



Appeal Decision

Site visit made on 30 April 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/K2230/W/18/3208035

**Land to rear of Former Woolworths building, Brewhouse Yard, Gravesend
DA12 2EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr V K Mittal against Gravesham Borough Council.
 - The application Ref 20180403, is dated 20 April 2018.
 - The development proposed is erection of a three storey building containing a total of five flats on land to the rear of the former Woolworths store.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. I have added the post code provided on the Local Planning Authority questionnaire to the address in the banner above for ease of location of the site. The address on the application form refers to Brewhouse Lane but the street in question is more often referred to as Brewhouse Yard in the appeal submissions, and this concurs with the submitted plans and what I saw on site. I have therefore used that name for the street in the banner heading above and in my decision.
3. The Council's Regulatory Services department submitted a late comment regarding disturbance from a nearby nightclub. In view of the relevance of this comment to the case the appellant was given the opportunity to comment upon this and I have given their response consideration in determining this appeal.
4. The National Planning Policy Framework (the Framework) has been revised since the appeal was lodged. The paragraphs that are most relevant to the case under consideration are unchanged and so the revision does not have any material effect upon my decision.

Main Issues

5. The Council have set out in their written statement their reasons for refusal of planning permission had they determined the application. On this basis the main issues are:
 - The effect of the proposal on the character and appearance of the area with particular reference to Brewhouse Yard and the setting of the adjacent High Street and Queen Street Conservation Area

- The effect of the proposal on the living conditions of future occupants, with regard to privacy, outlook, amenity space and noise, and:-
- The effect of the proposal on the Thames Estuary and Marshes Special Protection Area and Ramsar Site.

Reasons

Character and appearance

6. The appeal site is an empty plot at the end of Brewhouse Yard, a narrow cul-de-sac leading off Queen Street in a mixed use area in the town centre. The site is adjacent to the High Street and Queen Street Conservation Area and the buildings backing onto Brewhouse Yard are of a traditional style with pitched roofs. Although there are some additions to the rear of these properties of a more modern style, with flat roofs, the area is dominated by the traditional architecture and roofs. The Comrades Club is a building which for reasons of its architectural features and positioning on a prominent street corner makes a positive contribution to the significance of the High Street and Queen Street Conservation Area, and this is confirmed by the fact that it is referred to in the Conservation Area Appraisal as a key building. Around the junction of Brewhouse Yard with Queen Street are predominantly two storey buildings facing onto Brewhouse Yard. To the west the buildings fronting High Street present rear faces to the site.
7. The proposal would abut the rear and eastern side walls of a large retail unit (1-2 King Street). The proposal would form two separate three storey blocks of a modern design with flat roofs, with a courtyard between and an enclosed walkway linking the blocks at second floor level. The top floor of the eastern block is set back to provide a balcony. Whilst the site is not within the Conservation Area, the proposed building would extend the bulky form of 1-2 King Street further into the cul-de-sac area and be visible from the junction of Brewhouse Yard with Queen Street, past the Comrades Club, closing the view from Queen Street.
8. The angular, flat roofed form would be out of keeping with the scale and more traditional styling of the older buildings in Brewhouse Yard and those backing onto the site from High Street with their generally more modest scale and pitched roofs. The proposal would be visible from the Comrades Club encroaching into its setting as a sizeable, angular mass. In summary, the proposal would harm the area and setting of the CA.
9. I therefore conclude that the development would result in harm to the character and appearance of the area with particular reference to Brewhouse Yard and the setting of the adjacent High Street and Queen Street Conservation Area, contrary to Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy 2014 (the Core Strategy) and saved policy TC3 of the Gravesham Local Plan First Review- 1994 – (the Local Plan) in as much as these seek development that will conserve and enhance the character of the local built and historic environment.

Living conditions of future occupiers

10. On the ground floor and second floor the windows facing each other across the courtyard would provide intervisibility between a living room/kitchen and a living room. At first floor level, this view would be between a living

room/kitchen and a bedroom. These windows would face each other with only a short separation distance, much less than the minimum distance required in the Council's supplementary planning guidance, SPG2: Residential Layout Guidelines (1996), creating an unacceptable degree of mutual overlooking and creating a sense of enclosure from those windows resulting from the mass of the block opposite. Whilst the rooms within the blocks have multiple aspects, the presence of more open views from other windows would not remove or relieve the intrusive overlooking or sense of enclosure that would be experienced by occupants of the affected rooms.

