



CAMBRIDGE CITY COUNCIL

The Guildhall, Cambridge, CB2 3QJ

TOWN AND COUNTRY PLANNING ACTS 1990

REFUSAL OF PLANNING PERMISSION

Ref:05/0028/S73

Barry Rencher Robinson
27 Bentley Road
Cambridge
Cambridgeshire
CB2 2AW

The Council hereby refuse permission for

Variation of Condition 3 of planning permission C/99/0562/OP (allowed on appeal) to allow a further five years for development to commence.

at

Land Rear Of 23 Sedley Taylor Road Cambridge Cambridgeshire

in accordance with your application received 7th January 2005 and the plans, drawings and documents which form part of the application, for the following reasons:

1. The development of this parcel of land to the rear, west, of 23 Sedley Taylor Road, by the construction of a single dwelling, constitutes an inappropriate form of backland development. The proposal does not reflect the residential character of this side of Sedley Taylor Road, which is one of substantial houses with street frontages and long rear gardens. Furthermore, the proposal fails the tests set out in criteria b) and d) of Policy NE8 of the Cambridge Local Plan (1996), in that it fails to demonstrate any access to the public highway (let alone a safe means of access), and has not addressed the opportunities for comprehensive, rather than a piecemeal approach to development. The proposal does not reflect the character of the area, recognise the constraints of the site, or relate well to its surroundings. For these reasons the proposal is contrary to policy P1/3 of the Cambridgeshire and Peterborough Structure Plan 2003 and Policies NE8 and BE2 of the Cambridge Local Plan (1996).



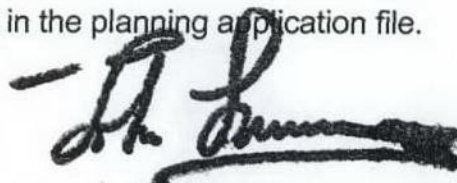

2. The proposed development does not make appropriate provision for public open space or community development facilities, in accordance with the following policies: policies CS3 and RL3 of the Cambridge Local Plan (1996); policy P9/8 of the Cambridgeshire and Peterborough Structure Plan 2003; and as detailed in the Planning Obligation Strategy 2004, and the guidance for Interpretation and Implementation of Open Space Standards, adopted as supplementary planning guidance by Cambridge City Council.

This decision notice relates to the following drawings: **Location Plan CB237215**

A copy of the refused plan(s) is/are kept in the planning application file.

Dated: 9 March 2005

Guildhall, Cambridge, CB2 3QJ

 P.P.
Director of Environment & Planning


SEE NOTES OVERLEAF

IMPORTANT ADVICE ON CHANGE TO TIME LIMITS FOR LODGING PLANNING APPEALS

Please note that recent changes to planning legislation mean that the time limit for the submission of planning appeals and listed building and conservation area appeals **has been increased from three months to six months** after the planning authority has made its decision on an application or failed to determine the application.

These changes came into effect on 14 January 2005 and **apply to all planning listed building and conservation area decisions made on and after 14 October 2004.** Applications made before 13 October are unaffected by this change.

This advice supersedes the advice on time limits for submitting appeals given on the back of this decision notice.

In case of enquiry contact Tony Collins
Direct Dial 01223 457157
Fax 01223 457109
E-mail: planning.devcontrol@cambridge.gov.uk



Landcharges

Date 2nd September 2005

Our Ref 05/0028/S73

Dear Sir/Madam

Town and County Planning Act 1990

Land at: Rear of 23 Sedley Taylor Road, Cambridge

Proposed Development: Variation of Condition 3 of planning permission C/99/0562/OP (allowed on appeal) to allow a further five years for development to commence.

Planning Reference: 05/0028/S73

Planning Inspectorate Reference: APP/Q0505/A/05/1186199

Appeal Start Date: 31st August 2005

Appellant's Name: Mr B R Robinson

An appeal has been lodged against the council's decision to refuse planning permission.

If you wish you may attend the Hearing, and at the discretion of the Inspector to take part in the discussion. You will need to advise the Planning Inspectorate if you wish to attend the Hearing.

If you cannot or do not wish to attend the Hearing you may give your views in writing.

