

Appeal Decision

Site visit made on 4 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th June 2020

Appeal Ref: APP/K2230/W/20/3247288
33 Chalk Road, Gravesend, Kent DA12 4XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Flaherty against the decision of Gravesend Borough Council.
 - The application Ref 20191305, dated 16 December 2019, was refused by notice dated 11 February 2020.
 - The development proposed is erection of a pair of 2 bedroom dwellings with drive and car parking areas to the rear of the existing house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal seeks outline planning permission. Approval is sought for matters of access, appearance, layout and scale and I have considered the appeal on this basis. Landscaping is a reserved matter and therefore while I have had regard to the plans submitted as part of the application, I have regarded details of the landscaping of the development as illustrative.

Main Issues

3. The main issues in this appeal are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of the occupiers of 31, 33 and 35 Chalk Road;
 - iii) whether or not living conditions for occupiers of the proposed dwellings would be acceptable with particular regard to privacy and the provision of internal space; and
 - iv) the effect of the proposal on highway safety with particular regard to access for delivery and emergency vehicles.

Reasons

Character and Appearance

4. Buildings located along Chalk Road are of mixed type, size and design, but individual dwellings are generally arranged on a reasonably consistent building line fronting the street. Plots vary in their overall size, but rear gardens are typically generous and along with many well-established trees are apparent in the spaces between buildings. As a result, there is an attractive spacious character to the area which is heightened by the allotments which provide open

backdrops to some of the dwellings to either side of the street, including to the rear of the detached bungalow at 33 Chalk Road.

5. The appeal proposes construction of a pair of semi-detached dwellings within part of the rear garden of No 33. Parking for both dwellings is indicated at the rear of the site, and would be accessed by a driveway that would run between No 33 and the adjacent allotment access, with further turning space set behind the proposed boundary to the rear of No 33.
6. Given the diverse sizes and architectural styles of other dwellings nearby, the scale and appearance of the proposed dwellings themselves would not be unsympathetic or out of keeping. The density of the development would also be close to that sought by Policy CS15 of the Gravesham Local Plan Core Strategy 2014 (LPCS) within the urban area. However, the policy confirms that the suggested density is subject to an overriding consideration that development does not compromise the character of the area in which it is situated.
7. In marked contrast to the usual pattern of development along Chalk Road, the proposed dwellings would have no street frontage. The scale of the dwellings would be much greater than the outbuildings on the appeal site which are to be demolished, as well as others nearby. Although single-storey, the roof of the building would be appreciable, including from Chalk Road where it would be seen in the spaces to the side of No 33. It would therefore encroach on open views towards the allotments at the rear, and would erode the positive contribution that the existing openness on the appeal site makes to the character and appearance of the area. Together, these factors would cause the development to appear incongruous and intrusive on the appeal site.
8. The shallow depth of the plots for No 33 and the proposed dwellings would also be at odds with the characteristically extensive gardens on this part of Chalk Road, and would result in dwellings set close to the rear of No 33. In addition, the access arrangements and suggested parking layout indicate fairly extensive areas of hardstanding. Together with the small size of the plots, this would leave limited opportunity to provide a landscaped setting for the dwellings as part of a future reserved matters application.
9. While I note examples of similarly sized sites containing 2 dwellings in the wider area, for these reasons I find that the development would appear constrained and cramped on the site, and would exacerbate the loss of openness to the detriment of the street scene.
10. The appellant refers to other buildings which have been permitted in the area in support of the appeal. I saw that Copperfield Close and Priests Walk are developments of multiple dwellings laid out around street frontages. The building opposite 3 Havisham Road is accessed directly from the street and signed as an annexe to No 3, and Mullender Court is a flatted block fronting the street within a spacious landscaped setting. The development at Readers Close adjacent to 196 Lower Higham Road is located some distance from the appeal site and within a different street context to the appeal site. These examples are not therefore directly comparable to the appeal proposal.
11. I acknowledge that the development accessed between 60 and 66 Chalk Road lacks a street frontage. However, there is greater separation to the buildings here from the rear of those fronting the street than would be the case for the development proposed on the appeal site. Furthermore, I do not know the

circumstances that led to this layout being accepted, and in my view, it highlights the impact of buildings to the rear of dwellings on the usually spacious character of Chalk Road. I do not therefore find that this development is a reason to support similar proposals.

12. I recognise that the appellant has made changes from previous proposals for development on the site. Nevertheless, I find that the development would result in a cramped and unsympathetic form of development that would detract from the spacious nature of its surroundings. I therefore conclude on this main issue that the proposal would cause unacceptable harm to the character and appearance of the area and would conflict with Policies CS14, CS15 and CS19 of the LPCS. Together, these policies broadly require that development conserves or enhances local character and that it integrates well with its surroundings.

