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## Appeal Decision

Site visit made on 22 June 2016

by **John Morrison BA (Hons) MSc MRTPI**

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

Decision date: 10 Aug 2016

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**Appeal Ref: APP/Q0505/W/16/3147205**

**Land rear of 268 Queen Ediths Way, Cambridge, Cambridgeshire CB1 8NL**

- 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 Dudley Developments against the decision of Cambridge City Council.
  - The application Ref 15/0596/FUL, dated 27 March 2015, was refused by notice dated 7 October 2015.
  - The development proposed is the erection of 3 No. five bed houses, internal access road, car and cycle parking and hard and soft landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 No. five bed houses, internal access road, car and cycle parking and hard and soft landscaping at land rear of 268 Queen Ediths Way, Cambridge, Cambridgeshire CB1 8NL in accordance with the terms of the application, Ref 15/0596/FUL, dated 27 March 2015 and subject to the conditions shown in the attached schedule.

### Procedural Matters

2. The plans to which the Council refer on their decision notice do not correspond to the plans before me. The most recent plans that I have before me include amendments to the width of the access road, the orientation, positioning of the first floor and addition of angled louvres to the first floor windows of plots 1 and 2, and the addition of a bin collection point. For clarity, these are reference 314 P-01 Rev F, 314 P-02 Rev C, 314 P-03 Rev C, 314 P-04 Rev C and 314 P-05 Rev D.
  3. The amendments on these plans correspond with the changes referenced in the officer's report to planning committee. That same report states explicitly that these plans have been consulted on by all parties. I do not therefore consider that any party would be prejudiced by my acceptance of the most recently amended plans in the determination of this appeal.
  4. Notwithstanding the Council's reasons for refusal as shown on the decision notice, I have identified the effect of the proposed development on the character and appearance of the area as a main issue in the determination of this appeal. This is given the location of the appeal site relative to the East Corridor, a distinct character area in the Council's Landscape Character
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Assessment 2003 (LCA). This is additional information that has come to light since the determination of the application and is raised by local residents.

### **Main Issues**

5. There are two main issues. These are the effect of the proposed development on a) the character and appearance of the area and b) the living conditions of the future occupiers of the proposed development with specific regards to whether or not there would be overlooking between the plots which would affect privacy.

### **Reasons**

#### *Character and Appearance*

6. The appeal site does not fall within the East Corridor as it is defined by the LCA. Nevertheless it forms part of the wider setting and 'green edge' of the urban area at this point and is an undeveloped and sloping site characterised by dense mature planting of various hedges and trees. This character is typical of land to the west and east of Limekiln Road as well as the south eastern end of private gardens that abut the appeal site. Views of the appeal site from the public realm are limited to glimpses through the dense planting from the Limekiln Road elevation.
7. The proposed development would be low density and within this planted setting, surrounded by it rather than replacing it. Whilst it would involve the removal of some trees, additional planting is proposed as well as retaining and reinstating much of the dense planting to the site's boundaries. Furthermore, the proposed development would not alter the general gradient of the site as it follows the topography downhill, along the route of Limekiln Road, towards Queen Edith's Way. I consider therefore that the proposed development would not significantly alter the characteristics of the site and how it would contribute to a green edge to the urban area.
8. I consider that Limekiln Road acts as a defined edge to the built up area and plays an important role in containing built form to its western side and preventing encroachment into the countryside or other formally designated sites. The proposed development would be located to the western side of the road and thus, in character terms, more closely related to the established built form. The eastern side of the road, in my view, better defines the transition from urban to rural from the densely planted areas around the former chalk pits to the more open field system beyond.
9. The modern approach to the proposed design with the use of strong and simple geometric shapes would be a positive feature in itself. To my mind therefore, whilst it would be partially visible from Limekiln road, the proposed development would make a positive contribution to the site, particularly in the context of paragraph 60 of the Framework<sup>1</sup>.
10. It is for these reasons I consider that the proposed development would not cause harm to the character or appearance of the area and as such would be in accordance with Policies 3/2, 3/3, 3/4 and 3/12 of the Local Plan<sup>2</sup>. These Policies, along with section 7 of the Framework, seek to ensure that the design

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<sup>1</sup> The National Planning Policy Framework 2012

<sup>2</sup> The Adopted Cambridge City Local Plan 2006

of new buildings and their effect on the character and appearance of the area and landscape is appropriate, development conserves or enhances the setting and special character of Cambridge and responds to the characteristics of its surroundings.