If you wish to make your views known, these should be sent, quoting Reference number direct to:-

Mr Andy Maskrey
3/21 Eagle Wing
Temple Quay House
2 The Square
Temple Quay

John Summers
Head of Development Services
Cambridge City Council The Guildhall Cambridge CB2 3QJ
Telephone 01223 457000



INVESTOR IN PEOPLE

BRISTOL BS1 6PN

Your comments (3 copies) must be received by the Inspectorate not later than 6 weeks from the appeal start date set out at the front of this letter. Any views submitted will be disclosed to the parties and may be read out at the hearing. Any views previously submitted to the Planning Department are automatically forwarded onto the Planning Inspectorate. You will only need to write if you wish to add to or retract your earlier comments, or if you wish to appear at the Hearing.

If you would like to see the Appellants grounds of Appeal before submitting any views, these may be inspected at the reception desk on the second floor, at the Guildhall during normal working hours. A copy of the Council's statement will also be available for inspection within 6 weeks from the start date. However, I strongly urge you to contact the Development Control Administration Department on 01223 457142 before coming into my office to ensure the statement is available.

A copy of the Appeal Decision Letter will only be sent on request, if you wish to receive a copy, you should write direct to the Planning Inspectorate (address above).

The Planning Inspectorate have produced a leaflet called "A Guide to Taking Part in Planning Appeals". This leaflet explains in simple terms the possible involvement that interested parties may have in the appeals process. The Planning Inspectorate have provided me with copies of the leaflet, so if you would like one, please ask at the Planning Reception, 2nd Floor, Guildhall, Cambridge between 9.00am and 5.00pm Monday -Thursday or 9.00am - 4.30pm Friday. Alternatively, please ring the Planning Reception to request a leaflet.

If you are not the owner of the property to which this letter is addressed, I would be grateful if you could ensure that the letter is brought to the attention of the owner.

I will write to you again giving the details of the Hearing as soon as this is available.

Yours faithfully

John Summers
Head of Development Services

In case of enquiry contact Tony Collins
Direct Dial 01223 457157
Fax 01223 457109
email planning.devcontrol@cambridge.gov.uk



Landcharges

Date 17th August 2006

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

Land At: Rear of 23 Sedley Taylor Road, Cambridge

Planning Reference: 05/0028/S73

Planning Inspectorate Reference: APP/Q0505/A/05/1186199

Proposed Development: Variation of Condition 3 of planning permission C/99/0562/OP (allowed on appeal) to allow a further five years for development to commence.

I wrote to you on 2nd September 2005 to advise you that a Planning Appeal had been lodged and that an Informal Hearing was going to be held.

I am writing to inform you that this will take place in **Committee Room 2 at The Guildhall, Cambridge** on **Wednesday 20th September 2006**.

Yours faithfully

John Summers
Head of Development Services

John Summers
Head of Development Services
Cambridge City Council The Guildhall Cambridge CB2 3QJ
Telephone 01223 457000



INVESTOR IN PEOPLE

In case of enquiry contact Tony Collins
Direct Dial 01223 457157
Fax 01223 457109
email planning.devcontrol@cambridge.gov.uk



Landcharges

Date 12th September 2006

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

Land At: Rear of Sedley Taylor Road, Cambridge

Planning Reference: 05/0028/S73

Planning Inspectorate Reference: APP/Q0505/A/05/1186199

Proposed Development: Variation of Condition 3 of planning permission C/99/0562/OP (allowed on appeal) to allow a further five years for development to commence.

We wrote to you on 17th August 2006 to advise you that the Informal Hearing relating to the above Planning Appeal would take place in Committee Room 2 at The Guildhall on Wednesday 20th September 2006. Unfortunately there has been a change of venue and the Hearing will now be held in **The Robing Room at The Guildhall, Cambridge** on 20th September and will commence at 10:00am.

Yours faithfully

Veronica Cox
Support Officer

John Summers
Head of Development Services
Cambridge City Council The Guildhall Cambridge CB2 3QJ
Telephone 01223 457000



INVESTOR IN PEOPLE

In case of enquiry contact Tony Collins
Direct Dial 01223 457157
Fax 01223 457109
email planning.devcontrol@cambridge.gov.uk



Landcharges

Date 17th November 2006

Our Ref 05/0028/S73
Your Ref

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

Land At: Rear of 23 Sedley Taylor Road, Cambridge

Proposed Development: Variation of Condition 3 of planning permission C/99/0562/OP (allowed on appeal) to allow a further five years for development to commence.

