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## Appeal Decision

Site visit made on 15 August 2011

by **John Felgate BA (Hons), MA, MRTPI**

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

Decision date: 22 August 2011

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**Appeal Ref: APP/Q0505/A/11/2148073**

**9 Mowbray Road, Cambridge CB1 7SR**

- 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 Pankhania against the decision of Cambridge City Council.
  - The application Ref 10/1028/FUL, dated 12 October 2010, was refused by notice dated 7 December 2010.
  - The development proposed is described as change of use to 1 no. two-bedroom house, 1 no. two-bedroom flat, and 1 no. one-bedroom flat.
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### Decision

1. The appeal is dismissed.

### Planning background

2. The appeal property is a semi-detached house. Planning permission for side and rear extensions and a new vehicular access was granted in 2010 (Ref 10/003/FUL). At the time of my visit, that development appeared largely complete, except for the access. The rear yard had been fully concreted.
3. A subsequent application proposed to convert the extended building into three 1-bedroom and one 2-bedroom flats. That application became the subject of an appeal, which was dismissed in January 2011 (APP/Q0505/A/10/2138349). The inspector in that case found that the proposal would result in the front forecourt becoming dominated by parked cars and wheelie bins, causing harm to the area's character and appearance; and she also considered that the scheme would fail to create satisfactory living conditions for future occupiers, in terms of noise and outlook, due to the positioning of cars and refuse bins close to windows. The inspector found no justification for the various financial contributions sought by the Council, but this did not overcome the harm.
4. In the present appeal, the Council raises no objections relating to the effects on the area's character and appearance, and does not object to the subdivision of the property in principle.

### Main issues

5. In the light of the above, and the written submissions before me, the main issues in the present appeal are:
  - whether the scheme would provide acceptable living conditions for future occupiers, with particular regard to proposed unit 2;
  - and whether financial contributions should be required in respect of community development or waste facilities.

## Reasons for decision

### *Living conditions*

6. In the present scheme, household waste for each of the three residential units would be stored in bins sited together at the rear of the building. Based on the submitted proposals, this would involve three wheelie-sized bins for each dwelling, making nine such bins in total. I agree that siting these bins to the rear is preferable to storing them at the front or side as in the previous appeal scheme. However, the location now proposed would be immediately outside the kitchen door and window of unit 2. In my view it is clear that siting so many bins, belonging to three different households, so close to the doors or windows of one unit, would be likely to cause a significant nuisance. Not only would this location present an unacceptably poor outlook, but there would also be noise from the opening and closing of the bins, and the potential for unpleasant smells. In addition, the use of this area immediately adjacent to unit 2 would result in a loss of privacy for that unit's occupiers.
7. Cycle parking would be provided in a wooden building, measuring 4m long and 2.5m high, to be sited in the same area. I accept that this would provide a high degree of security for bicycles, and would encourage the use of this form of transport in accordance with relevant policies. But the cycle store would again be only 1.5 m from unit 2's back door and window. It seems to me that siting such a large structure in this way would intrude unacceptably into the already limited space around the main building, further restricting any outlook to the rear, and giving this area the appearance of being excessively cluttered and somewhat oppressive. In addition, the positioning of the access to this building would again require users to pass directly adjacent to unit 2's door and window, exacerbating the loss of privacy arising from the siting of the refuse area.
8. The main entrance to unit 2 would be at the side of the property, adjacent to the proposed vehicular turning area. Whilst I agree that a turning facility is necessary, the manoeuvring of vehicles in that area would be likely to result in disturbance to the occupiers, and also potentially significant danger, especially to any children or less mobile persons. Furthermore, if the turning area also became used as additional parking, as seems quite likely, unit 2's entrance would be seriously obstructed, causing further inconvenience.
9. In addition, I note that the siting of the entrance to unit 3 would require users to approach close to the main window of unit 2's lounge, causing further loss of privacy to that unit.
10. I appreciate that there may be scope for some of these shortcomings to be addressed through further amendments, but based on the information before me now, there is no certainty that this would result in a satisfactory scheme overall. I therefore agree with the Council that the objections to the present proposals cannot be overcome by means of conditions.
11. For these reasons, I conclude that the deficiencies that I have identified would result in unacceptable living conditions within unit 2, contrary to the aims of Local Plan<sup>1</sup> Policy 5/2.

