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# Appeal Decision

Site visit made on 16 September 2016

**by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA**

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

**Decision date: 27 October 2016**

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**Appeal Ref: APP/Q0505/W/16/3152591**

**1 Fitzwilliam Road, Cambridge, Cambridgeshire CB2 8BN**

- 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 Fitzwilliam Road (Cambridge) LLP against the decision of Cambridge City Council.
  - The application Ref 15/1855/FUL, dated 2 October 2015, was refused by notice dated 3 May 2016.
  - The development proposed is demolition of existing building and construction of six new dwellings and associated access and landscaping.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are the effect of the proposal on the:
  - a. character and appearance of the Brooklands Avenue Conservation Area (CA) and its setting;
  - b. living conditions of occupants of adjacent properties; and
  - c. health of protected trees to the front of the appeal site.

## Reasons

### *Character and Appearance*

3. 1 Fitzwilliam Road is a large 2-3 storey late 20c building erected as a hostel, now vacant. It is in a mixed use area, inside a south-east corner of the CA at the junction of Fitzwilliam Road and Clarendon Road, surrounded by garden. Properties north of Fitzwilliam Road and west of Clarendon Road, in the CA are characterised by their large gardens and space available for soft landscaping. Outside the CA, at the southeast corner, large contemporary apartment blocks have impacted on the generally tranquil setting of this part of the CA.
  4. The proposal is for four, 4 bed townhouses and two apartments with a basement parking area accessed from Clarendon Road. The townhouses would have private rear gardens and the apartments would have private balconies.
  5. The existing building does not enhance 3,5,7 and 9 Fitzwilliam Road immediately to the west, which are high quality late 19c three-storey houses, included among the Buildings of Local Interest (BLI) in the CA Appraisal (CAA).
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They, and several similar houses further along Fitzwilliam Road that have hipped roofs, arched windows and canted bays, make a valuable contribution to the rhythm of the street scene and character of the CA.

6. On Clarendon Road, as noted in the appraisal, the scale and bulk of the existing building is more sympathetic to neighbouring properties.<sup>1</sup> These are mostly large, well separated two-storey detached buildings with spacious vegetated plots. Clarendon Road is wide, tree-lined and has a generally quiet character. There are glimpsed views of mature rear gardens between the current building and No 21, which in my view contribute to this character.
7. The mix of contemporary development and historic properties is a feature of the CA and its setting and the Council has accepted the principle of a contemporary design for redevelopment of the site. I also note that the CAA, which is a material consideration cites the large office buildings on the east of Clarendon Road, and the tall blocks of flats south of Fitzwilliam Road, as conflicting in terms of materials, scale and general building form, with the more modestly-sized houses in the CA.<sup>2</sup>
8. The appeal site is therefore important in defining the appropriate relationship among the styles of development that contribute to the CA and its setting. Inspiration is said not to be drawn from buildings outside the CA but clearly the contemporary design of the proposal, its overall height, form and mass, would strongly connect it to the newer apartment blocks south-east of the junction.
9. However I have concerns that the rhythm and form of the dwellings alongside the frontages of the appeal site would not be maintained by the proposal. The built up end of the proposed east elevation would be too close to 21 Clarendon Road and would jar with the lower, hipped two-storey forms of this property and its neighbours. Closure of the gap between No 21 to the extent proposed would effectively preclude views into the CA. The gap is not referred to in the CAA but its reduction would detract from the sylvan character of the area.
10. Furthermore, whereas the roof line of the existing building is consistent with its neighbours to the north, the proposed roof storey would dominate the scene to their detriment. The accommodation in the roof of No 21, as in the existing building, is on a smaller scale, more discreet and not therefore comparable.
11. The new south elevation would reflect the height of the BLI's on Fitzwilliam Street and in comparison to the original scheme, would be more sympathetic to the consistent proportions of the fenestration on these period houses. I see no reason why a contemporary design could not stand up to, yet complement rather than compete with them. However the new fourth storey within the roof would contrast significantly with the rest of the building as well as with its neighbours. Despite the set-back its essentially flat roof form with balustrading, use of glazing and metal would have an overly dominant and incongruous effect, and out of context in relation to properties on either side of the north and east elevations. It would not successfully contrast with its neighbours because it would impose its own overbearing presence.
12. Space available for soft landscaping at the rear would be lost due to the new underground car park. Trees that are planned to be removed would not be replaced. Most are of poor quality or longevity but they have a visual amenity

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<sup>1</sup> Paragraph 4.1.1.

<sup>2</sup> Paragraph 4.1.1.

