



Appeal Decision

Site visit made on 4 January 2016

by **D Boffin BSc(Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

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

Decision date: 29 January 2016

Appeal Ref: APP/V0510/W/15/3137211

Land adjacent to 30 and 32 Roswell View, Ely, Cambridgeshire CB7 4JS

- 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 Graham Harvey against the decision of East Cambridgeshire District Council.
- The application Ref 15/00694/FUL, dated 5 June 2015, was refused by notice dated 3 August 2015.
- The development proposed is the erection of a three bedroom house.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council submitted evidence in relation to flood risk issues on the 4th January 2016 which should have been provided with the full statement of case by the 11th December 2015 in order to allow all parties the appropriate opportunity to consider. No exceptional circumstances have been made to justify the late submission and as such, I have not taken it into account in the determination of this appeal.

Main Issues

3. The main issues are:
 - the effect on the living conditions of the occupiers of 30 Roswell View with particular regard to sunlight, daylight, overshadowing and outlook;
 - whether the proposed development would by reason of siting and appearance preserve or enhance the character or appearance of the Ely Conservation Area (ECA).

Reasons

Living Conditions

4. The appeal site forms part of the communal grassed area associated with the flats at Roswell View and is adjacent to a storm water pond. The proposed dwelling would be two storeys with rooms in the attic. It would be attached to the side of 30 and 32 Roswell View and would be in close proximity to the patio doors and balcony that are at first floor level in the existing side elevation. The patio doors are to a living room in 30 Roswell View (No 30). I noted on site

that there are no other windows to that living room and that the conifers which surround the balcony have been maintained at a height matching the top of the balcony railings. There are trees and mature landscaping between the storm water pond and Lisle Lane.

5. The patio doors face north-east and therefore only receive direct sunlight during the morning, and at certain times of the year this will be reduced by the trees along Lisle Lane. As the dwelling would be positioned approximately south-east of, and in close proximity, to the patio doors it would substantially reduce the amount of sunlight to the living room. As the sunlight received in this room is already restricted a further reduction would cause material harm and detract from the living conditions of the residents. Furthermore, given the height and proximity of the proposed dwelling to the patio doors it would also materially reduce the amount of daylight received in the living room exacerbating the harm to the living conditions of the No 30. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the proposed development lead me to conclude that it is likely that the proposed development would significantly overshadow the patio doors to No 30.
6. The living room of No 30 currently has a relatively open aspect overlooking the communal grassed area, trees and storm water pond. The rear wall of the proposed dwelling would be in close proximity to the patio doors. There would be a first floor bathroom window in the rear elevation and, even though it would be obscure glazed and non-opening, movement would be apparent through the window. The proposed dwelling would result in a significant change to the outlook from the living room of No 30 as its height, width and close proximity would substantially reduce an otherwise open aspect and the perceived overlooking would increase its oppressiveness. As a result I consider the proposed dwelling would be experienced by the occupiers of No 30 as overbearing.
7. I note the appellant's comment in relation to flats not having to comply with the same standards of residential amenity as available to houses. However, there is no distinction in Policy ENV 2 of the East Cambridgeshire Local Plan 2015 (the LP) as it requires, amongst other things, development to ensure that there is no significantly detrimental effect on the residential amenity of nearby occupiers.
8. I therefore conclude that the proposed dwelling would adversely affect the living conditions of the occupiers of No 30 with particular regard to sunlight, daylight, overshadowing and outlook. Consequently, the proposal would conflict with Policy ENV 2 of the LP. Furthermore, the proposed development would conflict with the National Planning Policy Framework (NPPF) as it would not secure a good standard of amenity for all existing occupants of land and buildings as required by paragraph 17.

Conservation area

9. The appeal site is located in the north-eastern part of the ECA and a Conservation Area Appraisal document (CAA) covering ECA was adopted in 2009. Ely is a compact city and Lisle Lane forms part of the peripheral built development with the Fen beyond. This part of the ECA is characterised by two and three storey modern development. Trees on the junction of Prickwillow Road and Lisle Lane form an entrance to the Conservation Area.

10. The buildings on Roswell View are modern and their impact on the character and appearance of the ECA is minimised by the lower ground levels in relation to Lisle Lane and Prickwillow Road and by the trees and mature landscaping that partially screen them. The proposed dwelling would have design details and materials that would be compatible with the adjoining building and it would be slightly lower in height. It would be set forward of No 30 and 32 Roswell View but that building is set forward of 34 and 36 Roswell View. The buildings to the south are also staggered in formation to an extent. The staggered layout therefore reflects and continues that found in the surrounding development and as such its siting would preserve the character and appearance of the ECA.
11. The fenestration in the proposed dwelling would appear to be of simple design and, as such, and whilst remaining subject to further details, the windows as proposed would generally reflect the design of those used on the existing buildings. There are no dormer windows shown in the proposed dwelling on the submitted drawings which form the subject of this appeal. Neither the absence of dormers nor the proposed fenestration on the proposed dwelling would have an adverse impact on the character and appearance of the ECA as the design would be sympathetic to the adjoining buildings.
12. I conclude that the siting and appearance of the proposed dwelling would have a neutral impact on ECA and as such it would preserve the character and appearance of ECA. It follows that the development would not conflict with Policies ENV 2 and ENV 11 of the LP which, amongst other things, require developments to be of a high standard of design and materials in order to preserve or enhance the character or appearance of the area.

Storm water pond

13. One of the Council's reasons for refusal relates to the lack of information about the existing storm water pond. Concerns have been raised by a number of neighbouring occupiers and the City of Ely Council in relation to the possibility of the storm water pond flooding and the proximity of the development to the pond. The Council did submit further information on this issue (see preliminary matter) but I have not taken it into account for the reason stated above. However, as the development is unacceptable for other reasons and the full implications of flooding remain to be assessed by all parties, I have not considered this matter any further as part of my decision.

Other Matters

14. I have taken into account all other matters raised, including loss of trees and the impact on the flora and fauna and the impact of the proposed parking area. I have also taken into account overlooking, views, noise disturbance and privacy in relation to the communal garden area and the other neighbouring occupiers. However, none are sufficient to alter my overall conclusions.
15. The issue of impact on property values has also been raised. It is a well founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conclusion

16. Both parties agree that the Council cannot demonstrate a 5 year supply of housing land and that the proposal should be considered in the context of the

presumption in favour of sustainable development as set out in paragraphs 14 and 47 of the NPPF. I acknowledge that there would be sustainability benefits associated with the proposal. Specifically, the appeal site is within Ely where there is a range of services, facilities and employment opportunities available. One additional dwelling would be provided which would have economic and social benefits. However, I have found that the proposal would be harmful to the living conditions of No 30 with particular reference to sunlight, daylight, overshadowing and outlook and that harm significantly and demonstrably outweighs the benefits associated with the scheme.

17. For the reasons given above I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR