



Appeal Decision

Site visit made 11 April 2011

by **Richard High BA MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2011

Appeal Ref: APP/Q0505/A/11/2144941

36 Barton Road, Cambridge, Cambridgeshire, CB3 9LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr David Qiu against Cambridge City Council.
 - The application Ref 10/0968/FUL, is dated 23 September 2010.
 - The development proposed is the erection of a new zero carbon house in the front garden of No.36 Barton Road, Cambridge.
-

Decision

1. I dismiss the appeal and refuse planning permission for the erection of a new zero carbon house in the front garden of No.36 Barton Road, Cambridge.

Procedural Matters

2. The application was not determined by the Council before the submission of the appeal. However, a report was presented to the Council's West/ Central Area Committee with a recommendation that "the committee agree that they would have been minded to refuse the application had the decision remained within the jurisdiction of the City Council". The committee agreed that the report with some amendments should form the council's case in the appeal. The first three of the main issues which I have identified relate to the reasons for this recommendation.
3. The report indicated that the appellant had submitted a unilateral undertaking to make contributions to community infrastructure in accordance with the Council's adopted Planning Obligations Strategy. However the appellant has indicated that the unilateral undertaking has been withdrawn and has claimed that the requirement for the obligation is not consistent with the guidance in Circular 5/2005.

Main issues

4. The main issues are:
 - 1) the principle of the development in the light of the changes to PPS3 announced in June 2010 and the Ministerial Statement of March relating to *Planning for Growth*;
-

- 2) the effect of the proposed development on the character and appearance of the area;
- 3) the effect of the proposed dwelling on the living conditions of the occupants of 34 and 36 Barton Road with regard to overbearance and loss of light;
- 4) whether the development should be allowed to proceed in the absence of a completed agreement to contribute to community infrastructure in accordance with the Council's Planning Obligations Strategy 2010.

Reasons

Principle of Development

5. The recent changes to PPS3 removed garden land from the definition of previously developed land and removed the minimum density requirement for residential development. In the recent appeal decision to which the Council refers, (APP/Q0505/A/10/2138679) the Inspector concluded that the effect of this was that "using garden land is no longer a priority". I do not accept the Council's interpretation of this that it follows that garden land is a low priority for development, particularly in the light of government's intention announced in the 2011 budget to remove the target for 60% of new houses to be built on previously developed land. It simply means that no more priority should be attached to the development of garden land than to other land, where development would be acceptable in principle.
6. Government guidance encouraging the efficient use of land and the location of new development in sustainable locations remains in force. I therefore do not accept that a special justification for the development of this site is necessary as a result of these changes.
7. Turning to the proposed presumption in favour of sustainable development announced in the recent Ministerial Statement *Planning for Growth*, clearly the low energy use and other sustainability features of the building such as water management are positive factors to which I have attached significant weight. I also acknowledge that the construction of the building would provide a small stimulus to the local economy, but because of the small scale of the development I can only attach slight weight to this.
8. I conclude on the first issue that the development of the site would be acceptable in principle and consistent with the recent changes to PPS3 and the Ministerial Statement on *Planning for Growth*.

Character and Appearance

9. Barton Road has a varied pattern of development including 3-4 storey flats and detached houses. For the most part there is a fairly spacious feel, with properties set well back in substantial gardens, but there are exceptions including the development immediately opposite the appeal site at Archway Court which stands close to the road. However, Barton Close and the north part of Barton Road on either side of it are characterised by substantial detached houses on large plots.

10. The relationship of 36 Barton Road to Barton Road is somewhat unusual in that it is accessed from Barton Close with its main entrance facing north away from Barton Road. What would normally be regarded as the rear of the house faces south towards the large garden which lies between the house and Barton Road. This pattern is not mirrored on the corner on the other side of the road where 38 Barton Road lies towards the front of the plot with a large garden to the rear. I note that occasional dwellings set a long way back from the road are a feature of Barton Road and contribute to its green and spacious character. This is maintained in Barton Close where some dwellings are quite close to the road and others are set well back from it, but all are on generous plots. It follows that any development of the site should be sensitive to that character.
11. The site of the proposed dwelling would be set slightly further back on the plot than No.34 and this would retain some of the existing spaciousness in front of the building and allow the retention of the oak and ash trees close to Barton Road. However, it would leave No.36 with a garden only 7.5m deep and, for a substantial dwelling, it would appear rather hemmed in and cramped in relation to its neighbours.
12. The appearance of the proposed dwelling would be distinctive and individual but that would not in itself be harmful. While the immediately neighbouring houses have pitched roofs characteristic of their period, there is no uniformity of style and several houses in both Barton Close and Barton Road have gable ended roofs. I also appreciate that the angle and expanse of the roof, particularly the south facing section, is a response to the requirement to accommodate photovoltaic panels.
13. However, the height width and depth of the house would make it appear rather bulky in relation to both the plot and its neighbours. Coupled with this, the substantial overhangs on the already bulky roof would lend a distinctly heavy appearance to the dwelling. All these features would give the building an assertive presence on the site that would not respect the more subdued character of the neighbouring development. I note that the Council's arboricultural officer considers that the large silver birch tree close to the boundary with Barton Close is over mature and not worthy of retention. However, its loss would contribute to the urbanising effect of the new dwelling. While replacement planting could be required by condition, it would be unlikely to soften the effect of the wide gable end of the building on the character of Barton Close, because the parking space would be to the side of the dwelling.
14. Because of the uncomfortably cramped relationship with No.36 and the overall bulk of the proposed dwelling in relation to the site and its neighbours I find that the proposed dwelling would be harmful to the character and appearance of the area. For this reason it would fail to comply with Saved Policies 3/4, 3/10 c and 3/12 a of the Cambridge City Local Plan 2006.