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<sup>1</sup> The Cambridge City Local Plan, 2006

### *Financial contributions*

12. The contributions sought by the Council relate to community development facilities and household waste receptacles. Provision for the Council to seek payments towards such facilities and infrastructure is contained within Policy 5/14 of the Local Plan and Policies P6/1 and P9/8 of the Structure Plan<sup>2</sup>.
13. However, Regulation 122<sup>3</sup> of the relevant Regulations requires that such payments may only be made where, amongst other things, they are necessary to make the proposed development acceptable in planning terms. A similar test is also contained within Circular 05/2005. In the present case, the submissions before me fail to indicate how the payments now sought by the Council would pass this test.
14. In particular there is nothing to suggest that, in the absence of any contribution to community facilities, the development now proposed would cause harm in that respect, to such an extent that the lack of such a payment would in itself justify the refusal of planning permission. In the case of the contribution that is sought towards waste receptacles, whilst such a payment would relate to the Council's concern over refuse storage, it would not overcome that concern, and thus would not make the development acceptable.
15. I note the contents of the relevant SPD<sup>4</sup>, which explains the reasoning behind seeking financial contributions, and the amounts sought. But this does not outweigh the need for any such payments to comply with the Regulations and Circular referred to above.
16. I therefore conclude that the lack of the financial contributions sought by the Council has not been shown to justify refusal.

### **Overall conclusion**

17. For the reasons explained above, I have concluded that the proposed scheme would result in seriously sub-standard living accommodation for the occupiers of proposed unit 2. For that reason, planning permission should not be granted.
18. The financial payments sought by the Council have not been shown to be necessary, and had there been no other grounds, this would not have been a proper reason to withhold planning permission. But in this case the failure to provide acceptable living conditions is a compelling objection.
19. I have taken account of all the other matters raised, but these do not alter my conclusion. I therefore dismiss the appeal.

*John Felgate*

INSPECTOR

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<sup>2</sup> The Cambridgeshire and Peterborough Structure Plan, 2003

<sup>3</sup> The Community Infrastructure Levy Regulations 2010

<sup>4</sup> Planning Obligations Strategy: Supplementary Planning Document, March 2010



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## Appeal Decision

Site visit made on 13 December 2010

**by Frances Mahoney DipTP MRTPI IHBC**

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

**Decision date: 26 January 2011**

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**Appeal Ref: APP/Q0505/A/10/2138349**

**9 Mowbray Road, Cambridge CB1 7SR**

- 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 Pankhania against the decision of Cambridge City Council.
  - The application Ref 10/0661/FUL, dated 1 July 2010, was refused by notice dated 8 September 2010.
  - The development proposed is the change of use to 3 no one bedroom flats and 1 no two bedroom flat.
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### Decision

1. I dismiss the appeal.

### Procedural Matter

2. Planning permission was granted for a two storey side, and part single, part two-storey rear extension and provision of new vehicle access at No 9 Mowbray Road (10/0003/FUL). At the site visit it was evident that much of the works associated with the permitted extensions had been carried out, although not completed. The layout of the permitted extensions differed from that of the floor plans submitted as part of this appeal. Therefore, for the avoidance of doubt, it is confirmed that the consideration of this appeal is based on the plans as submitted and not the layout of the works of construction as already carried out.

### Main Issues

3. The Council has confirmed that due to the residential character of the area there is no objection to the principle of subdividing the extended house at No 9 Mowbray Road into flats. This is a reasonable conclusion to come to in the circumstances. Therefore, the main issues in this case are:
  - the effect of the conversion to 4 flats on the character and appearance of the surrounding area;
  - on the living conditions of future residents of the flats in respect of noise and disturbance and outlook; and
  - on the provision of associated public open space facilities; community facilities; and household waste and recycling receptacles.

