
Appeal Decision

Site visit made on 17 March 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2020

Appeal Ref: APP/K2230/W/19/3241381
18 Overcliffe, Gravesend, Kent DA11 0EH

- 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 Palwinder Singh against the decision of Gravesend Borough Council.
 - The application Ref 20180929, dated 4 September 2018, was refused by notice dated 9 September 2019.
 - The development proposed is demolition of existing garage and erection of a 2 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of proposed development shown on the appellant's appeal form and on the Council's decision notice is more concise 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:
 - the character and appearance of the area, with particular regard to the Overcliffe Conservation Area;
 - the living conditions of future occupiers;
 - highway safety, with particular regard to pressure for on-street parking and visibility splays; and
 - the Thames Estuary and Marshes Special Protection Area.

Reasons

Character and appearance

4. The appeal site is located within the Overcliffe Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 193 of the National Planning Policy Framework (the Framework)

states that “*great weight should be given to the [designated heritage] asset’s conservation*”.

5. The south side of Overcliffe is lined with large attractively detailed villas, including No 18 Overcliffe, that are set in spacious grounds with long rear gardens. No 18 is positioned adjacent to the road junction with St James’s Avenue and it has a large garage building to the rear, which appears conspicuous in the St James’s Avenue street scene. The existing garage building has a negative impact on the character and appearance of the CA due to its large size and rudimentary design. Nevertheless, it is read as being part of the land associated with No 18 and there are views between the buildings from St James’s Avenue of mature trees in the large rear gardens of properties in Overcliffe.
6. The subdivision of the land associated with No 18 would result in a small plot size for the existing dwelling, which would be out of keeping with the other buildings in the CA that are set in spacious grounds. Furthermore, whilst it appears that the overall bulk of the proposed dwelling would be less than the existing garage, it would be positioned closer to No 18 and would appear cramped due to the modest visual separation. The form, proportions and layout of the proposed dwelling would not respect the existing dwelling and its discordant appearance would be exacerbated by the modest separation between the buildings. Whilst I acknowledge that there are similar bungalows in St James’s Avenue and Normans Close, these are outside the CA and further from the historic buildings.
7. Moreover, the proposed dwelling would be positioned close to the front, side and rear boundaries and would therefore appear cramped on the plot. It would not respect the prevailing pattern of residential development in the area, which consists of dwellings set back from the road with gardens set to the rear.
8. Having regard to the above, the proposal would cause less than substantial harm to the character and appearance of the CA. In accordance with paragraph 196 of the Framework, any harm should be weighed against the public benefits. Great weight should be given to an asset’s conservation.
9. The Council is unable to demonstrate a 5 year housing land supply and any contribution towards meeting the shortfall is worthwhile. Nevertheless, given that one dwelling would be provided, the contribution and benefits would be minor. Similarly, any benefits associated with the local economy and services from the construction and occupation of the dwelling would be limited.
10. As such, on the basis of the information before me, the public benefits would not outweigh the harm to the designated heritage asset. The proposal is therefore contrary to the historic environment policies contained within the Framework.
11. For the above reasons, I conclude that the proposed development would fail to preserve or enhance the character and appearance of the CA. The proposal would conflict with the design and conservation aims of Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy 2014 (the LPCS) and saved Policy TC3 of the Gravesham Local Plan First Review 1994 (the LP), which seek new development that will preserve and enhance the local historic environment and integrate well with the surrounding local area.

Living conditions

12. Table 2 of the Residential Layout Guidelines Supplementary Planning Guidance (the SPG) states that a dwelling with 1-2 bedrooms should have a minimum private garden area of 37.2 square metres, which should have a minimum depth of 7.6 metres.
13. The proposed block plan shows that there would be a garden area to the southern side of the proposed dwelling. The Council states that the proposed garden would be 27 square metres in area (excluding the parking area and the courtyard) and there would be a garden depth of 5.4 metres to the parking space. The appellant states that the garden area would be around 65 square metres. It appears that this calculation includes the courtyard and the parking area to the south of the proposed dwelling.
14. I find that the parking area should not be included in the calculation of the private garden area because it would not provide a usable outdoor amenity space. In this respect, Paragraph 15 of the SPG states that calculation of private garden areas shall exclude the area used for the parking of private motor vehicles. I note that the appellant states that the proposed parking area could be removed, nevertheless I have determined the appeal on the basis of the submitted plans.
15. Furthermore, the courtyard would be the route from the street to the main entrance of the proposed dwelling. The use of this space as part of the main garden area would feel exposed and would not provide an adequate level of privacy for future occupiers. This is due to its position adjacent to the street and the limited boundary screening, which would allow close-range views for passers-by. Consequently, I do not regard the courtyard as forming part of a private garden area.
16. The size and depth of the usable private garden for the proposed dwelling would therefore be significantly below the minimum standards set out in the SPG and would not provide an adequate outdoor amenity area for future occupiers.
17. For the above reasons, I conclude that the proposed development would be harmful to the living conditions of future occupiers. The proposal would therefore conflict 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 be contrary to paragraph 127 of the Framework, which, seeks a high standard of amenity for future users.