Living Conditions – Neighbouring Occupiers

13. The proposed dwellings would extend across much of the width of the retained rear garden to 33 Chalk Road. At the closest point, separation to the boundary of No 33 would be modest, but greater spacing would be provided to the main part of the building, and the height and hipped design of the roof would reduce its mass and its visual impact. More open views from No 33 and its garden to the sides of the proposed building towards the allotments beyond would also remain. I am therefore satisfied that while noticeable, the development would not appear overly dominant or unacceptably diminish outlook for occupiers of No 33.
14. Views of the development from windows to the rear of 31 Chalk Road would be oblique, and the existing outbuilding on the boundary with the appeal site would additionally provide some screening of views from windows at ground floor level. While the building would be positioned fairly close to the deepest part of No 31 and would be visible, given these factors and the scale and design of the building, I do not find that it would impact harmfully on outlook for occupiers of this dwelling.
15. The proposed dwellings would extend for some distance along the rear part of the garden to No 31 and the upper part of the building would be visible set close to the boundary fence. However, this neighbour benefits from a long rear garden and there would remain open views across the appeal site to the front and rear of the building avoiding an undue sense of enclosure. The modest height and hipped roof form would further help to ensure that the visual impact of the building would not be overbearing.
16. For similar reasons, and noting additionally the greater separation between the proposed building and 35 Chalk Road, I am satisfied that the development would not be overly dominant or overbearing to occupiers of No 35, both in relation to the dwelling itself and the rear garden.
17. The proposed vehicle access would be set away from the boundary of the site with No 31, and while closer to No 35, the existing allotment access runs between the sites. Given the access would serve only 2 dwellings and the resulting likely levels of use, in my view the separation provided would be sufficient to avoid undue noise or disturbance to these neighbouring occupiers.

18. However, windows present to the side of No 33 would face towards the access. Given the very close proximity to these windows, I consider that use of the access, even by traffic likely to be associated with 2 dwellings, would generate undue noise and disturbance to the occupiers of this dwelling. Use of the access and indicated turning area close to the rear boundary of No 33 would also be a notable influence across a significant proportion of the garden, particularly given its modest scale, detracting from the use and enjoyment of this space. Accordingly, I find that the proposal would be detrimental to the living conditions of the occupiers of No 33.
19. The Council's reason for refusal additionally refers to harm to the privacy of neighbouring occupiers, but the evidence before me does not highlight any specific concerns in this regard. Given the proposed single-storey nature of the development, and subject to the maintenance or provision of boundary treatment on the site, I find that the proposal would not cause harmful overlooking or loss of privacy to neighbouring occupiers.
20. Although I have not found harm in relation to privacy or the living conditions of the occupiers of Nos 31 or 35, this does not outweigh the harm to occupiers of No 33 as a consequence of noise and disturbance associated with the proposed access. I therefore conclude on this main issue that the proposal would result in unacceptable harm to the living conditions of the occupiers of 33 Chalk Road. As a consequence, the proposal would conflict with Policy CS19 of the LPCS which requires, amongst other things, that development is located, designed and constructed to safeguard the amenity of its occupants and neighbouring properties, and to avoid adverse environmental impacts such as noise.

Living Conditions – Future Occupiers

21. Footnote 46 of the National Planning Policy Framework (the Framework) advises that policies may make use of the nationally described space standards (NDSS) where the need for an internal space standard can be justified. However, although the Council has provided a document titled 'Housing Standards Policy Statement – From 1 October 2015' which indicates that existing Local Plan policies should be interpreted with reference to the nearest equivalent national technical standard, I have not been directed to a requirement within the adopted development plan for compliance with internal space standards. In this context, while the NDSS may provide a useful indication of the reasonable size of dwellings, it is not an absolute requirement.
22. The Council's evidence comments that one of the proposed dwellings would have an internal floorspace of 60.2sqm, below the 61sqm for a single-storey two-bedroom, three person dwelling outlined within the NDSS. The second bedroom is also stated to have a floorspace of 7.08sqm below the 7.5sqm indicated by the NDSS. However, in my view, the shape and layout of both proposed dwellings would provide a usable and functional area for future occupiers, including spacious living/kitchen space. The quoted floorspaces would be only minimally below the NDSS levels, and I see no reason that the development would fail to provide comfortable living accommodation for occupiers or result in a cramped internal environment.
23. I am also satisfied that provision of suitable boundary treatment would avoid overlooking from the ground floor windows of neighbouring buildings to the proposed dwellings. However, there is glazing at first floor level to the rear of No 33. This would face towards the proposed building, and separation would be

some way below the 26m sought by the Council's Residential Layout Guidelines Supplementary Planning Guidance 1996 to provide privacy. Given the short distances involved, I find that there would be overlooking from No 33 to the windows proposed to the front of the dwelling closest to the access. These include the sole window for a bedroom, and as a result, there would be a harmful lack of privacy for occupiers of this dwelling.

