



The Planning
Inspectorate



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Your Ref: 10/1028/FUL
Our Ref: APP/Q0505/A/11/2148073/NWF
Date: 22 August 2011

Dear Ms Day

**Town and Country Planning Act 1990
Appeal by Mr Pankhania
Site at 9 Mowbray Road, Cambridge, CB1 7SR**

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

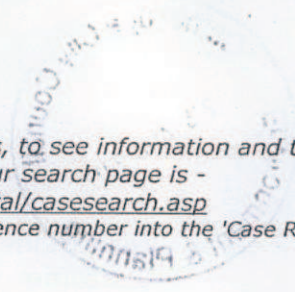
Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Yours sincerely

Sophie Woodruff

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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

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 Plan¹ Policy 5/2.

¹ 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 Plan².
13. However, Regulation 122³ 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 SPD⁴, 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

² The Cambridgeshire and Peterborough Structure Plan, 2003

³ The Community Infrastructure Levy Regulations 2010

⁴ Planning Obligations Strategy: Supplementary Planning Document, March 2010