
Appeal Decision

Site visit made on 9 June 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2020

Appeal Ref: APP/K2230/W/19/3242995

64 Windmill Street, Gravesend DA12 1BJ

- 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 S Sohota against the decision of Gravesham Borough Council.
 - The application Ref 20180642, dated 13 June 2018, was refused by notice dated 6 September 2019.
 - The development proposed is change of use from A1 to C3 & B1 to C3 respectively, demolition of an existing rear extension with the construction of a new two storey rear extension and internal alterations to provide four new dwellings and front and rear landscape proposals to introduce external amenity and off street parking spaces.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of proposed development shown on the appellant's appeal form and the Council's decision notice is different to that shown on the planning application form. There is no information before me to show that this change has been agreed by the appellant. Therefore, I have used the description shown on the planning application form in the heading above and determined the appeal on this basis.
3. The appellant has submitted 4 versions of drawing No 5150_D2 with the appeal. For the avoidance of doubt, I have determined the appeal on the basis of drawing No 5150_D2 Rev C as this is the version on which the Council based its decision.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the Upper Windmill Street Conservation Area; and,
 - The effect of the proposed development on the living conditions of future occupiers, with particular regard to internal floor space and storage for Unit 4; and natural light, outlook and privacy for Unit 1; and,
 - The effect of the proposed development on the living conditions of the occupiers of No 65 Windmill Street, with particular regard to daylight and outlook; and,

- Whether the proposed development would make satisfactory provision for cycle parking.

Reasons

Conservation Area

5. The appeal site is located within the Upper Windmill Street 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*".
6. The appeal property is within a 3 storey terrace comprising Nos 63 – 67 Windmill Street. The rear elevation of No 64 features a single storey outrigger and there is a small addition attached to the rear. Whilst some alterations have been carried out to the outrigger, such as the removal of slate roof tiles; installation of uPVC replacement windows; and patchy render, it nevertheless retains its original form. The property also has 4 upper floor vertical sliding sash rear windows, which is an original architectural feature that is characteristic of the CA.
7. The rear elevation of the terrace comprising Nos 63 – 67 generally consists of modest scale rear projections and a consistent layout of windows. The proposed rear extension would be noticeably taller than the modest rear projections in the terrace, and its scale and bulk would detract from the appearance of the building.
8. The appellant states that the proposal has been designed to provide a clear break in styles between the original building and the proposed extension. Even so, the form of the extension would appear large and boxy, and the proposed use of render on the external walls to contrast with the original building would exacerbate the prominence of the extension. Furthermore, the proposal would result in the loss of original architectural details in the form of 2 first floor sash windows, and the overall composition of the proposed rear extension and bay window would lack coherence. For these reasons, the proposed extension would not provide high quality design.
9. I acknowledge that the neighbouring building at No 65 has a 2 storey rear extension designed with a flat roof and rendered walls. Nevertheless, the neighbouring extension does not provide a high standard of appearance and the proposal would have a greater scale and height. Whilst there are examples of large extensions in Windmill Street, I do not consider that they should justify poor design.
10. The proposed alterations to the front elevation of the property would replicate the features at No 67 Windmill Street, including: new cornice; and a new ground floor window and door with mouldings. The sloping forecourt would also be dug out to create a basement and the front garden would be enclosed by railings and brick piers. Subject to further detailed drawings, these proposed alterations would provide a small enhancement to the front of the property. Nevertheless, given the shortcomings of the rear aspect of the proposal, I find that the proposed development 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.

11. The proposal would deliver some public benefits in terms of adding to the overall provision of housing in the area, and contributing to the local economy. However, the small scale of the proposal limits the weight that I give to these factors, which I consider in greater detail later in this decision.
12. In respect of paragraph 202 of the Framework, the proposal would not represent enabling development as I have no convincing evidence before me that the building is in need of repair, or that it would fall into disrepair or disuse if the appeal were not allowed.
13. As such, the public benefits would not outweigh the harm to the designated heritage asset. The proposal would therefore be contrary to the historic environment policies contained within the Framework.
14. 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), which seek new development that will preserve and enhance the local historic environment and integrate well with the surrounding local area.

