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## Appeal Decision

Site visit made on 29 November 2011

**by Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 5 January 2012

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**Appeal Ref: APP/Q0505/A/11/2160764**

**83 Gough Way, Cambridge, Cambridgeshire, CB3 9LN.**

- 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 Mrs Helen Milner against the decision of Cambridge City Council.
  - The application Ref 11/0372/FUL, dated 30 March 2011, was refused by notice dated 25 July 2011.
  - The development proposed is for the demolition of an existing house and erection of three number five bedroom dwellings and garages.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider the main issues in this case to be the effect of the proposed development on:
  - (a) the character and appearance of the area;
  - (b) the living conditions of the occupiers of 81 and 85 Gough Way; and
  - (c) finally, whether a planning obligation to secure provision for contributions towards the provision for community facilities, informal open space, provision for children and teenage facilities, indoor and outdoor sports facilities, waste facilities, monitoring and Council legal fees is necessary.

### Reasons

#### *Character and appearance*

3. The appeal site, 83 Gough Way, is a substantial plot of land located in the north west corner of Gough Way estate. The existing house sits forward on the plot, between numbers 81 and 85, resulting in a large garden area to the side and rear. Access is taken over a short drive which passes in front of number 81 and to the side of number 85. A drainage channel runs parallel to the site's northern and western boundaries with open countryside beyond, which lies within the Cambridge Green Belt. In addition to established garden
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planting, there is a belt of mainly fir trees running along the site's western boundary.

4. Gough Way estate is characterised by detached houses set in relatively large mature garden plots. The houses, with only few exceptions including numbers 81 and 83, have a frontage a little wider than the dwelling. Number 83 is further unusual in that it is located gable end onto the street. The garden of number 83 is also uncharacteristically large in comparison to that of surrounding properties. The layout of the estate at this point reflects the original designer's solution to developing this corner plot.
5. Due to the narrow frontage of the existing property and the siting of the dwelling, the views through to the large garden behind are limited. I do not consider, therefore, that the garden itself is important to the character of the area or the setting of the buildings in this part of the estate. However, the existing tree belt is visible from a number of public vantage points and is, I consider, therefore important to the local streetscape in providing a backdrop to the existing development.
6. The appellant proposes the demolition of the existing house and its replacement with three detached five bedroom houses. The house on plot 3 would enjoy a detached garage, whereas plots 1 and 2 would each have a single garage in a common block of two. Additional parking for three cars is shown in front of the garages. The existing access way would be extended to a new turning head around which the new houses and garages would be located, giving the proposal the feel of a courtyard rather than linear form of development. Plots 1 and 2 would back onto the tree belt shown to be retained along the western boundary.
7. While not slavishly copying the design of the existing houses, and although slightly taller and of a more contemporary design, I consider that the houses as designed would nevertheless reflect the simple form and character of the existing properties.
8. The proportion of the site given over to vehicular access, parking and turning provision would be greater than on existing plots. However, the three dwellings laid out as proposed would, in terms of plot size, generally be similar to those of the neighbouring development. None of the houses would have a direct street frontage. However, although limited to a view along the line of the drive, the proposed development would open up longer views than at present into the corner of the estate.
9. The relationship of the access drive to the houses on plots 81 and 83 would be little different from the present arrangement. Further, the additional tree planting proposed would, to my mind, soften and therefore reduce the sense of the enclosed courtyard form of the development as those trees mature over time.
10. The courtyard layout of the proposed development, accessed from just one corner, would be unusual as would the relationship of the three houses to the street. However, I found the existing configuration equally unusual in the context of the layout of the remainder of the estate. In my judgement, in terms of the layout, both the existing and proposed configurations are equally valid ways of responding to and addressing and defining this corner plot.

Accordingly, although the layout would be uncharacteristic, I do not consider that the development would appear cramped or overdeveloped.