Planning Reference: 05/0028/S73

Planning Inspectorate Reference: APP/Q0505/A/05/1186199

Appeal Start Date: 31st August 2005

Appellant's Name: Mr B R Robinson

With reference to the above appeal I now enclose a copy of the Planning Inspector's decision letter in relation to this appeal.

Yours faithfully

John Summers
Head of Development Services

John Summers
Head of Development Services
Cambridge City Council The Guildhall Cambridge CB2 3QJ
Telephone 01223 457000



INVESTOR IN PEOPLE



Appeal Decision

Hearing held on 20 September 2006

Site visit made on 20 September 2006

by **Mr K L Williams BA MA MRTPI**

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



The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

09 NOV 2006

Appeal Ref: APP/Q0505/A/05/1186199

Land rear of 23 Sedley Taylor Road, Cambridge, CB2 2PW

- 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 Barry Rencher Robinson against the decision of Cambridge City Council.
- The application Ref.05/0028/S73, dated 5 January 2005, was refused by notice dated 9 March 2005.
- The application sought planning permission for the erection of a single dwelling without complying with a condition attached to planning permission Ref.C/99/0562/OP, dated 15 June 1999.
- The condition in dispute is No.(iii) which states that: *"The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later."*
- The condition was imposed as a standard condition for outline planning permission.

Summary of Decision: The appeal is dismissed

Procedural Matters

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.
2. The appellant's planning application (Ref.05/0028/S73), dated 5 January 2005, was an application for the variation of Condition No.(iii) of planning permission C/99/0562/OP. However, that permission has now expired and its conditions cannot be varied. I have therefore dealt with this appeal as a proposal to renew that planning permission. At the Hearing, the Council and the appellant agreed that this was appropriate.
3. There was an error on the 1:1250 site plan submitted with the planning application which led to this appeal (Ref.05/0028/S73). The access road linking the main part of the site with Sedley Taylor Road was omitted from that plan. The access road was included in the site area of planning permission Ref.C/99/0562/OP, to which application Ref.05/0028/S73 referred. A copy of the previously approved plan was submitted at the Hearing and, with the agreement of the main parties, I have considered this as the application plan.
4. As a result of this error, the owners of the access road were not notified at the planning application stage. After the Hearing, the Council took steps to notify the owners. Having regard to this, and to my decision, I am satisfied that their interests are not materially prejudiced by my determination of this appeal.
5. A Unilateral Undertaking, submitted by the appellant after the close of the Hearing, names another party as an owner of the land and the requisite notice was not served on him. As he

is a signatory to the Unilateral Undertaking, I am satisfied that his interests have not been prejudiced by that omission.

6. No.23 Sedley Taylor Road is a listed building. Having regard to the Council's view that the proposed development would not affect the setting of the listed building, I am satisfied that it did not have to advertise the proposal under Section 67 of the Planning (Listed Buildings and Conservation Areas) Act, 1990. In reaching this view, I have taken account of advice in paragraph 2.17 of Planning Policy Guidance 15: Planning and the Historic Environment (PPG15).

Main Issues

7. I consider that the main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the setting of the listed building, No.23 Sedley Taylor Road;
- Whether the proposal makes appropriate provision for access by vehicles and pedestrians; and,
- Whether the proposal makes appropriate provision for formal and informal open space, children's play areas and community facilities.