### *Living Conditions*

11. Plots 1 and 2 of the proposed development would be orientated at an angle relative to Plot 3 and the first floors of plots 1 and 2 would be set back from the rear projection of the ground floor. Angled louvres would be fitted to the first floor windows of plots 1 and 2.
12. The fitted louvres would restrict any views of the rear gardens of existing properties from the first floors of plots 1 and 2 and in the case of Plot 2 offer a direct a line of sight towards plot 3. However, the rear projection of plot 3 is such that any views towards its garden from the first floor windows of plot 2 would be of part of the side elevation and then obliquely across the rear garden. I consider that this limited view and the extent of additional garden around the east and south of plot 3 means that the privacy of plot 3 would not be compromised.
13. Plot 3 would not have any windows to its north elevation on the first floor and as such no views of the garden of plot 2 would be offered.
14. The block of built form making up the first floor of plot 1 is almost level with and parallel to the front elevation of plot 2. This means that the rear element of plot 1's first floor, where the proposed first floor rear windows would be, would have views of mainly the side elevation of plot 2 and very limited views of the far corner of its garden. I therefore do not consider that the privacy of plot 2 would be compromised.
15. For these reasons I consider that the proposed development would not lead to overlooking between the plots and as such would not give rise to harm to the living conditions of the future occupiers of the proposed development.
16. I note the Council's decision notice refers to Policies 3/7 and 3/12 of the Local Plan when concluding on the effect of the proposed development on the living conditions of future occupiers of the proposed dwellings. Having looked in detail at these Policies however I note they seek to address matters of design quality and the functioning of designed spaces and as such are not directly relevant to the matter of living conditions. I have no other Policies before me, from the Development Plan, that deal specifically with the matter of living conditions.
17. Nevertheless, the proposed development would be in accordance with one of the core principles of the Framework which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

18. I acknowledge that the use of angled louvres fitted to the exterior of a building are not a common feature to the area. However, and in the context of my comments concerning the design of the proposed dwellings, I consider them to be appropriate for the modern design approach that the proposed development

- would use and thus would serve a positive aesthetic role as well as a functional one.
19. The appeal site is to the rear of existing residential gardens and the proposed development would have two storey rear elevations facing them. Existing gardens are however relatively long and I find the distance between existing and proposed residential uses more than sufficient to ensure that the living conditions of existing occupiers are not adversely affected through any oppressive or over bearing impact. In addition, the proposed fitted louveres would restrict direct views of existing rear gardens and the retention of these can be secured by an appropriately worded planning condition.
  20. With regards to the first floor rear windows proposed to plot 3, I consider the distance that plot 3 would be from existing neighbouring dwellings would mitigate any direct overlooking. In the case of the size of the windows specifically, I consider that they would be relevant to the modern design and as such they would not appear out of place or cause any visual harm in their own right.
  21. With regards to the retention of existing trees, the evidence submitted states that some trees on the site are subject to legal orders for their protection and conditions are imposed to seek enhancements to them. Selective removal and management of the existing trees has been discussed with the Council's relevant officer and this has itself been based on condition surveying. A reasonable period for management and maintenance has also been included as a condition alongside protection of retained trees during construction.
  22. In terms of future pressure for the removal of trees on the site, to some extent this would be controlled in the short to medium term by appropriate planning conditions and in the longer term by legal orders. I acknowledge that, through the natural course of time, some trees may have to be removed and no doubt these will be considered at the time, if appropriate. By the same respect however I consider that there are sufficient safeguards in place to be able to mitigate that potential impact as far as it reasonably can be in this regard.
  23. I note the juxtaposition of the site relative to a Site of Special Scientific Interest (SSSI), Local Nature Reserves (LNR) and the Green Belt.
  24. In respect of the Green Belt, since the appeal site is not within it, the relevant policies for the restriction of development within it do not apply to this case. With regards to the nearby SSSI (Cherry Hinton Pit), the evidence before me suggests that it is noted for the populations of four nationally uncommon plant species that it supports. The appeal site itself however has no evidence of similar species within it and the semi natural vegetation and habitats present on the site are not of a high botanical value.
  25. By the same respect, the evidence before me suggests that the site is of low overall ecological value in respect of protected species. Whilst the sheltered grassland and scrub within the site provides habitat conditions that would be suitable for nesting birds and foraging bats, the overall size of the site is such that it is unlikely to support particularly large or important groups. Subject to suggested enhancements through the proposed development and measures suggested by the accompanying ecology report, the relevant statutory consultee, Natural England, does not object to the proposed development. On

