
Appeal Decision

Site visit made on 14 January 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/K2230/W/19/3238166
168 Rochester Road, Gravesend DA12 2JF

- 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 Ray Dhaliwal against the decision of Gravesham Borough Council.
 - The application Ref 20190647, dated 10 July 2018, was refused by notice dated 6 August 2019.
 - The development proposed is erection of a two storey side extension to create a 2 bedroom attached dwelling with associated parking for both properties.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of proposed development shown on the Council's decision notice and the appellant's appeal form is more precise than that shown on the planning application form. I have therefore used this description in the banner heading and determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area, (ii) the living conditions of future occupiers, (iii) pedestrian safety, and (iv) the North Kent Marshes Special Protection Areas/Ramsar sites.

Reasons

Character and appearance

4. The appeal property is positioned at the end of a 2 storey terrace on a corner adjacent to Rochester Road and Bellman Avenue. The properties in the terrace are consistent in width, and they include bay windows and main entrance doors on the front elevation. The terrace faces Rochester Road and it is set behind sizeable front gardens that are on a higher land level than the main road.
5. The proposed 2 storey dwelling would attach to the side of No 168 Rochester Road. It would be narrow and would not respect the regular width of the adjoining terraced properties. The main entrance would be positioned on the side elevation facing a breeze-block wall. The approach to the entrance door would be narrow and enclosed, which contrasts with the spacious and open approaches to the neighbouring properties. Consequently, due to its position, there would be poor legibility of the main entrance in Rochester Road.

6. Taken together, the above factors signify that the proposal would be a cramped development that would fail to respect the layout and form of the neighbouring properties. Whilst the existing boundary treatment and higher land level would screen views of the subdivided gardens from the street, this would not overcome my concerns set out above. In any event, the lack of visibility from main roads does not obviate the need to achieve a good standard of design and layout.
7. I have had regard to the previous planning permission (Ref 20170275) for a 2 storey side and rear extension, which was granted by the Council. The proposal before me is for a materially different development as a separate dwelling, rather than ancillary extensions to No 168, and I have determined the appeal scheme on its own merits.
8. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the area. The proposal would therefore be contrary to Policy CS19 of the Gravesham Local Plan Core Strategy 2014 ('LPCS'), and Chapter 12 of the National Planning Policy Framework ('Framework'), which, amongst other things, seek to conserve and enhance the character of the local built environment.

Living conditions

9. The Council states that the floor area of the proposed dwelling would not meet the Government's Technical Housing Standards – Nationally Described Space Standard (2015) ('NDSS'). The NDSS states that a 2-bed (3 person) 2 storey dwelling should have a minimum gross internal floor area ('GIA') of 70 square metres, including built-in storage space measuring 2 square metres. The Council states that the proposed dwelling would have a GIA of 69.2 square metres, which is slightly short of the aforementioned standard. No built-in storage is indicated on the plans. The bedrooms would accord with the standards set out in the NDSS.
10. The proposed dwelling would enable an appropriate arrangement of furniture and circulation space. Given that the GIA of the proposed dwelling would only be marginally below the NDSS, I consider that an acceptable living environment would be provided for future occupiers. Built-in storage space of 2 square metres could be accommodated within the internal layout, which could be secured by a planning condition.
11. Table 2 of the Residential Layout Guidelines Supplementary Planning Guidance ('SPG') states that a dwelling with 1-2 bedrooms should have a minimum garden area of 37.2 square metres, which should have a minimum depth of 7.6 metres. The area of the rear garden, at around 34 square metres, would be slightly below the guidance in the SPG. However, its depth would accord with the SPG and it would provide a usable outdoor amenity space for future occupiers. Furthermore, the provision of a front garden would mitigate the slight shortfall in the size of the rear garden.
12. For the above reasons, I conclude that the proposed development would provide acceptable living conditions for future occupiers. The proposal therefore complies with Policy CS19 of the LPCS, which amongst other things, seeks to ensure that new development safeguards the amenity of its occupants. It would also accord with paragraph 127 of the Framework, which, seeks a high standard of amenity for future users.

Pedestrian safety

13. Drawing No RR-18-P2 shows that 2 parking spaces would be provided to the rear of the property, which would be served by a vehicular crossover on to Bellman

Avenue. I note the Highway Authority's comment that a double width parking space should be 5.4 metres wide due to the proximity of the adjacent wall/fence. This is to enable pedestrian access around the vehicles.