Highway safety

18. The proposed development would result in the loss of parking spaces for the existing dwelling at No 18 Overcliffe, which are provided by the existing garage building and the hard-surface. I acknowledge that the Highway Authority has objected to the removal of parking spaces. However, during my site visit I observed that on-street parking spaces were available. I saw little evidence of unsafe parking of vehicles on pavements or close to road junctions.
19. Whilst I acknowledge that there may be more on-street parking in the evening and at weekends, there is no substantive evidence before me to show that the removal of the existing garage and the hard surface would significantly increase pressure for on-street parking in the area, particularly given the

accessible location of the site within walking distance of bus stops, shops and services. As such, the removal of the parking spaces would not cause significant harm to highway safety. Furthermore, there would not be a significant increase in competition for on-street parking that would harm the living conditions of the occupiers of neighbouring properties.

20. In respect of the on-site parking provision for the proposed dwelling, it would be served by a garage to the northern side and a parking space to the south. The Highway Authority has raised concerns that the width of the garage, at around 2.6 metres, would not be suitable for the parking of a car. However, even if the width of the garage would result in future occupiers using it for purposes other than parking, I am satisfied that the parking space to the south of the dwelling would be sufficient in view of the accessible location of the site. I note that there is currently a lamppost and a telecommunications box on the pavement which may affect access to the parking space, however this could be addressed through a planning condition.
21. The submitted block plan does not show pedestrian visibility splays for the garage or the parking space and I have had regard to the comments from the Highway Authority, which state that visibility splays measuring 2 metres by 2 metres should be provided. Whilst the proposed garage would be served by an existing vehicular crossover, given its close proximity to the footway and the side wall of the proposed dwelling, I cannot be certain that adequate pedestrian visibility splays could be provided.
22. Based on the information before me, it would be difficult for drivers leaving the garage or the parking space in a forwards direction to have a full view of the pavement until after the bonnet of the car has manoeuvred onto the pavement. It would be even more difficult to see the pavement if reversing onto the highway. I therefore consider that this would be an unacceptable risk to the safety of pedestrians, especially small children.
23. Furthermore, given the close proximity of the proposed garage to the footway, there would not be sufficient space for a vehicle to wait clear of the highway while the garage door is being opened or closed. This would cause obstruction in the highway and additional conflict with pedestrians and other road users.
24. I therefore conclude that the proposed development would be harmful to highway safety. The proposal would therefore conflict with Policy CS11 of the LPCS and saved Policy P3 of the LP, 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.

Thames Estuary and Marshes Special Protection Area

25. The appeal site is within 6km of the Thames Estuary and Marshes Special Protection Area (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 (the Habitats Regulations).

26. 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.
27. 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 be minimal in itself, a significant effect would occur, particularly when considered in combination with other new residential development in the surrounding area.
28. 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. However, the appellant has not agreed to provide any mitigation measures and there is no legal undertaking before me. 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.
29. 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) of the Habitats Regulations, permission must not be granted for the development proposed.

Other Matters

30. I have had regard to the concerns raised by a local resident, which, in addition to the above matters, include: loss of privacy; visual impact; effect on access to alleyway; and demolition of the shared wall. However, as I find the proposed development unacceptable for other reasons, these considerations would not alter my decision.
31. I appreciate the appellant's sense of frustration in respect of the length of time that it took the Council to determine the planning application, however I have dealt with the appeal scheme on its planning merits.

Conclusion

32. I have found that the proposed development would fail to preserve or enhance the character and appearance of the CA and it would be harmful to the living conditions of future occupiers. Furthermore, the proposal does not demonstrate that adequate pedestrian visibility splays could be provided for drivers using the on-site parking space or the garage, which would be an unacceptable risk to the safety of pedestrians. The garage would also cause obstruction in the highway and additional conflict with pedestrians and other road users.

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

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

33. Moreover, the proposed development 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.
34. The Council is unable to demonstrate a 5 year housing land supply therefore relevant policies for the supply of housing are out-of-date in accordance with footnote 7 of the Framework. In these circumstances, paragraph 11(d) of the Framework should be applied. In respect of the first limb of paragraph 11(d), the application of policies in the Framework that protect areas or assets of particular importance (including habitat sites and designated heritage assets) provide clear reasons for refusing the development proposed. Therefore, the presumption in favour of sustainable development does not apply.
35. Whilst the proposal would make a small contribution of one dwelling towards housing supply, the contribution and benefits would be minor. Similarly, any benefits associated with the local economy and services from the construction and occupation of the dwelling would be limited. Therefore, the benefits of the proposal would not outweigh the harm that I have identified.
36. 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