Planning Policy

8. The development plan includes the Cambridge and Peterborough Structure Plan, 2003 (SP) and the Cambridge City Council Local Plan, 2006 (LP). SP policy P1/3 requires a high standard of design and sustainability and provides a range of related criteria. Policy P9/8 deals with infrastructure provision and refers to a comprehensive approach to securing infrastructure to support the development strategy for the Cambridge Sub-region. LP policy 3/4 permits development which responds to its context, creating distinctive places by drawing inspiration from key characteristics of the area. Development should be well connected to and integrated with the locality. Policy 3/10 does not permit development in the garden areas of existing dwellings where, amongst other things, it would detract from local character and appearance, or adversely affect residential amenity or the setting of listed buildings. Policy 3/8 deals with public open space and sports facilities provision and policy 5/14 deals with the provision of community facilities.
9. The Planning Obligations Strategy was adopted by the Council in 2004 as Supplementary Planning Guidance (SPG). It was subject to public consultation and is relevant. I have given it significant weight reflecting its status as SPG. I have also had regard to other policy and guidance, including advice in paragraph 40 of Planning Policy Guidance 3: Housing, concerning the non-renewal of outstanding planning permissions and in paragraph 60 of Circular 11/95 regarding the renewal of permissions.

Reasons

Background

10. The main part of the appeal site is a roughly rectangular area of land to the rear of No.23 Sedley Taylor Road. The site also includes the access road referred to above, which currently provides access to a rugby club to the south of the site. In January 2000 outline planning permission was granted on appeal for the erection of a single dwelling on the site. Although access formed part of that proposal, other detailed matters were reserved. Drawing Ref.320-2 (undated), entitled Typical Bungalow Plans, Elevations, provides an illustrative layout and elevations for the proposed dwelling. Condition No.(vii) of the January 2000 permission limits the approved dwelling to one storey in height. I have had careful regard to the findings of the Inspector who determined the appeal in 2000. However, I have reached my own conclusions with regard to the main issues.

First issue - character and appearance

11. The Council considers that the dwelling would be in a backland situation and would be out of character with the surrounding area. It would therefore fail to take account of the context and character of its surroundings, which would be harmed by the development.
12. Having regard to the location of the site to the rear of No.23, I agree with the Council that the proposal amounts to backland development. The predominant form of development locally is linear frontage development along Sedley Taylor Road, mainly consisting of substantial detached houses. However, there is some variation in this pattern. At the northern end of the road, Nos. 2 3 and 4a are set back behind the frontage development, although they appear as a continuation of Luard Road. There are also one or two other examples of backland dwellings on the eastern side of Sedley Taylor Road. There is a bungalow to the south of the appeal site access road, albeit fronting onto Sedley Taylor Road and the rugby club is to the rear of frontage development. Whereas the predominant linear frontage character is primarily seen from Sedley Taylor Road, there would be very limited views of the proposed dwelling from that vantage point. It would be seen from other viewpoints, including the rugby club, the sports field and Long Road, from where views would be filtered through trees. However, the dwelling would be single storey and its prominence could be further reduced by a careful approach to design and siting and by landscaping, including retention of some of the existing trees and vegetation on the site.
13. Having regard to the above, I conclude that, while the dwelling would not be consistent with the predominant local character, it would not cause unacceptable harm to the character and appearance of the surrounding area. I consider that the proposal would not fully meet the aspirations of LP policy 3/4 but would not conflict with policy 3/10 in this respect.

Second issue – effect on the setting of a listed building

14. No.23 Sedley Taylor Road was added to the list of buildings of special architectural or historic interest in 2001, as a Grade II listed building. The listing schedule refers to the house, which was built in 1934, as a remarkably unaltered house of the period. Reference is made to interesting fenestration, interior features and to a rear conservatory. The occupier of No.23 considers that its setting would be harmed by the proposal and by widening of the access road. She refers to the site as having contained an orchard, providing the house with fruit and forming an essential part of the division of the garden into different sections.

15. The appeal site, which was formerly part of the extended garden of No.23, is shown on the plan attached to the listing schedule as part of the plot within which the listed building sits. However, at the Hearing the Council referred to the site as having been separated from the property before the house was listed in 2001. In my view, the site now has the appearance of a distinct plot. It is at the bottom of the garden of No.23 Sedley Taylor Road and is separated from it by a timber fence. Seen from the windows of No.23, the site appears as an area of trees and other vegetation at some distance from the property. In my view, it is considerably more detached from No.23 than is the neighbouring dwelling to the north. Taking this into account, and subject to the careful consideration of siting, design and landscaping which I have referred to above, I do not consider that a single storey dwelling on the appeal site would have an unacceptable effect on the setting of No.23. No specific proposals for improvement of the access have been put forward and I do not consider that the increased use of the existing access road would be harmful to the setting of No.23.
16. I conclude that the proposed dwelling would not be harmful to the setting of No.23 Sedley Taylor Road as a Listed Building. It would not conflict with LP policy 3/10 in this respect.