11. The courtyard space between and around the two blocks would be enclosed by a boundary wall, albeit with gaps filled by railings, and the existing wall of 1-2 King Street, to the south. This would increase the sense of enclosure within the ground floor flats, most markedly for the flat on the ground floor of the eastern block.
12. The views from windows facing to the north would be over the areas to the rear of the existing buildings. Several plots fronting the street are bounded by informal fences which are becoming ramshackle and there is a general lack of ongoing maintenance to some of the buildings and fences, whilst the surface of the street is patched and uneven. This general dilapidation is emphasised by invasive vegetation and littering. Whilst the provision of two areas of land on the other side of Brewhouse Yard could improve this view, this benefit would be limited as a consequence of the restricted size of the proposed amenity areas and the fact that they are separate from the appeal site.
13. The bedroom windows in the eastern block would have views down Brewhouse Yard towards the junction with Queen Street. However, the living room/kitchens would have predominantly views of the flank wall of 9 Brewhouse Yard. This brick wall has high level windows, external plant and a roller shutter entrance and as such presents an impression of disrepair and impersonality. The majority of the views from the windows would therefore provide a poor outlook.
14. Whilst the development would provide more than the Council's minimum standard in terms of amenity space the quality and practicality of use of that space would be poor. The main courtyard is enclosed by the residential blocks, the rear wall of 1-2 King Street, the high level walkway connecting the blocks and the wall and railings, resulting in an enclosed area which would have a claustrophobic, oppressive feel, and the presence of windows at ground floor level would result in its use being intrusive upon the privacy of the ground floor flat in the western block. The layout of the areas between the perimeter wall and the blocks would limit the practicality of these areas for recreational use.
15. The two amenity areas separated from the main part of the site by the carriageway of Brewhouse Yard would be likely to have limited use, and their appeal would be reduced by the unwelcoming feel of the surrounding environment. The position and quality of the landscaping proposed would therefore be of questionable benefit to occupiers.
16. I have been made aware of the presence of a nightclub, at 23 Queen Street, with an external marquee, which would be close to windows in the appeal scheme. I note the concerns raised by the Council's Regulatory Service regarding issues of late night noise from the external areas of the nightclub, that this may lead to pressure to impose restrictions on the established

business, and their concerns regarding whether, or not, appropriate mitigation could be provided.

17. No noise study has been provided to assess the impact of noise from the marquee and external areas within the nightclub site and, in the absence of such a study I have insufficient evidence before me to conclude the external noise would not have a harmful effect on the residents of the development. The appellant refers to other applications which he regards as having a similar relationship with the night club. However, I have limited information regarding those developments and so have placed limited weight on this matter.
18. I therefore conclude that the development would not provide acceptable living conditions for future occupants, with regard to privacy, outlook, amenity space and noise. This would be contrary to Policy CS19 of the Core Strategy which, amongst other things, requires that development safeguards the amenity of occupants and provides appropriate levels of public amenity space.

Thames Estuary and Marshes Special Protection Area and Ramsar Site

19. The site falls within 6km of the Thames Estuary and Marshes Special Protection Area and Ramsar Site where the Council set out that there is a need to provide mitigation from recreational disturbance to the bird population in the form of a payment made to a Strategic Access Management and Monitoring Strategy scheme. The appellant has indicated a willingness to provide such a contribution but there is nothing before me to secure this. Nevertheless, as I am dismissing this appeal for other reasons it is not necessary for me to consider this matter further.

Other Matters

20. The Town Hall in High Street is a Grade II* Listed Building. The significance of the Town Hall relates to its architectural and historic interest in regard to its age, architectural design, construction and character which is representative of contemporaneous fashion, particularly in regard to the frontage onto High Street. The appeal site is situated to the rear of the buildings fronting the High Street and there would be no views of the proposed dwelling from the High Street that would include the frontage of the Town Hall and the proposed development, whilst the separation of the proposed building from the rear of the Town Hall by interposing development would provide contextual separation. I therefore conclude that the proposed development would not adversely affect the Grade II* Listed Town Hall or its setting.
21. The main parties are in agreement that Brewhouse Yard would benefit from regeneration in accordance with the principles set out in Policy CS05 of the Core Strategy. However, there is disagreement regarding how comprehensive regeneration could be achieved. I accept that the proposal could act as a catalyst to encourage the owners of other sites to follow suit and redevelop. However, this would not outweigh the harm that I have found.
22. I note that the appellant sought pre-application advice from the Council. However, such advice is not binding upon the Council. I have, therefore, placed limited weight on the outcome of the pre-application discussions in reaching my decision and have considered the proposal before me on its own merits. I also note that the appellant has expressed frustration with the way in which

the Local Planning Authority handled the application. However, this is a matter between the parties involved and would not alter the outcome of this appeal.

Conclusion

23. For the reasons given above, and having taken into account all other matters raised, the appeal is dismissed and planning permission refused.

I Dyer

INSPECTOR