- value as well as a screen to new development. In addition T011 and T012 are to be removed solely for purposes of the development.
13. The parties dispute whether there is duty to replace two of the trees, which is not a matter before me, nor is the question whether an alternative scheme could retain the extent of proposed accommodation but with enhanced landscaping. In my view however the proposal would take insufficient advantage of the opportunity to enhance the rear garden landscaping within this central area of combined gardens, rather than cover the majority of it with hardstanding as is proposed. This adds to my concerns that the proposal would erode the character of this part of the CA.
  14. Overall I am not convinced that the proposal would define the edge of the CA such that it would preserve or enhance the prevailing quieter and more restrained environment around its perimeter. Despite the transitional effect to the larger development nearby the character of the CA would be unacceptably diluted.
  15. I conclude that the scale, bulk and design of the new building would be incongruous and an overdevelopment of the appeal site, due to its prominent and alien built form in relation to views of properties adjoining it. It would unacceptably narrow the space between 21 Clarendon Road where its overall bulk and height would give it an overbearing presence in the street scene. The form of the new roof would also detract from the appearance of the BLI's on Fitzwilliam Road. The proposal by reason of its overdevelopment would fail to preserve or enhance the character or appearance of the CA contrary to the Cambridge Local Plan 2006 (LP) Policies 4/11 and 4/12. It would also conflict with LP Policies 3/4, 3/7 and 3/12 which require new development to respond to local context and draw on key characteristics of its surroundings.

#### *Living Conditions*

16. Several upper floor windows to habitable rooms would face neighbouring rear gardens at 3 Fitzwilliam Road and 21 Clarendon Road, where no direct views over them exist. Some overlooking in a new building could be expected. Most windows would be bedrooms so they would not be as extensively used as main habitable space. Nevertheless, as I saw from the rear garden of No 3, the sense of privacy enjoyed within it would be significantly compromised by the sheer number of the new openings and their position at the increased height and depth into the plot over the existing building. No 21 would be similarly adversely affected. Obscure glazing might reduce overlooking but would be undesirable in bedrooms and not overcome the sense of loss of privacy.
17. Some morning light would be lost to the rear gardens of 21 Clarendon Road and 3 Fitzwilliam Road, but from what I have seen and read would not be so severe as to justify dismissal for that reason alone. Windows in the stairwell to the side of No 3 would lose some daylight as would a glazed side door and obscurely glazed bathroom window at No 21. The loss of daylight to these non-habitable spaces would however not be unacceptably oppressive.
18. On this issue therefore I conclude that the use of and position of the rooms, and the substantial amount of glazing used on the upper floors of the new rear elevations would cause a serious loss of privacy and a sense of enclosure to occupiers of 3 Fitzwilliam Road and 21 Clarendon Road. Substantial harm would result to living conditions enjoyed within those properties, contrary to LP

Policy 3/10 which states that residential development should not have an unduly adverse impact on neighbouring properties including by loss of privacy or overbearing sense of enclosure.

*Protection of trees*

19. There are two mature sycamores subject to a tree preservation order (TPO) to the front of the site. Their root protection area (RPA) would be potentially affected by the proposal. Evidence from trial pits undertaken by the appellant suggests that the encroachment into the RPA of both trees of the proposed basement line is negligible. There is no reason to suggest that a suitably worded condition may not ensure that trees to be retained to the front of the site are protected by barriers, temporary ground protection and root sensitive demolition and construction methods. I am therefore satisfied from what I have read that the proposal would not have a detrimental impact on the protected trees. The proposed scheme would therefore retain and protect the TPO trees and to that extent would comply with LP Policies 4/3, 4/4 and 4/11.

*Planning Balance*

20. I have had regard to the statutory duty to pay special attention to whether the proposed scheme would preserve or enhance the CA.
21. There would be several public benefits to the proposal. It would be a windfall development contributing to housing provision and re-use a vacant plot for larger units for family housing, all acknowledged benefits. Further economic benefits would accrue due to the construction process and subsequent occupation. Basement parking would ease on-street parking, the location is highly sustainable, and the proposal would reflect the aims in the National Planning Policy Framework (the Framework) to secure low energy and low carbon homes. TPO'd trees would be adequately protected although this in itself would be a neutral factor rather than a positive benefit.
22. However the proposal would clearly conflict with LP Policy 3/10 in causing serious loss of privacy and a sense of enclosure to adjacent occupiers. The proposal would also fundamentally fail to comply with key development plan policies in that it would not preserve or maintain the character or appearance of adjacent properties in the CA, or the tranquil character of the wider street scenes in which it would be viewed. This would have a diluting and harmful effect on the CA as a whole, contrary to the development plan.
23. The CA is a designated heritage asset as defined in the Framework. Under Paragraph 132 great weight should be given to its conservation and setting. In light of my reasoning above I have concluded the proposal would harm the CA contrary to the expectations of paragraph 132. The proposal would cause harm that would be less than substantial under the Framework but still serious such that the harm would significantly and demonstrably outweigh its benefits.

**Conclusion**

24. For the above reasons and having regard to all other matters raised the appeal is dismissed.

*Grahame Kean*

INSPECTOR