24. I therefore conclude on this main issue that the proposal would fail to provide acceptable living conditions for occupiers of the development. As a consequence, there would be conflict with Policy CS19 which includes a requirement that new development safeguards the amenity of its occupants.

Highway Safety

25. The Kent Design Guide (KDG) advises that where properties are more than 45m from the highway boundary, driveways must be designed to accommodate emergency or service vehicles. The development includes a 'resting point' to the section of the access closest to the junction with Chalk Road. I note that the response of Kent Fire & Rescue Service to the proposal indicates that the access for fire and rescue would be adequate, and the Council have not disputed the appellant's suggestion that all points of the proposed dwellings would be within 45m of this resting point in accordance with the KDG. From the evidence before me, I therefore see no reason that the development would fail to provide suitable access for emergency or service vehicles.
26. The KDG also recommends a maximum distance of 25m between dwellings and the highway. The proposed access would exceed this distance. Even so, there would be provision for turning of smaller vehicles within the appeal site and space for storage for refuse and recycling close to the junction with Chalk Road allowing for convenient collection.
27. The layout of turning space within the site means that larger vehicles such as those used for deliveries would be likely to need to reverse to or from the highway. However, many of the dwellings along Chalk Road have parking to their frontages but no provision for turning. Reversing movements would not therefore be unusual or unexpected near to the site, and I have not been provided with any substantive evidence of a history of accidents in the vicinity which would be likely to be exacerbated. Moreover, although Chalk Road is part of a bus route, the access to the appeal site would be visible for some distance to both vehicles and pedestrians, and I saw that traffic volumes and speeds past the site were fairly low. Manoeuvres would not be complex, and for these reasons I do not find that the access arrangements would be detrimental to highway safety or result in significant inconvenience. Nor do I find that the length of the proposed access would be excessive.
28. I therefore conclude on this main issue that the proposal would not cause harm to highway safety. Accordingly, I find no conflict with Policy CS11 of the LPCS or Saved Policy T5 of the Gravesham Local Plan First Review 1994. Together, these policies require that development mitigates impacts on the highway and public transport networks, and that accesses do not result in danger.

Other Matters

29. The Council advises that they are unable to demonstrate a 5-year supply of deliverable housing sites. In accordance with the Framework, the policies which

are most important for determining the proposal are therefore considered to be out-of-date. In these circumstances, paragraph 11 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

30. The proposal would make efficient and effective use of the site which is within the built-up area to deliver 2 additional dwellings for which there is an acknowledged need. I also note the appellant's suggestion that the proposed dwellings would add to the mix of new housing and provide an alternative to larger older houses. There would further be economic benefits, both during and after construction, including through provision of short-term employment opportunities and support for local services and facilities. However, the extent of these benefits are tempered by the small scale of the proposed development, and they carry moderate weight overall in the planning balance.
31. Against these benefits, I have identified significant harm to the character and appearance of the area and to the living conditions of neighbouring and future occupiers. These aspects weigh against the proposal and are contrary to the requirements of the Framework for development that responds to local character and provides a high standard of amenity for existing and future users. In the context of paragraph 11(d) of the Framework, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development set out at paragraph 11(d), and the conflict with the development plan when read as a whole is not outweighed by other considerations including the Framework.
32. The appeal site is located within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site. This is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations impose a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment (AA).
33. I note the appellant's comment that the proposal would not result in the loss of habitat for protected species within the appeal site, but from the evidence before me, the SPA/Ramsar Site is vulnerable to pressure including from visitors using the area for recreational purposes. Had I found the proposal to be otherwise acceptable, as the competent authority I would need to consider the effect of the proposal for 2 additional dwellings on the integrity of the site and the potential for mitigation within the framework of an AA. However, given the harm identified above and that I am dismissing the appeal for other reasons, I have not pursued this matter further as it could not be determinative.

Conclusion

34. Although I have found that the proposal would not cause unacceptable harm to highway safety, this does not outweigh the harm that would be caused to the character and appearance of the area and to the living conditions of future and neighbouring occupiers. The proposal would conflict with the development plan

as a whole and material considerations, including the Framework, do not indicate that a decision contrary to the development plan should be reached.

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

J Bowyer

INSPECTOR