



# Appeal Decision

Site visit made on 30 October 2023

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 11 December 2023**

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## **Appeal Ref: APP/Q0505/W/23/3322240**

### **Edeva Court, Wulfstan Way, Cambridge CB1 8AF**

- 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 Avon Ground Rent Ltd against the decision of Cambridge City Council.
  - The application Ref 22/03076/FUL, dated 20 June 2022, was refused by notice dated 10 February 2023.
  - The development proposed is the construction of a single storey extension at roof level comprising 3 no. self-contained residential flats (Use Class C3), including provision of car parking, cycle parking and associated works.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the construction of a single storey extension at roof level comprising 3 no. self-contained residential flats (Use Class C3), including provision of car parking, cycle parking and associated works at Edeva Court, Wulfstan Way, Cambridge CB1 8AF in accordance with the terms of the application, Ref 22/03076/FUL, dated 24 August 2022, subject to the conditions in the attached Schedule.

### **Main Issue**

2. The main issue is whether suitable living conditions would be provided for future occupants of the development, with regard to outlook and external amenity space.

### **Reasons**

3. The appeal site consists of a three-storey building to the rear of the Queen Edith public house. The building comprises twelve apartments, with the upper floor units each being provided with balconies to the front and rear elevations. The building is finished with a flat roof and has a parking area to the front.
4. The proposal would extend the building upwards to create three additional flats. The proposed third floor would comprise two two-bedroom flats and a one-bedroom flat. The larger two-bedroom flat would have two balconies, which the parties agree would total 12.2 square metres, whilst the other two flats would have one balcony each, comprising 7.2 and 5.0 square metres.
5. Policy 50 of the Cambridge Local Plan (CLP) does not include specifications of the amount of space required to be provided but requires space to allow effective and practical use by residents, including space for children to play for dwellings with more than one bedroom. Given the modest size and limited layout, the balconies serving the two-bedroom flats would not provide sufficient

space for children to play whilst there is no shared external space at the site. As a result, there is in a conflict with CLP Policy 50.

6. The existing upper floor flats, which include two-bedroom flats, are each only served by a single balcony with no shared external space, limiting the potential for children to play at the site. However, the site is within easy and safe walking distance of Nightingale Recreation Ground accessed via a pedestrian crossing on Queen Edith's Way. The recreation ground includes a well-equipped play area for younger children alongside further recreation facilities including sports courts and an outdoor gym. The location of the site close to a play area with suitable provision of play equipment and other facilities offers a reasonable provision to offset the lack of on-site provision.
7. I note that the Council has referred to the South Cambridgeshire District Design Guide 2010. This guide relates to a different authority and therefore its content is not relevant for the purposes of this appeal.
8. The window, which would serve bedroom 2 of flat 15 is not indicated to be obscure glazed. Given the separation distance from the window to the properties fronting Queen Edith's Way, I consider that it is not necessary for the windows to be obscure glazed. On this basis, the provision of a window within the bedroom would provide an adequate outlook for future occupants of the property.
9. I conclude that suitable living conditions would be provided for future occupants of the development. Although the proposal conflicts with CLP Policy 50, the material considerations of the play provision in the locality outweigh this conflict. In addition, the development accords with CLP Policies 56 and 59, which require dwellings to provide appropriate and inclusive amenity space for all users.

### **Other Matters**

10. The proposal would be a sensitive, upwards extension of the building adding three dwellings to the supply of housing within Cambridge. The design and materials have been considered to be acceptable by the council and I have no reason to disagree with this conclusion.
11. The development would not include the provision of affordable housing. CLP Policy 45 requires proposals of fifteen units or more to provide 40% of developments as affordable housing. As the proposal is for three units, the development does not meet the threshold and a provision of affordable housing is therefore not required.
12. The proposal would be above and close to residential properties and includes windows and balconies. I see no reason to disagree with the Council that the living conditions of the occupants of neighbouring properties, with regard to privacy, would not be harmed by the proposal. Whilst I appreciate that everyone has the right to respect for their private and family life and their home, given my conclusions the proposal would not impinge on these rights.
13. The proposal would result in the addition of a car parking space. I note that car parking standards within CLP Policy 82 are maximum standards. Furthermore, the site is an area that is accessible and close to everyday facilities and services reducing the need to travel by car. Based on the details before me, I see no reason to disagree with the Council's conclusion in respect of parking.

14. I note the concerns in terms of fire and structural safety, provision of utilities and whether a lift would be required. However, based on the evidence before me, the relevant requirements are capable of being appropriately addressed through the Building Regulations. A condition is included requiring the provision of fire hydrants.
15. There have been concerns raised in respect of the development and its effect on the leasehold. Whilst I acknowledge this issue, this is a civil matter to be resolved between the relevant parties as opposed to a planning consideration.
16. Comments were raised in respect of a perceived lack of consultation. Whilst consultation prior to the application is encouraged, it is not a formal requirement. The Council, as far as I am aware, publicised the application in the usual manner, thus allowing for third parties to comment.

### **Conditions**

17. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
18. Conditions requiring adherence to the Construction and Environmental Management Plan, the submission of a noise assessment for construction and working hours are required to safeguard the living conditions of local residents and to prevent adverse impacts on the local road network during the construction phase.
19. To preserve the living conditions of local residents and future occupants of the proposal, a condition is included in respect of noise insulation and attenuation, the submission of details of screens to the proposed balconies and to prevent use of areas of flat roofs as balconies, roof gardens or similar amenity areas. A pre-commencement condition is required to ensure that the development is constructed incorporating any specific noise insulation and attenuation measures.
20. In order to deliver biodiversity enhancements and reduce carbon dioxide emissions, conditions are included requiring the provision of green roofs, electric vehicle charging point, and the submission and implementation of a Biodiversity Net Gain Plan and Carbon Reduction Statement, which is required prior to commencement to incorporate any on-site measures into the development.