- the basis of the evidence before me therefore, I see no reason to come to a different conclusion.
26. I note that the wider area has a number of protected grass verges either side of Limekiln Road. None of these protected areas however extend to the Limekiln Road elevation of the appeal site.
  27. With regards to the LNR, I refer to my comments above concerning specific species and the ecological survey work that has been undertaken at the appeal site. The appeal site is not a LNR in itself and there is similarly no evidence before me to suggest that the development of the site in the manner proposed will have an adverse impact on one.
  28. The nearby SSSI and the former chalk pits to the south and east of the appeal site are evidently part of a wider network of public rights of way and routes through them are clearly marked from points along Limekiln Road. I see no reason to disagree that they are well used locally. However, I consider that the proposed development would not directly affect the use or enjoyment of this network since the appeal site is not publicly accessible or part of this way marked network.
  29. Concern has been expressed over the precedent value of allowing this appeal and that it would be then more difficult to resist similar development proposed on other sites around this edge of urban area. Notwithstanding the fact that each development proposal is considered on its own merits, I have given weight in determining this appeal to factors specific to this site itself and the development proposed. I therefore give the precedent argument limited weight in my findings.
  30. I acknowledge that the setting back of the first floor of plots 1 and 2 of the proposed development would create an area of flat roof immediately outside the first floor windows at the rear. Concern has been expressed that this may lead to future pressure for the inclusion of a balcony. Notwithstanding the fact that such development is not before me for consideration as part of the appeal, I note that any balcony proposal in the future would require express planning permission in its own right and as such the impact of it on the living conditions of the occupiers of existing neighbouring dwellings would be considered at the appropriate time through the planning application process. A process which would also involve a period of public consultation.
  31. I note that the proposed development would likely involve internal artificial lighting that would be legible from the appeal site at times of the year when there is limited natural light and at night times. There is no external street lighting proposed. There is a possibility, albeit limited, that lighting may be more visible emanating from the rooms where windows are large. However I am not provided with any compelling evidence that this would in itself lead to an adverse visual impact when viewed from either neighbouring dwellings or the wider area given that any lighting would be internal to a building and designed to illuminate the inside only.
  32. With regards to the effect of the proposed access on highway safety, I note that the Highways Authority do not object as a matter of principle and given the scale of the proposed development and thus the likely frequency of the use of the proposed new access I do not come to a different conclusion.

33. Concern has been expressed over the effect of the proposed development on the caravan site which is located to the south west of the site (Cherry Hinton Caravan Club). Specifically, concern relates to the effect the proposed development would have on the rural surroundings and thus the setting and experience of staying at the site. Given how contained and enclosed the existing caravan site is, coupled with the separation between it and the proposed development and extent of intervening planting I do not consider that the proposed development would have an adverse effect on either the setting or users of the site.
34. I acknowledge that there is currently an access into the site at Lime Kiln Road. Anecdotal evidence suggests that that this was created to allow access into the site for equipment relating to the management of some trees within the site. Whilst this may be the case, it is not shown on the submitted plans to be any form of functional access for the proposed development and as such is not before me for consideration.

### **Conditions**

35. I have regard to the schedule of conditions that has been suggested by the Council. In the interests of certainty, I have imposed the standard condition which limits the lifespan of the planning permission as well as one which refers to the approved plans. To ensure that the external appearance of the development is satisfactory and the interests of the living conditions of the occupiers of existing and proposed dwellings, I have imposed a condition requiring agreement of the external materials and finishes as well as one requiring details of boundary treatments.
36. I have also, in the interests of the living conditions of the occupiers of existing neighbouring dwellings, imposed conditions restricting the hours for construction works on site and the specification for obscure glazing. There is no dispute on the hours for construction works suggested by the Council and I consider them reasonable. For the same reasons, and considering the topography of the site and design of the proposed dwelling relative to it, I have imposed a condition requiring agreement of any methods for piling foundations.
37. Given the landscaped nature of the site and its importance to the character and appearance of the area, as well as the trees suggested for retention on site, a condition requiring a scheme to detail the specification and location of protective fencing is reasonable. Such a condition also specifies the restriction on the location for the storage of materials during construction works. I consider that there are a number of ways to achieve the agreement of these details and as such the Council's suggestion of a meeting on site by a separate condition is not necessary.
38. For the same reason, and notwithstanding the plans submitted with the appeal, I have imposed a condition requiring the agreement of a suitable scheme of landscaping and its implementation and management for a reasonable period. I note the Council's suggestion of the agreement of a 'long term arboricultural management plan' as well as the same for landscaping. However, I have attached a condition requiring the agreement of a landscaping scheme which includes a reasonable period for management for both retained planting and additional. I consider that the Council's suggestion is therefore superfluous and not sufficiently explicit. I therefore consider that it would not be reasonable.

