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# Appeal Decision

Site visit made on 4 May 2022

**by C Coyne BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 July 2022**

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**Appeal Ref: APP/Q0505/W/21/3284771**  
**145 Perne Road, Cambridge CB1 3NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr P Sodha against the decision of Cambridge City Council.
  - The application Ref 19/1467/FUL, dated 22 October 2019, was refused by notice dated 28 June 2021.
  - The development proposed is described on the application form as 'Conversion of existing dwelling currently operating as C4 use into 3 no. flats for C3(b) use. To include two storey rear extension and internal alterations to provide 3 x flats'.
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## Decision

1. The appeal is allowed and planning permission is granted for Change of use of existing HMO to 4no flats, (2x 2bed, 2x 1 bed) including two storey rear extension. New bin and bike store at 145 Perne Road, Cambridge CB1 3NX in accordance with the terms of the application, Ref 19/1467/FUL, dated 22 October 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The Council has described the development as 'Change of use of existing HMO to 4no flats, (2x 2bed, 2x 1 bed) including two storey rear extension. New bin and bike store'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides an accurate description of the proposal and I have therefore determined the appeal on this basis.

## Main Issues

3. The main issues are:
  - the effect of the proposed development on the living conditions of the neighbouring occupiers of no. 147 Perne Road having regard to privacy and noise; and
  - whether the proposed development would provide suitable and useable outdoor amenity space for its future occupiers having regard to access and sunlight.

## Reasons

4. The proposal would convert the existing house in multiple occupation (HMO) into extra-care accommodation comprising two one bedroomed flats and two two-bedroomed flats. This accommodation would be managed by a healthcare provider. To facilitate this the existing building would be substantially extended

to the rear with a smaller side extension at ground floor level. Other elements such as external private courtyards, shared outdoor amenity space, a bike store and bin store would be installed at ground floor level as well as a roof terrace/balcony being installed to the side of the building at first floor level.

### *Living Conditions*

5. The council have raised a concern that the proposed first-floor roof/terrace balcony would cause a degree of overlooking of the rear amenity space of the neighbouring property no. 147 if it provided unobstructed views of this private amenity space. However, according to the submitted plans the proposed balcony would be obscure glazed up to a height of approximately 1.7 metres on its elevations that would face no. 147 which would in my view largely mitigate any potential adverse impact in this regard.
6. In the officer report the Council have also stated that the occupiers of no. 147 would be able to see and hear the users of the proposed balcony through the obscure glass and that this would affect the use of their amenity space. However, I given the proposed obscure glazing I consider it unlikely that the users of the proposed balcony would be fully visible from such a vantage point.
7. Furthermore, given the nature of the proposed accommodation and the fact that its future occupiers would require a degree of medical care I also consider it unlikely that they would make so much noise while using the balcony as to cause any unacceptable disturbance to neighbouring occupiers. Indeed, the Council have not provided any substantive evidence that noise disturbance is currently an issue given its existing use as a HMO which is likely used as student accommodation in this university city. Moreover, for similar reasons I also consider that the proposal's future occupiers would be likely to only use the proposed balconies occasionally.
8. I therefore conclude that the proposed development would not materially harm the living conditions of the neighbouring occupiers of no. 147 Perne Road having regard to privacy and noise. Accordingly, it would not conflict with the relevant requirements of policies 53 and 58 of the adopted Cambridge Local Plan (CLP).

### *Outdoor Amenity Space*

9. The Council has raised concerns that the shared outdoor amenity space that the proposal would provide would be accessed indirectly from the flats whose occupiers would use it, i.e., flats 1, 2 & 4, and that the ground floor private amenity spaces for flats 1 and 2 would be on the north side of the building meaning that they would be in shadow for a majority of the time. However, even though the proposed private amenity spaces/courtyards for flats 1 and 2 are on the north side of the appeal property this does not necessarily mean that they would not receive any sunlight at all. In addition, the future occupiers of flats 1 and 2 could also use the proposed rear shared amenity area if they so wished should their courtyards become overshadowed. In any event, the Council has not submitted any substantive evidence to show that there would be an unacceptable degree of overshadowing to these amenity areas in any event.
10. Furthermore, just because the proposed communal/shared amenity area for flats 1, 2 and 4 is located on the other side of the paved area where the bin

and bike stores would be situated does not mean that they could not be easily accessed either on foot or by wheelchair given the relatively short distance between it and these flats. Moreover, the supporting text to policy 50 states that external amenity space could accommodate space for refuse and recycling bins and circulation space as well as an area for children to play in which the proposed paving area and lawn to the rear of the proposal would provide.