Third issue – access for vehicles and pedestrians

17. The Council is concerned that the site does not have a guaranteed road access and about the safety of the access. The appellant says that the access road is well used and additional movements from one dwelling would not be harmful. He also refers to the favourable findings of the Inspector in the 2000 appeal, including his findings with regard to access by fire appliances.
18. The access road which would serve the proposed dwelling is not in the ownership or control of the appellant. However, if this appeal was to be allowed, I consider that a planning condition could be imposed which would have the effect of preventing development of the site until that access was made available. Subject to such a condition, I do not consider the scheme unacceptable with regard to the absence of a guaranteed access.
19. I turn now to the adequacy of the proposed access. This access is already used for vehicles and pedestrians visiting the rugby club and I am aware that the Highway Authority did not object to the application. I appreciate that the volume of vehicle movements generated by a single dwelling would be small. However, I share the concern of the Council and local residents regarding the safety of users of the access. Conflicting figures are given for the width of the access. The appellant refers to a 3 metre access road and a width between property boundaries of 4.5 metres. The occupier of No.23 refers to a width of 2.7 metres. Measurements taken during my site visit showed a width of about 3.9 metres at the western end of the access road, near the rugby club. However, this reduced about 3.24 metres at its narrowest point and was about 3.39 metres near its junction with Sedley Taylor Road.
20. The access appeared to me to be narrow. In my view, it does not comply with guidance in paragraph 2.70(c) of Design Bulletin 32: Residential Roads and Footpaths (1992), that shared surface roads should provide a surface wide enough to allow pedestrians and vehicles to pass comfortably. There is no footway and, from what I saw, there is little room for pedestrians when the access is being used by vehicles, as it was when I visited the site. This is a sustainable location and the occupiers of the dwelling, who could include children, are likely to make some trips on foot or by bicycle. In my view this would intensify the extent of conflicting vehicle and pedestrian movements on the access road, leading to

unsafe conditions, particularly for pedestrians and cyclists. I appreciate that a layout allowing vehicles to enter and leave the appeal site in forward gear could be achieved. However, I consider that vehicle movements associated with the dwelling would increase the likelihood of reversing movements on the narrow access road and the possibility of vehicles being unable to enter the access road if it was already in use. This would be to the detriment of the free flow of traffic on Sedley Taylor Road. In my view, it has not been demonstrated that there would be scope for widening the access road to an extent which would resolve these problems.

21. I appreciate that the Inspector dealing with the appeal in 2000 did not find the access road unacceptable. However, while his decision dealt in some detail with access for fire appliances, it did not evaluate the general adequacy of the access. I have therefore reached my own conclusion on this matter based on the evidence before me.
22. At the Hearing, evidence was submitted by the occupier of No.23 regarding the site's non-compliance with standards set out in the Building Regulations, 1991 for access by fire appliances. These standards include reference both to the width of the access road and, if a fire appliance could not reach the site itself, the distance of the site from a point where a fire appliance could be stationed. These matters are covered by the Building Regulations and the Cambridgeshire Fire and Rescue service did not object to the planning application. Taking this into account, I do not consider that inadequate access for fire appliances would be a sufficient reason, on its own, to dismiss the appeal, although it adds to my concern regarding the access to the site.
23. I conclude that the proposal would not make adequate provision for access by vehicles and pedestrians. It would result in unsafe conditions, particularly for pedestrians and cyclists and would be harmful to the free flow of traffic on Sedley Taylor Road. It would conflict with LP policy 3/10 in this respect.