## Reasons

### *Character and appearance*

4. No 9 Mowbray Road is one half of a pair of semi-detached houses, typical of other pairs in the immediate locality. The pair is prominently located on the corner of a small cul-de-sac and the main highway of Mowbray Road, a busy route in and out of the City. The area is characterised by residential development which has the appearance of traditional houses being set back from the road with landscaped front gardens and off-street parking.
5. The proposed conversion would require very little external alterations to the building to facilitate the establishment of the 4 flats. However, the 4 residential units would require provision for off-street parking as well as refuse storage.
6. In the case of parking, the front garden would be of sufficient area to accommodate 4 parking spaces, including turning area. However, virtually the full expanse of the front and part side garden would be required to be hard surfaced to accommodate the parking facilities. The 4 parking spaces would abut the common boundary with No 11, the attached neighbouring house. The cars, when parked, would dominate the front of No 9 being in close proximity to the front bay window of the ground floor flat with the turning area extending up to the front door of the side ground floor flat.
7. As parking is also limited along Mowbray Road and there is competition for spaces in the neighbouring roads due to the areas proximity to Addenbrooks Hospital, there may also be a temptation to park in the side turning space.
8. The extent of the proposed frontage parking would be out of character with that which prevails in the wider area within the front gardens of the neighbouring houses.
9. In addition, the proposed refuse storage facility would comprise locating 8 wheelie bins across the front and side elevations of the two storey side extension of the house and close to the front door and front window of the side ground floor flat. Such an arrangement would appear cluttered within the appeal site.
10. The imposition of a condition to deal with the possibility of the re-siting of the refuse storage area would not overcome the concern in this regard, particularly as there may also be a requirement for a further 4 wheelie bins to comply with the City's current waste strategy.
11. In both cases the front forecourt of the proposed flats would be dominated by parked cars and wheelie bins. These would be particularly unattractive, prominent features which would identify and accentuate the flat conversion. There would also be little opportunity for effective frontage landscaping to soften the impact of the parking and refuse storage area.
12. Therefore, the proposed conversion to four flats would result in the exterior setting of the building being dominated by expansive frontage parking and a concentration of wheelie bins, prominently located, which would present a cramped, uncharacteristic layout to the appeal site harming the character and appearance of the traditional layout of the neighbouring residential development, dominating the wider street scene. This would be contrary to the *Cambridge City Council Local Plan 2006 (LP)* saved policies 3/7, 3/10 and 3/12,

which seek to maintain the prevailing character and appearance of an area; provide attractive and high quality environments; enhancing street frontages; and create distinctive places.

#### *Living conditions*

13. The proposed layout of the appeal site to accommodate 4 flats requires cars to be parked and manoeuvred very close by to the ground floor flats, in particular the front bay window, which would have a poor outlook directly onto the parked cars; and the front door of the other ground floor flat which would similarly be affected. Residents of these flats would have a heightened awareness of the movements of vehicles both in terms of the noise of the vehicles entering and exiting the site as well as from seeing the movement of the vehicles, including head lights at night, which would cause further disturbance in close proximity to the individual flats. The appellant has indicated the space in front of the bay window could be allocated to the occupier of that particular flat. However, the outlook and noise from the vehicle would not be diminished by the fact the car might belong to the flat occupier, nor would it diminish the cramped appearance of the site frontage in this regard.
14. In addition, the side ground floor flat would not have a pleasant outlook from its front and side windows, there being the 8 wheelie bins lined up against the outside wall. Without careful and scrupulous housekeeping of this area problems in relation to smells and the un-neighbourly dumping of rubbish could also ensue.
15. The appellant suggests that the wheelie bins could be relocated to the rear of the building. However, such an alternative siting is not part of the submitted scheme and would need to be assessed against the impact of such a compound, which could be sizable, in relation to the available garden space; the provision of appropriate cycle storage; and its effects on the residents of the flats which have a rear aspect.
16. Therefore, for the above reasons, the proposed conversion would not represent a high quality living environment for the future residents of the proposed flats contrary to LP Policies 3/7, 3/10 and 3/12.

#### *Planning Obligation*

17. The Council has indicated there is a need for appropriate contributions in respect of the provision of public open space and community development facilities along with household waste and recycling receptacles. The appellant has also confirmed a willingness to enter into an agreement to secure the identified provisions, although no signed agreement has been submitted as part of this appeal.
18. The purpose of the Council's *Planning Obligation Strategy 2010* is to secure measures or contributions to address the likely impact of proposed development on the physical and social infrastructure of the City. Such contributions should be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
19. However, other than explaining the calculation of the relevant monetary sums in each case, the specific current needs in the area around the appeal site and how the development would affect existing provision has not been explored.

No indication has been provided as to where the public open space and community facility contributions would be targeted locally. Therefore, in these circumstances, the lack of evidence of where the identified contributions would be specifically targeted in the locality and the relationship of these projects with the development, leads to the conclusion that the need for the contributions in respect of the provision of public open space, community facility and household waste and recycling receptacles has not been demonstrated. Therefore, in these circumstances such contributions should not be required and LP saved policies 3/7, 3/8, 3/12 and 10/1, along with the *Planning Obligation Strategy 2010* and the *Open Space and Recreation Strategy* would not be compromised in this case.

### **Conclusion**

20. Notwithstanding the favourable conclusion on the provision of associated public open space facilities; community facilities; and household waste and recycling receptacles, for the reasons set out above, the impact of the appeal proposal on the character and appearance of the surrounding area and living conditions of future residents are sufficient to justify the dismissal of this appeal.

*Frances Mahoney*

INSPECTOR

