton Road, Fulbourn Road, High Street and Queen Edith's Way, the listed building is publicly visible and experienced in the context of the mature planting and open and green character of the rear gardens of properties along Friars Close. Thus the undeveloped, garden, nature of the appeal site provides an important contribution to the setting, and significance, of the heritage asset.
21. The proposed development would enclose Springfield. The proposed access would interrupt the green swathe which borders Cherry Hinton Road and the development as a whole would cover a significant proportion of the site with 'built' form. Overall the proposal would substantially reduce the verdant and open character and appearance of the appeal site. The concerns I have expressed above in respect of the potential implications of the proposal on the trees with a high amenity value also stand here. Should those trees be damaged or removed the verdant character and appearance of the site would be further reduced. The proposal would fail to respect the important interplay between the built form within the area and the spaces between buildings. As such, the proposal would unacceptably diminish the undeveloped setting of the listed building and the ability to appreciate it.

² Heritage Statement by John Selby Consultancy dated 11 September 2023

22. For the reasons set out above I consider that the proposal would cause, albeit limited, harm to the setting of the Grade II listed building and as such would not preserve it. On that basis the proposal would not meet the weighty statutory requirement of The Act as set out above.
23. Due to the small scale of the proposal I consider that this harm would be less than substantial. Paragraph 215 of the Framework indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
24. I note that there is a demand for this form of housing within Cambridge and accept that the site is in a highly sustainable location. I also acknowledge that the proposal would make efficient use of the land. However, in my view, and with regard to the specific circumstances which are present in this case, the public benefits of the scheme would not be sufficient to outweigh the harm which would be caused to the setting of the heritage asset.
25. Consequently, the proposal would conflict with Policy 55 of the LP which requires new development to respond positively to its context, including features of historic or local importance, and to draw on key characteristics of its surroundings including use, siting, massing, scale, form, materials, and landscape design. The proposal would also fail to accord with LP Policy 61 which sets out that proposals should preserve or enhance the significance of heritage assets and their setting. This includes an appropriate scale, form, height, massing, alignment and detailed design which will contribute to local distinctiveness, complement the built form and scale of heritage assets and respect the character, appearance and setting of the locality.
26. Furthermore, the proposal would fail to conform with the Framework's expectation that new development within the setting of heritage assets should seek opportunities to enhance or better reveal their significance. The Framework also states that proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. The proposal would fail to achieve these aims.

Ecology and Biodiversity

27. LP Policy 70 sets out that development will be permitted which protects priority species and habitats and enhances habitats and populations of priority species. The Policy goes on to say that proposals that harm or disturb populations and habitats should minimise any ecological harm and secure achievable mitigation and/or compensatory measures, resulting in either no net loss or a net gain of priority habitat and local populations of priority species. This policy is supplemented by the Greater Cambridge Shared Planning Biodiversity Supplementary Planning Document, adopted February 2022 (SPD).
28. Furthermore, at a national level, The Framework is clear that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

29. There is some dispute between the parties regarding the appropriate baseline for calculating Biodiversity Net Gain (BNG) in respect of this proposal as site-clearance works, including the removal of protected trees have been undertaken.
30. The SPD sets out that where any site-clearance or other habitat management work has been undertaken on or after 30th January 2020 then, in accordance with Schedule 14, Part 1, Paragraph 6 of the Environment Act 2021, the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities. This requirement is repeated in the Department for Environment, Food and Rural Affairs - The Statutory Biodiversity Metric User Guide which states that if a habitat has been cleared, destroyed or degraded previously the pre-degradation habitat type should be used as the site's baseline and is also clear that a precautionary approach should be used.
31. The submitted Preliminary Ecological Appraisal³ by Samsara Ecology, dated September 2023 (PEA) states that "the pre-clearance habitats are used as the site's baseline". However, the definition of the term pre-clearance is unclear as to whether this refers to the site as it currently stands (i.e. pre- any further clearance works) or as it stood prior to the works which had already been undertaken at the time of the appraisal.
32. Though the status of the site as garden land has not changed, the removal of features such as mature trees, along with other clearance works above and beyond those which could be considered a part of the regular maintenance of such an area are likely to have resulted in changes to the biodiversity value of the site. As such, I am not satisfied that, on the basis of the evidence before me, appropriate consideration, using a precautionary approach, of the pre-clearance biodiversity value of the site has been applied and that the development would provide the BNG set out within the metric supplied.
33. Furthermore, though the PEA makes reference to some of the nearby designated sites the potential effect of the proposal on Cherry Hinton Hall Brook City Wildlife Site and Giants Grave Local Geological Site appear to have been omitted. I note the appellant's evidence that these sites are not adjacent to the appeal site, they are, however, according to the Council, within 1km of the site's boundaries and it is therefore not unreasonable for further evidence regarding the potential impact upon these sites to be requested. In the absence of compelling evidence to the contrary I am not satisfied that the proposal would not have an adverse impact on these sites.
34. The PEA provided by the appellant states that bats are likely to forage and commute around the site as part of a wider home range and the habitats are considered to be important at site level. The report also indicates that the beech tree on site is covered in ivy which may obscure features within the trunk and lower branches. Though the report proposes a number of suggestions for mitigation a full bat survey has not been undertaken. As such, the potential effect of the proposal on bats in the area is unclear and I cannot be satisfied that the proposed mitigation would be sufficient. Consequently, based on the evidence before me, and once again adopting a precautionary approach, I consider that the proposal would result in harm to bats which are a European Protected Species.