Third issue – provision for open space and community facilities

24. In the Council's view, the proposal fails to make appropriate provision for open space and community facilities. LP Policy 3/8 requires residential development to provide for public open space and sports facilities either through provision on site or, where the scale of development indicates otherwise, through commuted payments. Policy 5/14 requires provision of or contribution to community facilities where development leads to an increased demand for such facilities. The Council's Planning Obligations Strategy sets out its approach in more detail. It provides criteria for contributions and defines the scale of contributions required. It also provides a framework for the expenditure of contributions.
25. The appellant considers the contributions sought by the Council inappropriate in view of the small scale of the development. He also considers them insufficiently linked to the development and to be for provision which is unspecified in location or timescale.
26. I have considered this matter in light of the SPG and having regard to Circular 05/2005: Planning Obligations. The Circular is consistent with The Planning System: General Principles, to which the appellant has referred. I am satisfied that the contributions sought by the Council are consistent with the approach set out in the SPG, which in turn stems from relevant LP and SP policies. The SPG explains the need to require contributions in order to help to meet the infrastructure costs arising from development, including the costs of providing open space and community facilities. While I appreciate the appellant's

concern regarding the scale of the appeal proposal, paragraph 2.10 of the SPG explains that the development of small sites should not escape the infrastructure costs resulting from cumulative increases in demand. I am also satisfied that the scale of contributions sought is set out in the SPG and has regard to the costs of the provision of facilities and to assessments of need.

27. The SPG was adopted in 2004 and refers to expenditure on local projects and on projects benefiting the city as a whole. A range of projects to which expenditure could be directed is specified. No updated information was submitted. However, at the Hearing, the Council referred to the continuing severe pressure on the city's infrastructure arising from housing and other development and this was not disputed by the appellant. In my view, it is therefore likely that suitable projects would arise within a reasonable timescale for the expenditure of the contributions sought by the Council on the basis set out in the SPG.
28. Having regard to the above, I consider that the contributions sought by the Council are necessary from a planning viewpoint. In my view, they are, in the terms of Circular 05/2005, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects. The appellant has submitted a Unilateral Undertaking which provides for the payment of contributions towards open space, children's play areas and community facilities on the commencement of development. The Council has accepted that this meets the requirement for contributions and I agree with that view.
29. I conclude that the contributions specified by the Council would be necessary to ensure appropriate provision for formal and informal open space, children's play areas and community facilities. I also conclude that the Unilateral Undertaking submitted by the appellant would meet these requirements. Subject to that Undertaking, the proposal would not conflict with the relevant LP policies or with the SPG.

Other Matters

30. The site is a sustainable one, having regard to its location within an urban area, with good accessibility to a range of services, facilities and employment. The proposal therefore accords with policies and guidance regarding the more efficient use of such land in sustainable locations. I am satisfied that a dwelling could be accommodated on the site without harm to trees protected by Tree Preservation Order No.4/2002. While there would be some overlooking of the garden of No.23 from the access road, this can already occur and I consider that the proposal would be acceptable with regard to its effect on the occupiers of neighbouring dwellings. Nothing has been submitted regarding any proposals for the comprehensive development of the wider area or to suggest such proposals are likely to emerge. I do not consider that the proposal would be likely to prejudice such comprehensive development, as referred to in criterion (f) of LP policy 3/10. None of these other matters adds to my reason for dismissing the appeal.

Conclusions

31. I have concluded that the proposed dwelling would be acceptable with regard to its effect on the character and appearance of the surrounding area and its effect on the setting of No.23 Sedley Taylor Road. Subject to the Unilateral Undertaking submitted by the appellant, it would also be acceptable with regard to the provision of formal and informal open space, children's play areas and community facilities. However, these conclusions are outweighed

by my conclusion with regard to access to the site. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

32. I dismiss the appeal.

K Williams

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Quinlan, BSc(Hons), DipTP, MRTPI

James Quinlan and Associates Ltd

Mr B R Robinson

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Collins, MRTPI

Planning Officer, Cambridge City Council

INTERESTED PERSONS:

Professor A Muthesius

Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- | | |
|-------------|---|
| Document 1. | Extracts from Cambridge City Council Local Plan, 2006. |
| Document 2. | Note submitted by the Council comparing the policies of the 1996 Local Plan with those of the 2006 Local Plan. |
| Document 3. | Statement of consultation on Revised Planning Obligation Strategy adopted as Supplementary Planning Guidance in April 2004, Cambridge City Council. |
| Document 4. | Copy of Planning Application C/99/0562/OP and related plan. |
| Document 5 | Extract from building regulations, B5, Vehicle Access, Section 17. |
| Document 6. | Representation by Neighbourhood Watch, Sedley Taylor Road. |
| Document 7. | Report to Planning Committee, Land to the rear of 4 Sedley Taylor Road, 16 April 2003. |
| Document 8. | Listing description for 23 Sedley Taylor Road, 8 March 2001. |
| Document 9. | Deed of Rectification regarding 23 Sedley Taylor Road, and related plan. |