11. The proposed houses on plots 1 and 2 both back onto the belt of trees that is about some 7.0 metres deep and runs the full length of the western boundary. The depth of the rear gardens, wall face to canopy line, is at the most only about 8.0 metres. Although Plot 2 would have a north facing side garden, as that would only be about 3.0 metres wide it would provide little practicable usable outdoor space. Further, like the west facing gardens, it would be overshadowed by existing planting. Accordingly, the amount of usable private garden available to plots 1 and 2, having regard to their being substantial five bedroom family houses would be, I believe, limited and therefore inadequate for the scale of the dwellings proposed.
12. The windows to living rooms and dining rooms of the houses on plots 1 and 2 at ground floor level and the windows of bedrooms 1, 2 and 4 at first floor level face west towards the trees. In each case, save for the living rooms that would enjoy a second window facing south in the case of plot 1 and north on plot 2, the rooms only have the one window. Although I acknowledge that the trees being mainly pines may tend to lose lower limbs, nevertheless, in my opinion the tree belt would result in a loss of daylight and sunlight from principal habitable rooms and overshadow the gardens. Accordingly, if the scheme were built out as proposed it would be likely to result in pressure to remove some or all of the trees over time which, as I have identified, make an important contribution to the character and appearance of the area.
13. The limited private amenity space that I have identified, as well as restricted daylight and sunlight to principal rooms, leads me to conclude that in this respect the development would not be of a high quality design. Further, the loss of trees to the western boundary to overcome these considerations would have a harmful impact on the character and appearance of the area.
14. I have found that in many respects the proposal would be acceptable. However, I nevertheless conclude in respect of the first main issue that, on balance, the proposed development, by reason of poor living conditions for future residential occupiers and the potential loss of the trees to the western boundary of the site, would result in a poor design with the potential to cause significant harm to the character and appearance of the area. In these respects the proposal would fail to accord with the aims of Policy ENV7 of the East of England Plan 2008 (EEP) and Policies 3/4, 3/7, 3/10, 3/12 and 4/4 of the Cambridge Local Plan 2006 (LP), as they relate to, along with other things, the quality of design.

#### *Living conditions*

15. Number 85 Gough Way is sited to the east of the appeal site and in particular the new dwelling proposed for plot 3. The front of the new house would be set about 6.0 metres behind the rear wall of number 85 and some 1.5 metres from the common boundary. However, the section of the new dwelling adjacent to this boundary would only be one and a half storeys high with the ridge line no higher than the proposed eaves line of the two storey section. Accordingly, while the development would bring the new building closer to the side boundary and therefore the rear garden of number 85, I do not consider that

the proposal would result in the occupiers of number 85 feeling either enclosed or dominated by the new dwelling. However, I do consider that there would be the potential for overlooking from the south facing window to bedroom 5. This would result in a loss of privacy as it overlooks both the rear of the house and private rear garden area.

16. The proposed dwelling on plot 1 would be located about 1.5 metres from the common boundary to number 81 resulting in a separation distance of 3.0 metres or so. The two storey section of the new dwelling would project some 5.5 metres behind the rear wall of number 81. Having regard to the new dwelling's proximity to the boundary and the overall height of the dwelling, where the flank wall rises to the full height of the gable, I believe that it would unreasonably dominate and therefore add to a sense of enclosure for the residential occupiers.
17. The vehicular access to the development would be over the existing drive that crosses in front of number 81. I appreciate that two additional dwellings would result in some additional traffic and pedestrian movements. However, I do not consider that this would result in such additional levels of noise, disturbance or pollution from vehicles as to cause significant harm to the living conditions of the residential occupiers
18. I conclude in respect of the second main issue that the proposal would cause harm to the living conditions of the occupier of number 85 Gough Way by reason of overlooking and loss of privacy, and to number 81 in terms of dominance and overbearing. The proposal therefore fails to accord with the objectives of LP Policies 3/10 and 4/13 as they relate to amongst other things the protection of residential amenity.

#### *Planning obligation*

19. The Council has provided a signed and dated unilateral undertaking which it states it has accepted and it now confirms that its fourth reason for refusal has been addressed. The unilateral undertaking sets out a series of payments for contributions towards the provision for community facilities, informal open space, provision for children and teenage facilities, indoor and outdoor sports facilities, waste facilities, monitoring and Council legal fees to accord with the Council's Planning Obligation Strategy 2010 and Guidance for Interpretation and Implementation of Open Space Standards 2010.
20. From the information submitted with the appeal, I am not content that in this particular case all the monies requested have been proven to be either directly related to the proposed development or necessary to make the development acceptable in planning terms. Further, the practice of levying contributions from developers towards the monitoring of development is not supported by the advice in circular 05/2005 *Planning Obligations*. Paragraph B34 of the circular simply refers to charges for preparing and completing the obligation itself and paragraph B19 indicates that the cost of subsequent maintenance and other recurrent expenditure on assets intended for wider public use should normally be borne by the authority in which it is vested. Monitoring would seem to me likely to fall into the category of recurrent expenditure. I therefore do not consider that this additional charge is justified.

21. I therefore conclude in respect of the third main issue that without further refinement of the information to back up the case, I consider that there is a tension with Circular 5/2005 and the tests in Regulation 122 of the Communities Infrastructure Levy Regulations 2010. I am therefore unable to take the undertaking into account in determining this appeal.

**Conclusions**

22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Philip Willmer*

INSPECTOR