Living Conditions

15. The gable end of the proposed dwelling would directly face the small conservatory on the western side of 34 Barton Road. I accept that this appears to serve more as a greenhouse than a sitting area, but it is also the only source of light to the kitchen of No.34. I saw on my visit close to noon on a fairly bright day that the daylight into the kitchen was quite limited. The height and

proximity of the gable would reduce this further and cut out late afternoon and evening sunshine there. While the conservatory also has a window facing north into the back garden, this is of little benefit to the kitchen. The new dwelling would also reduce the light and sunlight available through the roof of the conservatory. The house would also be very overbearing in the outlook from the kitchen and conservatory. I am less concerned about the effect of the dwelling on the garden at No.34 as the very extensive vegetation to a height of around 4m along and inside the boundary with No.36 screens the garden and would itself cut out evening sunlight from the west.

16. I accept that the conservatory faces directly into the private garden of No.36, but that is an established historic arrangement where any harm has been limited by the length of the garden at No.36. It does not alter my assessment of the effect of the proposed dwelling.
17. The outlook from the main windows of No.36 would be the rear elevation of the proposed dwelling. There would be no harmful loss of privacy at No.36 because there would only be two ground floor windows in the rear elevation of the proposed dwelling, one serving an entrance lobby and one serving the study and the proposed 1.8m boundary wall would intervene.
18. The single storey element of the proposed dwelling would be only about 11m from No.36 but the stepped design of the north elevation would mean that the two storey element of the building would be set back a distance of about 15m. This would reduce the mass of the building but the outlook from the main windows of No.36 would be rather overbearing, particularly when compared to that hitherto enjoyed there.
19. I conclude that the proposed dwelling would be harmful to the living conditions at 34 Barton Road because of loss of light and harm to the outlook from the kitchen and conservatory. The effect on the outlook from No.36 would be less severe but would add to the harm I have found and would be a direct consequence of the rather cramped relationship between the two dwellings. For these reasons the development would fail to comply with Policy 3/10 (a).

Contribution to Community Infrastructure

20. The appellant argues that the need for a unilateral undertaking to contribute towards the cost of open space and community facilities has not been demonstrated in a sufficiently specific way to satisfy the requirements in Circular 5/2005 that the undertaking is necessary to make the development acceptable in planning terms and directly related to the development. These tests are now statutory requirements through the community Infrastructure Regulations 2010 (CIL Regulations).
21. Saved Policy 3/8 requires all residential developments to provide public open space and sports facilities in accordance with the Council's Open Space and Recreation Standards and Saved Policy 5/14 indicates similar requirements in relation to community facilities. The Council's Planning Obligations Strategy adopted as a Supplementary Planning Document in 2010 sets out clearly how the level of contributions will be calculated and Appendix A to the strategy clearly sets out the process for maintaining an audit trail linking the resources available from each planning obligations to individual projects. I am therefore satisfied that although the specific facilities which the contributions through the

unilateral undertaking would help to fund the obligation would be directly related to the development. I am, however unable to conclude that the obligation is necessary to make the proposal acceptable as I do not have sufficient information on the adequacy of existing local facilities or evidence to show that there is a deficiency that needs to be rectified.

Other Matters

22. Concern has been expressed regarding the implications of this decision for the future of No.36. However, I have attached very little weight to these as any future proposal would have to be considered on its own merits.

Conclusion

23. I have found no objection to the principle of the development of this site, and inadequate justification for an undertaking. The dwelling would also have many qualities that would contribute to sustainability and there would be a modest benefit to economic growth from the development. However, these factors are outweighed by the significant harm I have identified in relation to the effect of the proposed dwelling on the character and appearance of the area, and on the living conditions at 34 Barton Road and to a lesser extent those at No.36.
24. For these reasons and having considered all the other matters before me I conclude that the appeal should be dismissed.

Richard High

INSPECTOR