



Appeal Decisions

Site visit made on 20 May 2002

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an Inspector appointed by the Secretary of State for Transport,
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Date

13 JUN 2002

Appeal A: APP/Q0505/A/02/1082990 70 Green End Road, Cambridge.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 L Desimone against the decision of Cambridge City Council.
- The application ref: C/01/1021/VC, dated 15 September 2001, was refused by notice dated 15 November 2001.
- The application sought the removal of a condition attached to planning permission ref: C/1104/87, dated 6 January 1988, for the change of use from a single dwelling house to part residential part bed and breakfast accommodation.
- The condition in dispute is No 03 which states that:
03 The maximum number of guest bedrooms shall at no time exceed four.
- The reasons given for the condition were:
To protect the amenities of adjoining properties.

Summary of Decision: The appeal is dismissed.

Appeal B: APP/ Q0505/A/02/1082991 70 Green End Road, Cambridge.

- 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 L Desimone against the decision of Cambridge City Council.
- The application ref: C/01/1025/FP, dated 15 September 2001, was refused by notice dated 15 November 2001.
- The development proposed is an additional three guest rooms and a ground floor extension to form the manager's flat.

Summary of Decision: The appeal is dismissed.

Procedural Matters

Appeal A

1. The application form described the proposed development as a guest house to provide three extra guest rooms making a total of seven, and indicated that the type of planning permission was one for full planning permission. However in view of the previous planning permission (ref: C/1104/87) the Council have treated the application as being for the variation of a condition on this planning permission, which the appellant accepts, and I shall consider the appeal on this basis.

Appeal B

2. The description given above is taken from the application form. The Council's refusal notice describes the proposed development more completely as a single storey rear extension to a guest house to provide residential accommodation for the owner/manager, and conversion of the existing building from four guest bedrooms to seven guest bedrooms, and I shall deal with the appeal on this basis.

Main Issues

Appeal A

3. I consider that there are three main issues in this case. The first is whether the removal of Condition 03 would result in the unacceptable loss of residential accommodation. The second and third main issues are the effect of the removal of Condition 03 on the character and appearance of the area, and on the living conditions of local residents with particular regard to noise and disturbance, respectively.

Appeal B

4. I consider that there are two main issues in this case. These are the effect of the proposed development on: firstly, the character and appearance of the surrounding area; and secondly, the living conditions of neighbouring residents with particular regard to visual impact, noise and disturbance.

Development Plan and other Planning Policies

Appeals A and B

5. The development plan for the area includes the Cambridgeshire Structure Plan, adopted in December 1995, and the Cambridge Local Plan, which was adopted in November 1996. Structure Plan Policy SP12/10 requires all new developments to incorporate high standards of layout and design and to relate well to their surroundings. Local Plan Policy BE2 requires proposals for new development to be designed to respect the character, opportunities and constraints of the site and its surroundings. Policy BE8 sets out requirements for extensions to existing buildings, including their effects on neighbouring properties. Policy E01 states that planning permission will not be granted for new development near to existing residential areas where that development would cause noise or air pollution affecting the residential environment.
6. Policy H05 seeks to retain and consolidate the character of primarily residential areas, and sets out criteria to be satisfied by non-residential uses. These include compatibility with the surrounding residential uses without causing detriment to the amenity of the area by reason of noise; the accommodation of the use in a building whose design, size, scale, massing and materials are appropriate for the character of the area; the scale and intensity of use being appropriate to a residential area; there being no loss of off-street residential parking spaces, the provision of adequate access arrangements, and no material rise in the amount of traffic generated. Policy H06 states that the loss of residential accommodation will not be permitted except in certain specified circumstances.
7. Policy T03 states that changes of use to guest houses which lead to the loss of

residential units will not be permitted, except that large houses unsuited to single family occupation will be considered suitable. Policy T04 requires the retention of a unit of private residential accommodation, comprising not less than four habitable rooms for the use of persons employed on the property, in dwellings that are changed to guest houses. Policy T05 indicates that proposals to extend guest houses will be considered carefully in relation to the impact on the amenity of other properties, the scale of the proposed extension, compliance with car parking standards, and the ability of the neighbourhood to absorb the additional commercial activity.

8. Planning Policy Guidance Note 1: General Policy and Principles (PPG1) advises that good neighbourliness and fairness are among the yardsticks against which development proposals can be measured.
9. Government policy on the use of conditions is given in Circular 11/95. This sets out six tests for conditions, all of which must be satisfied. Conditions should only be imposed where they are necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

Reasons

10. The appeal site lies in a predominantly residential area on the north-east side of Green End Road near its junction with Nuffield Road. Green End Road is an important local distributor and Nuffield Road is a cul-de-sac serving an industrial area, a primary school and a medical practice as well as housing. The appeal building is a detached two-storey dwelling located close to its north-western boundary with No 68, a detached house. On the south-eastern boundary it abuts No 72, a semi-detached house, and towards the rear further residential properties at 1 and 1A Nuffield Road. There are three parking spaces in front of the building, with a further space and a double garage in the rear garden. A tall hedge extends the length of the south-eastern boundary behind the houses.