DOCUMENTS SUBMITTED AFTER THE HEARING

- | | |
|--------------|---|
| Document 10. | Letter, dated 28 September 2006 from Professor A Muthesius, with attached correspondence. |
| Document 11. | Letter and attached correspondence from Professor A Muthesius, dated 24 September 2006. |
| Document 12. | Letter from Cambridge City Council, dated 27 September 2006. |
| Document 13. | Letters from James A Quinlan and Associates Ltd, dated 21 September 2006. |
| Document 14. | Letter from the appellant, dated 27 September 2006, with Unilateral Undertaking attached. |
| Document 15. | Letter from Cambridge City Council, dated 21 September 2006 with attached correspondence. |
| Document 16. | Letter from Cambridge City Council, dated 6 October 2006, with attachments |



Costs Decision

Hearing held on 20 September 2006

Site visit made on 20 September 2006

by Mr K L Williams BA MA MRTPI

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



The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

09 NOV 2006

Costs application in relation to Appeal Ref: APP/Q0505/A/05/1186199

Land rear of 23 Sedley Taylor Road, Cambridge, CB2 2PW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr B R Robinson for a full award of costs against Cambridge City Council.
- The hearing was in connection with an appeal 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.

Summary of Decision: The application for an award of costs is allowed in part as set out in the Formal Decision and Costs Order below.

The Submissions for the Appellant

1. The Council's approach in this case has been unacceptable and unreasonable. The Inspector who determined an appeal for the same form of development on the site in January 2000 looked at the site and the issues carefully. The issues are now the same and there is nothing new, although there has been a review of the Local Plan.
2. The report to the Council's South Area Planning Committee concerning the application which led to this appeal was very thorough. It assessed whether significant changes had occurred since the 2000 appeal decision and reviewed changes in planning policies and guidance. It concluded that to allow, in effect, a renewed planning permission would not be premature and would not result in uncertainty. There was clear advice to members to approve the application subject to completion of a legal agreement. However, the Committee placed undue weight on aggressive lobbying against the proposal and acted against officer advice and against the decision of the Inspector in the 2000 appeal.
3. In this case, the Council did not comply with the requirements of Circular 8/93, particularly with regard to paragraphs 9 and 16 of Annex 3 of that Circular. While there have been changes, the situation is not materially different. The Council's decision did not have an adequate foundation and ignored the officer's advice and the previous appeal decision.
4. The Council considered the application on 3 March 2005. There had been active discussions with the Council concerning a Planning Obligation with regard to contributions related to open space and community facility provision. With regard to these contributions, the report to the Council's committee says that: "*The applicant has indicated his willingness to enter into a legal agreement for these costs.*" A completed Unilateral Undertaking on this matter was sent to the Council on 10 March 2005 and was acknowledged. There had been a thorough consideration of issues related to access to the site at the previous appeal,

including whether there was a guaranteed right of access. The Inspector considered access acceptable, including access for emergency vehicles

5. Application is therefore made for a full award of costs, related to both of the Council's reasons for refusal and to the whole of the case. The unnecessary costs incurred are the entire costs of mounting the resulting planning appeal.

The Response by the Council

6. The Council has not acted unreasonably. With regard to the second reason for refusal, concerning provision for public open space and community facilities, there is a sound basis for requiring an agreement regarding financial contributions in the Council's Planning Obligations Strategy, 2004, which is Supplementary Planning Guidance. No Planning Obligation had been put in place and therefore the Council was not acting unreasonably in refusing the application on this basis. The Council would have been justified in refusing the application on this basis alone, and an appeal on that issue was likely in any case. As a result, the further matters referred to in Reason for Refusal No.1 did not result in added costs.
7. The Council acknowledges paragraph 16 of Annex 3 of Circular 8/93. However, that paragraph refers to an authority as: "... likely to be regarded as having acted unreasonably". This implies that in some circumstances it would not be so regarded. In this case the Council considered that some aspects of the proposal had not been satisfactorily dealt with in the previous appeal decision. This included whether the proposal provided a guaranteed access, a matter which was not addressed in the previous appeal decision and is material. Therefore, despite the previous appeal decision, the Council was not unreasonable.