### **Conclusion**

21. The proposal would accord with the development plan as a whole and there are no material considerations, which would indicate that a decision should be made otherwise. Therefore, for the reasons given, I conclude that the appeal should succeed.

*J Pearce*

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: 1244.29.PA.101, 1244.29.PA.102, 1244.29.PA.200, 1244.29.PA.201, 1244.29.PA.300, 1244.29.PA.301, 1244.29.PA.001 Rev A, 1244.29.PA.105, 1244.29.PA.100 Rev A, 1244.29.PA.103 Rev A, and 1244.29.PA.104 Rev A.
- 3) The construction methodology, proposed mitigation and monitoring as specified within the Union4 Planning "Draft Construction and Environmental Management Plan" dated November 2022 (Rev 01) shall be fully implemented.
- 4) No operational plant, machinery or equipment shall be installed until a noise assessment and any noise insulation/mitigation as required has been submitted to and approved in writing by the local planning authority. Any required noise insulation/mitigation shall be carried out as approved and retained as such.
- 5) No construction or demolition work shall be carried out and no plant or power operated machinery operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.
- 6) Prior to the commencement of development, a noise insulation / attenuation scheme as appropriate, detailing the acoustic / noise insulation performance specification of the external building envelope of the residential units (having regard to the building fabric, glazing and ventilation) and other mitigation to reduce the level of noise experienced internally at the residential units as a result of high ambient noise levels in the area shall be submitted to and approved in writing by the local planning authority. The scheme shall have regard to the external and internal noise levels recommended in British Standard 8233:2014 "Guidance on sound insulation and noise reduction for buildings". The scheme as approved shall be fully implemented before the use hereby permitted is commenced and shall be retained thereafter.
- 7) No permanent connection to the electricity distribution network shall be undertaken until a residential dedicated electric vehicle charge point scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate: (i) Dedicated active slow electric vehicle charge points with a minimum power rating output of 7kW to serve the proposed parking space. The approved scheme shall be fully installed before the development is occupied and retained as such.
- 8) No development shall commence until a scheme for the provision and location of fire hydrants to serve the development to a standard recommended by the Cambridgeshire Fire and Rescue Service has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented.
- 9) No development shall commence, apart from below ground works and demolition, until a Biodiversity Net Gain (BNG) Plan has been submitted to and

approved in writing by the local planning authority. The BNG Plan shall target how a minimum net gain in biodiversity will be achieved through a combination of on-site and / or off-site mitigation. The BNG Plan shall include:

- i) A hierarchical approach to BNG focussing first on maximising on-site BNG, second delivering off-site BNG at a site(s) of strategic biodiversity importance, and third delivering off-site BNG locally to the application site;
- ii) Full details of the respective on and off-site BNG requirements and proposals resulting from the loss of habitats on the development site utilising the appropriate DEFRA metric in force at the time of application for discharge;
- iii) Identification of the existing habitats and their condition on-site and within receptor site(s);
- iv) Habitat enhancement and creation proposals on the application site and/or receptor site(s) utilising the appropriate DEFRA metric in force at the time of application for discharge;
- v) An implementation, management and monitoring plan (including identified responsible bodies) for a period of 30 years for on and off-site proposals as appropriate.

The BNG Plan shall be implemented in full and subsequently managed and monitored in accordance with the approved details. Monitoring data as appropriate to criterion v) shall be submitted to the local planning authority in accordance with DEFRA guidance and the approved monitoring period / intervals.

- 10) Notwithstanding the approved plans, the flat roof of the extension hereby approved shall be a green biodiverse roof(s). The green biodiverse roof(s) shall be constructed and used in accordance with the details outlined below:
- a) Planted / seeded with a predominant mix of wildflowers which shall contain no more than a maximum of 25% sedum planted on a sub-base being no less than 80 millimetres thick.
  - b) With suitable access for maintenance.
  - c) Not used as an amenity or sitting out space and only used for essential maintenance, repair or escape in case of emergency.

The green biodiverse roof(s) shall be implemented in full prior to the use of the extension and shall be maintained in accordance with the Green Roof Organisation's (GRO) Green Roof Code (2021) or successor documents.

- 11) The development shall not be occupied or the permitted use commenced, until details of facilities for the covered, secure parking of cycles for use in connection with the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the means of enclosure, materials, type and layout of the cycle store. A cycle store proposed with a flat / mono-pitch roof shall include plans providing for a green roof. Any green roof shall be planted / seeded with a predominant mix of wildflowers which shall contain no more than a maximum of 25% sedum planted on a sub-

base being no less than 80 millimetres thick. The cycle store and green roof as appropriate shall be provided and planted in full in accordance with the approved details prior to occupation or commencement of use and shall be retained as such.

- 12) The development shall not be occupied until a scheme for the screening of the balconies has been submitted to and approved in writing by the Local Planning Authority. The balconies shall be constructed in full accordance with the approved details and shall be retained as such.
- 13) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.
- 14) No dwelling shall be occupied until a Carbon Reduction Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include SAP calculations which demonstrate that all dwelling units will achieve carbon reductions as required by the 2021 edition of Part L of the Building Regulations. Where on-site renewable or low carbon technologies are proposed, the Statement shall include:
  - a) A schedule of proposed on-site renewable energy or low carbon technologies, their location and design; and
  - b) Details of any mitigation measures required to maintain amenity and prevent nuisance.

The proposed renewable or low carbon energy technologies and associated mitigation shall be fully implemented in accordance with the measures set out in the Statement prior to the occupation of any approved dwelling(s).

- 15) No dwelling shall be occupied until a water efficiency specification for each dwelling type, 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 all dwellings are 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.

## **End of Schedule**