³ Preliminary Ecological appraisal – Samsara Ecology September 2023

35. Accordingly, the proposed development would conflict with Policy 70 of the Cambridge Local Plan which states that development will be permitted provided that it protects priority species and protects and enhances habitats and ensures any adverse impacts are avoided, or if unavoidable, are appropriately mitigated.

Living conditions

36. The proposal includes three windows in the rear and side elevations which would be fairly close to neighbouring properties. Windows on the elevation labelled on the plans as the 'right elevation' include a first-floor level angled oriel window serving the bedroom of flat 4 and an obscure glazed window to the bedroom of flat 3. A further window serving the bedroom of flat 3 would be located on the rear elevation of the proposed building and the plans indicate that this window would not be obscure glazed.
37. Though the windows would afford some views towards neighbouring properties the separation distances would be sufficient to ensure that there would be no undue loss of privacy. Furthermore, intervening screening would further reduce any potential impact. In my view, the degree of overlooking would not be dissimilar to that which can be commonly expected in residential areas such as this and I do not consider the proposal would cause unacceptable harm in this regard.
38. The proposal includes four parking spaces and a turning area which would serve the new development. These spaces would be located at the rear of the site, behind the proposed building, close to the boundary of the site with the property at No. 6 Friars Close. The proposed parking spaces and turning area would be separated from the rear habitable rooms and amenity space serving the property at No. 6 by boundary treatments, including a hedgerow.
39. Four additional parking spaces in this location would be likely to lead to an increase in noise and disturbance in this area. Alongside noise created by vehicle movements, the parking spaces would also result in noise and disturbance created by those using the spaces; for example raised voices, car doors and other associated noise. Noises such as this in close proximity to rear habitable rooms would, in my view, lead to an unacceptable level of noise and disturbance which would cause harm to the living conditions of neighbouring residents.
40. The proposal would, therefore, conflict with LP Policy 52 which states that proposals for development on sites that form part of a garden or group of gardens or that subdivide an existing residential plot will only be permitted where the amenity and privacy of neighbouring, existing and new properties is protected. I note the appellant's view that this policy should not be considered relevant as, in their view, the appeal site was not part of the useable garden of No. 6 Friars Close. However, the aspects of the policy to which I refer relate to the amenity of neighbouring residents and not to the principal of preserving garden land. Additionally, the appellant refers to the appeal site as "unused leftover garden land" and, irrespective of whether or not it is unused, the appellant would, seem to me, to agree that the site can be considered a garden. As such, I consider this policy relevant to the appeal before me. In any event, there would also be a failure to conform with the Framework which states that developments should create a high standard of amenity for existing and future users.

Other Matters

41. I note that the appellant has made changes to a previous scheme with the aim of overcoming the harm which was identified. However, in my view, the revised scheme would, for the reasons set out above, remain unsatisfactory. I also recognise that to the south of Cherry Hinton Road on the corner of Cherry Hinton Road and Queen Edith's Way, is a recently completed residential development comprising of 10 flats consented under planning reference 17/1757/FUL. However, each case must be determined on its own merits based on the specific circumstances at each site. These circumstances will rarely, if ever, be identical. Indeed, the development concerned is markedly different from that which is currently before me as it occupies a different position in relation to the other features nearby and is also of a different design and character and appearance.
42. The parties to the appeal make reference to the site constituting Brownfield Land, the redevelopment of which is fully supported by both local and national planning policy. However, the Framework is clear that Brownfield, or previously developed land, excludes land in built-up areas such as residential gardens, parks, recreation grounds and allotments. As such the appeal site falls outside of the scope of what is to be considered Brownfield Land.
43. Nevertheless, the addition of new dwellings in a highly accessible and sustainable location which would contribute towards the housing supply in the area would be a benefit of the scheme. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed dwellings utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.
44. I have noted a number of other issues raised; however, as this proposal is to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issue, it is not necessary for these to be explored further as part of this appeal.
45. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the proposal would cause harm to the character and appearance of the area, including to the setting of the nearby listed building and would have an adverse effect on ecology and biodiversity and would cause harm to the living conditions of neighbouring residents.

Conclusion

46. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien

INSPECTOR