Conclusions

8. This application for costs falls to be considered in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
9. It is normal practice for a Council to consider fully any objections to planning applications. The appropriate test is whether the Council's Reasons for Refusal were founded on planning arguments. In this case, I consider that they were and that it has not been demonstrated that the Council's decision was driven by lobbying against the proposal.
10. Paragraph 16 of Annex 3 of Circular 8/93 refers to situations where an appeal is successful, whereas in this case the appeal has been dismissed. However, paragraph 19 of Annex 3 refers to unreasonable behaviour when a planning authority cannot show good reason, such as a material change in planning circumstances, for failing to renew an extant or recently expired planning permission. I find that the Council did not meet this requirement with regard to the issue of the effect of the proposal on the character and appearance of the area. The Council explained its concerns. However, it did not show that circumstances had materially changed since the previous planning permission, or show other good reason, either with regard to the nature of the character and appearance of the area or with regard to the effect to planning policies and guidance, to an extent which would justify refusal on this ground. I consider that the Council acted unreasonably in this respect.

11. I do not consider that the Council acted unreasonably with regard to the issue of access to the site. The Inspector determining the appeal in January 2000 did not find the access to the site unacceptable. However, while it referred to access for fire appliances, that appeal decision did not deal at any length with the merits of the access for general vehicular use. In my view, it was therefore reasonable for the Council, notwithstanding the lack of objection from the Highway Authority, to come to a planning judgement on the suitability of that access having regard, amongst other things, to its restricted width, which was addressed through measurement on site.
12. The Council also considered the proposal unacceptable because availability of the proposed access could not be guaranteed. In doing so, it did not pursue the possibility of a planning condition preventing development until the access was made available. Paragraph 11 of Annex 3 of Circular 8/93 says that, where appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions on a grant of planning permission which would allow the proposed development to proceed. In this case, the position was not straightforward in that the proposed access is not owned by the appellant but by a Trust. Taking this into account, I do not consider the Council's failure to pursue such a condition to amount to unreasonable behaviour.
13. With regard to access for fire appliances, the reasoning of the Inspector in 2000 relied, in part, on reference to a possible alternative route to the site for emergency access. The Council's evidence, which was supported by a local resident, was that it could not be guaranteed that this access route would always be available. In the event, the appellant agreed that he was not relying on that access route. Taking this into account, I consider that the Council acted reasonably in this respect.
14. Although the appellant provided the Council with a Unilateral Undertaking regarding the provision of public open space, play areas and community facilities on 10 March 2005, the Council had considered the application on 3 March 2005 and the notice of refusal was dated 9 March 2005. I therefore consider that the Council did not act unreasonably in refusing the application with regard to this issue. The Council's failure to acknowledge the Unilateral Undertaking or to pursue any necessary changes to it was unhelpful. However, the issues surrounding the need for a planning obligation and the precise form of that obligation would have had to be fully discussed at the Hearing in any case. In my view, the Council's failure to respond to the appellant's Unilateral Undertaking did not materially affect the time taken at the Hearing to deal with this issue. Taking this into account, I do not consider the Council's actions to amount to unreasonable behaviour in this respect.
15. Having regard to the above, I conclude that the full award of costs sought by the appellant is not justified. However, I consider that a partial award is justified with regard to the costs incurred by the appellant in preparing evidence dealing with the effect of the proposal on the character and appearance of the area and in dealing with that issue at the Hearing. The application is therefore allowed in part, in the terms set out below in the Formal Decision and Costs Order.
16. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Cambridge City Council will pay to Mr Barry Rencher Robinson, the costs of the appeal proceedings limited to those costs incurred by the appellant in the preparation of evidence with regard to the effect of the

proposal on the character and appearance of the area and the discussion of that issue at the Hearing, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 as amended 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 concerning land to the rear of 23 Sedley Taylor Road, Cambridge, CB2 2PW.

17. The applicant is now invited to submit to Cambridge City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.

K Williams

INSPECTOR