11. The future occupiers of flats 1 and 2 would be able to directly access this amenity space and although the future occupiers of flat 4 would have to go round the front of the property and navigate the parking spaces they would still be able to access it, nonetheless. In any event, even if for some reason they were occasionally unable to directly access the amenity space to the rear, the occupiers of flat 4 would be able to make use of their terrace/balcony on the first floor. Therefore, while not all future occupiers would have a fully direct access path to the proposed external amenity space, I consider that in overall terms the proposal would provide its future occupiers with enough external amenity space to meet their needs which would also be readily accessible to them.
12. I therefore conclude that the proposed development would provide suitable and useable outdoor amenity space for its future occupiers having regard to access and sunlight. As a result, it would not conflict with the relevant requirements of policies 50, 53 and 58 of the CLP.

#### *Other considerations*

13. According to the evidence, the proposal would provide extra care accommodation for which there is an identified need in accordance with policy 47 of the CLP. As a result, this consideration carries significant weight in favour of the appeal scheme.

#### **Other Matters**

14. Interested parties have raised concerns relating to highway safety. However, the Highway Authority have not objected to the proposal and according to the evidence the appeal site is not within a controlled parking zone. I also have no substantive evidence before me to suggest that this is an area of parking stress. Furthermore, according to the officer report the proposal would the three existing parking spaces would be retained for the use of carers, ambulances, and the proposal's future occupiers. The appeal site is also well served by public transport and the proposal would also provide bicycle parking. I am therefore satisfied that the proposal would not have an adverse impact on highway safety.
15. Interested parties have also raised concerns relating to the removal of trees from the appeal site, overcrowding and safety/security. However, I have no substantive evidence of the proposal having an adverse visual, biodiversity or safety/security impact. As a result, these concerns are not of sufficient weight to warrant refusal of the proposal.

#### **Conditions**

16. I have imposed conditions as set out in the attached schedule in light of the use of planning conditions set out in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (the Guidance).

17. Consequently, in the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions as suggested by the Council.
18. In addition to the standard implementation condition, I have imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision. I have also imposed a necessary condition specifying that the proposal be constructed of the materials on the approved plans in the interests of the character and appearance of the area.
19. In the interests of the character and appearance of the area, the promotion of biodiversity, promoting sustainable construction and the reduction of carbon dioxide emissions, I have imposed necessary conditions requiring the submission and approval of details of: a hard and soft landscaping scheme; a biodiversity enhancement scheme; a carbon reduction statement; and a water efficiency specification.
20. I have also imposed necessary conditions requiring the provision of the external communal garden area and bin and bike stores prior to the first use of the proposal in the interest of the living conditions of its future occupiers.
21. In the interest of the living conditions of neighbouring occupiers I have imposed necessary conditions limiting the hours of construction and also requiring obscure glazing and opening restrictions on windows on the relevant side elevation of the proposed development.
22. In the interest of the living conditions of the proposal's future occupiers, who would require a degree of medical care, I have imposed a necessary and relevant condition requiring that the proposal meets the relevant accessible and adaptable dwellings building regulations optional requirement. Given the nature of the proposal the imposition of such a condition should not come as a surprise to the main parties.