Appeal A

11. The proposal would convert three first floor rooms to guest rooms, thus increasing the number of guest rooms to seven. The rooms in question are currently used as a linen store, the manager's lounge/dining room and the manager's study. The ground floor would remain unaltered and no external alterations are proposed.
12. Condition 03 was imposed in 1988, prior to the issue of Circular 11/95. Nevertheless, having regard to the location of the premises in a predominantly residential area, I consider that Condition 03 is not only necessary but relevant to planning and the permitted development. It is also enforceable, in that a breach would be easily detected, precise in the accommodation allowed, and reasonable in terms of residential amenity. I therefore consider that Condition 03 satisfies the tests of Circular 11/95, and, whatever the policy background applicable in 1988, has been correctly imposed in terms of current Government advice.

Loss of residential accommodation

13. The proposal would reduce the manager's accommodation to a single bedroom with an en-suite shower and WC, and an office on the ground floor. It would thus not provide a separate unit of residential accommodation, of at least four habitable rooms, for the use

of persons employed on the property. Neither has any evidence been presented that the rooms to be converted are unfit for human habitation, too small to provide satisfactory living accommodation, or fall into any other of the relevant exceptions permitted by Local Plan Policies TO3 and HO6. I conclude on this issue therefore that the loss of residential accommodation would be unacceptable and contrary to Local Plan Policies TO3, TO4 and HO6.

Effect on character and appearance

14. The proposal would almost double the number of guest rooms, which would lead, in my opinion, to a significant increase in the level of activity associated with the appeal site. As the neighbouring houses are residential, I consider it likely that the level of activity on the appeal site would be significantly greater than in any of the surrounding houses. This would be exacerbated by the frequency of turnover of the residents who could be moving in or out daily. I consider that this would amount to an intensification of the use of the site which would be out of keeping with the residential character of the area and the constraints of the site, and contrary to Local Plan Policies BE2, HO5 and TO5.

Effect on living conditions

15. In my opinion the increased activity associated with the proposed development would be likely to lead to an increased level of noise and disturbance to neighbouring residents. This would arise mainly from the movements of the guests, particularly when arriving or departing by car or other motor vehicle. Although the proposal would provide an adequate number of off-street parking spaces, the location of three spaces in the rear garden, well behind the general building line of the houses, would give rise, in my view, to a significantly increased level of noise and disturbance that would unacceptably harm the living conditions of nearby residents, and would be contrary to Local Plan Policies EO1, HO5 and TO5.
16. For the above reasons on all three main issues in Appeal A I consider that Condition 03 should remain.

Appeal B

Effect on character and appearance

17. The proposal would construct a single storey rear extension under a pitched roof to provide accommodation for the manager, and convert the existing accommodation to have seven guest bedrooms. The proposed extension would be large in relation to the existing building. It would occupy the same width as, and have a similar footprint to, the existing building, to which it would be connected by a short single storey link. By reason of its size and scale it would not, in my opinion, be in harmony with the original building, nor would it relate well to its surroundings. It would thus be contrary in these respects to Structure Plan Policy SP12/10 and Local Plan Policies BE8 and HO5.
18. For the same reasons as in Appeal A, I consider that this proposal would also amount to an intensification of the use of the site which would be out of keeping with the residential character of the area and the constraints of the site, and contrary to Local Plan Policies BE2, HO5 and TO5.

Effect on living conditions

19. The proposed extension would be about 2 metres from the south-eastern boundary and set well back behind No 72. Having regard to its single storey height and separation

distance, as well as the hedge screen, I do not consider that the proposal would have an adverse visual impact on No 72, or on Nos 1 and 1A Nuffield Road. However it would be located directly adjacent to No 68 which extends back behind the rear wall of the appeal building, and close to the existing garage. In view of its size and proximity the proposed extension would, I consider, intrude on the outlook from No 68. Whether considered alone or cumulatively with the garage it would, in my opinion, have a significant and unneighbourly visual impact thereon, contrary to Local Plan Policy BE8 as well as the advice of PPG1.

20. For the same reasons as in Appeal A I consider that the proposal would be likely to cause a significant increase in the level of noise and disturbance that would unacceptably harm the living conditions of nearby residents, and would be contrary to Local Plan Policies EO1, HO5 and TO5.
21. I conclude therefore that the proposal in Appeal B would, by reason of its size and the intensification of activity, adversely affect the character and appearance of the area. It would also unacceptably harm the living conditions of neighbouring residents by way of visual impact, noise and disturbance. It would be contrary to Structure Plan Policy SP12/10 and Local Plan Policies BE2, BE8, EO1, HO5 and TO5 as well as the advice of PPG1.

Other Matters

Appeals A and B

22. Interested third parties have expressed their concern at the provision of car parking and the use of the guesthouse for commercial rather than tourist trade. The Council does not object on these grounds. While the car parking spaces accord with the Council's requirements, I have considered the effect of their disposition in the main issues above. The Council confirm that the Local Plan does not distinguish between commercial and tourist guest houses, and I therefore consider that the type of guest is not a material planning matter.

Conclusion

23. For the reasons given above and having regard to all other matters raised, I conclude that both proposals would be unacceptable and that the appeals should not succeed.

Formal Decision

24. In exercise of the powers transferred to me I dismiss the appeals.

Information

25. A separate note is attached setting out the circumstances in which the validity of these decisions may be challenged by making an application to the High Court within 6 weeks from the date of these decisions.



INSPECTOR