39. In the interests of mitigating the ecological effects of the proposed development, and in accordance with the recommendations of the appellant's ecology report, I consider that conditions requiring agreement of the location and design of bat and bird boxes as well as a lighting design are reasonable.
40. In addition, and to ensure the proper functioning of the proposed development, a condition requiring the agreement of a scheme to control the drainage of surface water would be reasonable. Such a scheme should also specify how surface water will be restricted from being discharged into the public highway, in the interests of highway safety.
41. I note that the visibility splays and the proposed access design as shown on the submitted plans is acceptable. In the interests of maintaining visibility both within the site and at the point of access however, I have included a condition requiring obstructions within vehicle manoeuvring areas and the access to be kept below the required height of 600mm.
42. I consider that the scale of the development is such that the agreement of a traffic management plan would not be reasonable. However, I do consider a condition requiring part the surfacing of the proposed access to be in a bound material is reasonable to prevent the deposit of loose material onto the public highway. The Council suggest the first six metres is appropriate and I see no reason to consider this is unreasonable.
43. Having regards to the approved plans which are subject to a separate condition, and the relevant detail shown specific to bin storage and collection, I consider that a condition requiring the agreement of arrangements for the storage and collection of waste is unnecessary.
44. I have no evidence before me that gives me any indication that the land or the former uses thereof have been exposed to contamination. As such I do see it reasonable to attach conditions requiring additional work in this respect. Similarly, I consider that a condition requiring details of all solar panels; their type, fixing, location, materials and dimensions would not be necessary to make the development acceptable in planning terms.
45. Given the size of the proposed rear gardens and the location of the proposed dwellings relative to existing neighbouring gardens I consider that a condition restricting the erection of outbuildings and new windows under Part 1 Classes E and B respectively of the Town and Country Planning (General Permitted Development) (England) Order 2015 to be reasonable. I do not however consider there to be a justified case for limiting extensions to the proposed dwellings. I consider that the siting of the proposed dwellings relative to their respective boundaries would be sufficiently restrictive and therefore governing in that respect.

### **Conclusion**

46. For the above reasons and having regard to all other matters raised, the appeal is allowed subject to the conditions shown on the attached schedule.

*John Morrison*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 314 P-01 Rev F, 314 P-02 Rev C, 314 P-03 Rev C, 314 P-04 Rev C and 314 P-05 Rev D.
- 3) No development shall commence until details/samples of the materials and finishes to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) No development shall commence until details of boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a plan showing the material, design, angle and fitment of the proposed louvres to the first floors of plots 1 and 2 of the dwellings hereby approved has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the details as approved and retained thereafter.
- 6) Demolition or construction works shall take place only between 08:00 and 18:00 Mondays to Fridays, 08:00 and 13:00 on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) In the event of the foundations for the dwellings hereby permitted require piling, and prior to development commencing, a method statement detailing the type of piling and mitigation measures to protect the living conditions of local residents shall be submitted to and approved in writing by the local planning authority. Development shall then be carried out in accordance with the approved details.
- 8) The windows shown on the approved plans to be obscurely glazed shall not be installed until details of the type and nature of the opening of the obscured glazing have been submitted to and approved in writing by the local planning authority. Development shall then be carried out in accordance with the approved details shall be retained thereafter.
- 9) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



- 11) All the trees and hedges shown on scheme of landscaping and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 12) Prior to the first occupation of the first dwelling hereby permitted, a scheme for the location and design of bird and bat boxes shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) Prior to the first occupation of the first dwelling hereby permitted, a "lighting design strategy for biodiversity" for the proposed buildings, gardens and access road shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used for foraging.
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
- 14) No development shall commence until a scheme for the control and discharge of surface water from the site has been submitted to and approved in writing by the local planning authority. Such a scheme should also specify how surface water will be prevented from being discharged into the public highway. Development shall be carried out in accordance with the approved details.
- 15) The site access and vehicle manoeuvring areas as shown on the approved plans shall be kept free of any obstruction which would exceed 600mm in height.
- 16) The proposed access shall be finished in a bound material for the first six metres into the site from the point of its junction with the public highway.
- 17) Notwithstanding the provisions of the Part 1, Classes B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or buildings

incidental to the enjoyment of the dwellinghouse shall be constructed other than those expressly authorised by this permission.