### **Conclusion**

23. The proposal would provide extra care accommodation for which there is an identified need to which I have afforded substantial weight and it would accord with the development plan as a whole. There are also no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*C Coyne*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Floor Plans and Elevations Drawing No. 2021/02 Revision F; Site Location Plan Drawing No. 2021/03; Proposed Block Plan Drawing No. 2021/04 Revision F.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on approved plan Proposed Floor Plans and Elevations Drawing No. 2021/02 Revision F and shall match those of the existing building.
- 4) No development above ground level, other than demolition, shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - a) proposed finished levels or contours; car parking layouts, other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. Street furniture, artwork, play equipment, refuse or other storage units, signs, lighting, CCTV installations and water features); proposed (these need to be coordinated with the landscape plans prior to being installed) and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines indicating lines, manholes, supports); retained historic landscape features and proposals for restoration, where relevant;
  - b) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme;

If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place as soon as is reasonably practicable, unless the Local Planning Authority gives its written consent to any variation.
  - c) boundary treatments indicating the type, positions, design, and materials of boundary treatments to be erected.
  - d) a landscape maintenance and management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas.
- 5) No development above slab level shall commence until a Carbon Reduction Statement has been submitted to and approved in writing by the local planning. This shall demonstrate that all new residential units shall achieve reductions in CO2 emissions of 19% below the Target

Emission Rate of the 2013 edition of Part L of the Building Regulations, and shall include the following details:

- a) Levels of carbon reduction achieved at each stage of the energy hierarchy; and
- b) A summary table showing the percentage improvement in Dwelling Emission Rate over the Target Emission Rate for each proposed unit.

Where on-site renewable or low carbon technologies are proposed, the Statement shall also include:

- c) A schedule of proposed on-site renewable energy technologies, their location, design and a maintenance schedule; and
- d) Details of any mitigation measures required to maintain amenity and prevent nuisance There shall be no occupation of the development until the carbon reduction measures have been implemented in accordance with the approved details.

Where grid capacity issues subsequently arise, written evidence from the District Network Operator confirming the detail of grid capacity and a revised Carbon Reduction Statement shall be submitted to and approved in writing by the local planning authority. The revised Carbon Reduction Statement shall be implemented and thereafter maintained in accordance with the approved details.

- 6) No development above slab level shall commence until a biodiversity enhancement scheme has been submitted to and approved in writing by the Local Authority. It shall include the consideration of native planting, hedgehog habitat and connectivity and the proposed specification, number and locations of internal and/or external bird and/or bat boxes on the new buildings and any other measures to demonstrate that there will be a net biodiversity gain on the site of at least 10% (unless an alternative target is otherwise agreed by reason of viability).

The biodiversity enhancement scheme as agreed shall be carried out prior to the occupation of the development and subsequently maintained in accordance with the approved scheme for the lifetime of the development.

- 7) The development hereby approved shall not be occupied until a water efficiency specification, based on the Water Efficiency Calculator Methodology or the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition) has been submitted to and approved in writing by the local planning authority.

This shall demonstrate that the dwelling is able to achieve a design standard of water use of no more than 110 litres/person/day and the development shall be carried out in accordance with the agreed details.

- 8) The bin and bike stores associated with the proposed development shall be provided prior to the first occupation of the development hereby permitted and in accordance with the approved Proposed Block Plan Drawing No. 2021/04 Revision F and shall be retained thereafter.
- 9) The external communal garden area as shown on the approved drawings shall be provided prior to occupation of the building for the proposed use and retained for communal uses and used for no other purpose(s).

- 10) Demolition or construction works shall take place only between 0800 - 1800 on Mondays to Fridays, between 0800 - 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 11) The development, hereby permitted, shall not be occupied until the proposed first floor privacy screen in the north side elevation of the development has been fitted with obscured glazing (meeting as a minimum Pilkington Standard level 3 or equivalent in obscurity and shall be fixed shut or have restrictors to ensure that the windows cannot be opened more than 45 degrees beyond the plane of the adjacent wall. The glazing shall thereafter be retained in accordance with the approved details.
- 12) The development hereby permitted shall not be occupied until the Building Regulations Optional Requirement Part M4(2) 'accessible and adaptable dwellings' has been complied with.

**End of Schedule**