14. The appellant has stated that the parking area would be 5.6 metres wide to allow space for pedestrians. This has not been disputed by the Council. In the absence of any evidence to the contrary, I am satisfied that there would be sufficient space to enable occupiers of the proposed development to use the parking area.
15. The Highway Authority states that parking spaces should have direct pedestrian access to the property that they serve to make their use more attractive to the occupiers. Nevertheless, the pedestrian route from the parking area to the dwellings would be a short walk via a lit pavement, which is therefore acceptable.
16. I have had regard to the Highway Authority's comments that 2 metres x 2 metre pedestrian visibility splays are required, which cannot be provided without demolition of part of the boundary walls. The appellant acknowledges that pedestrian visibility splays have not been shown on the plans. However, the appellant states that the side and rear garden walls are within his ownership and he suggests that a pre-commencement condition requiring details of visibility splays, boundary treatments and landscaping could be imposed to address this.
17. Given the appellant's statement that the boundary walls are within his ownership, I am satisfied that a pre-commencement planning condition could be imposed to require details of 2m x 2m pedestrian visibility splays, boundary treatments and landscaping to be submitted to the Council for approval. This would ensure that there would be sufficient visibility in the interests of pedestrian safety.
18. For the above reasons, I conclude that a planning condition could be imposed to ensure that the proposed development would not be harmful to pedestrian safety. The proposal would therefore comply with Policy CS11 of the LPCS and saved Policy P3 of the Gravesham Local Plan 1994, which, amongst other things, state that new developments should mitigate their impact on the highway and make provision for vehicle parking in accordance with Kent County Council Vehicle Parking Standards.

North Kent Marshes Special Protection Areas/Ramsar sites.

19. The appeal site is within 6km of the North Kent Ramsar Sites or Special Protection Areas (the SPA). The environmental significance of this area relates to its importance as a site for birds which are rare and/or vulnerable in a European context. The SPA is a European designated site which is afforded protection under The Conservation of Habitats and Species Regulations 2017 ('Habitats Regulations').
20. The Council refers to research¹ which indicates that additional residential development is likely to result in additional recreational activity, which causes disturbance to wintering bird species within the SPA. The evidence before me indicates that impacts of such disturbance can be that the status of and distribution of key bird species are adversely affected, which acts against the conservation objectives of the SPA.
21. The proposal involves the creation of an additional residential unit. This would intensify the residential use of the site. The fact that it is located within 6km of the SPA means that there is a reasonable likelihood that it would be accessed for recreational purposes by future residents of the development. Although this may

¹ Phase I – Bird Disturbance Report prepared by Footprint Ecology (2012)

be minimal in itself, a significant effect would occur, particularly when considered in combination with other new residential development in the surrounding area.

22. The Council advise that a financial contribution of £245.56 could be provided for mitigation measures in accordance with the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy. Whilst the appellant has indicated a willingness to provide the financial contribution, there is no legal undertaking before me and consequently no means of securing mitigation measures. Having regard to the Planning Practice Guidance², it would not be appropriate to use planning conditions to secure mitigation measures. The lack of acceptable mitigation means that the proposal would affect the integrity of the European site.
23. The proposal would therefore be contrary to Policy CS12 of the LPCS, which states, amongst other things, that sites designated for their biodiversity value will be protected. Having regard to Regulation 63(5) the Habitats Regulations, permission must not be granted for the development proposed. In these circumstances, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, does not apply.

Other Matters

24. The Council states that it is unable to demonstrate a 5 year supply of deliverable housing. The proposed addition of one dwelling would make a small contribution towards housing supply, which I afford limited weight in favour of the proposal.

Conclusion

25. The proposed development would provide acceptable living conditions for future occupiers. Furthermore, the effect of the proposal on pedestrian safety could be addressed through the imposition of a pre-commencement condition to require details of pedestrian visibility splays, boundary treatments and landscaping to be submitted to the Council for approval.
26. However, the proposed development would be harmful to the character and appearance of the area. Moreover, it would have a significant effect on the SPA through additional recreational disturbance, and the absence of appropriate mitigation means that there would be an unacceptable effect on this protected area. Whilst the proposal would make a small contribution towards housing supply, this would not outweigh the harm that I have identified.
27. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR

² Paragraph: 10 Reference ID: 21a-010-20190723