Living conditions of future occupiers

15. Unit 4 would be a 1-bedroom flat situated on the second and third floors of the building. The appellant states that the annotation on the proposed plan that it would be a 1-bedroom 2-person unit is an error and it would actually be a 1-bedroom 1-person flat. The Nationally Described Space Standard (NDSS) sets out that in order to provide two bedspaces, a double bedroom has a floor area of at least 11.5 square metres. The officer's report states that the bedroom of Unit 4 would have a floor area of 11.59 square metres, which is not disputed by the appellant. Furthermore, the proposed plan shows that the bedroom could accommodate a double bed. Given the size of the bedroom, it is possible that the flat could be occupied by 2 people. On this basis, I find that Unit 4 should be assessed as a 1-bedroom, 2-person, 2-storey dwelling for the purposes of the NDSS.
16. The NDSS states that the minimum gross internal floor area for such a dwelling is 58 square metres. The gross internal floor area of Unit 4, at around 52 square metres, would be below the minimum standard set out in the NDSS. The flat would therefore be insufficient in size and would fail to provide comfortable living space for occupiers for day-to-day living activities. In respect of built-in storage space, the appellant states that an area of 1.5 square metres would be provided. This would accord with the storage provision set out in the NDSS, however it would not overcome the shortcoming with respect to the overall lack of internal floorspace. A condition limiting occupancy of the dwelling to not more than one person would not be enforceable.
17. Turning to the proposed basement flat at Unit 1, the frontage of the appeal site would be dug out to provide steps leading down to the main entrance. This would facilitate the provision of a front living room window and a side kitchen window. The living room window would be positioned close to the rear wall of the kitchen, and the kitchen window would face the side retaining wall next to

the steps. Given the close proximity of the windows to the adjacent walls, the outlook from the rooms would be poor and would create enclosed and oppressive living conditions for future occupiers. In the absence of any detailed assessment or investigation to demonstrate otherwise, I also consider that the living room and kitchen would receive poor levels of daylight.

18. The bedroom of the basement flat would be served by a small lightwell at the rear. Due to the position of the window below ground level and the close proximity of the opposing wall, there would be poor outlook from the bedroom. Furthermore, the small size of the lightwell and the degree of enclosure arising from the proposed 2 storey rear extension and bay windows, would provide an insufficient level of daylight.
19. The position of the bedroom window below ground level and the screening provided by the balustrade would ensure that there would be adequate privacy for future occupiers, however this would not overcome the harm to the living conditions of future occupiers arising from the poor levels of daylight and outlook.
20. Taking the above factors together, 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 and saved Policy H5 of the Gravesham Local Plan First Review 1994 (the LP), which amongst other things, seek 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.
21. The Council has referred to Policy CS14 of the LPCS in the second reason for refusal, however this is not directly relevant to the living conditions of future occupiers.

Living conditions of the occupiers of No 65 Windmill Street

22. No 65 Windmill Street consists of flats and the property has an existing 2 storey rear projection. It has ground floor and first floor windows in the recessed area adjacent to the boundary with the appeal site. The neighbouring ground floor window is subject to a high degree of enclosure due to its recessed position between the 2 storey rear projection of No 65 and the existing single storey rear outrigger of No 64. The neighbouring first floor window has a greater degree of light and outlook because of its position above the single storey rear outrigger of the appeal property.
23. In comparison to the existing single storey rear outrigger, the proposed 2 storey rear extension would result in a significant increase in height and scale. Taken together with its position adjoining the boundary with No 65, the proposed extension would increase the enclosure of the neighbouring windows and would cause a significant loss of daylight and outlook to the habitable rooms. In respect of sunlight, the proposed extension would not cause a significant loss to the neighbouring windows due to its position to the north.
24. The appellant has referred to a development at Nos 68 – 69 Windmill Street where he states that listed building consent was granted for 2no 3 storey extensions. The photographs in the appellant's appeal statement show windows positioned between the 3 storey extensions. Nevertheless, details of that

scheme are not before me and I am unaware of the nature of those windows. In any event, I am not bound by other decisions made by the Council.

25. For these reasons, I conclude that the proposed development would be harmful to the living conditions of the occupiers of No 65 Windmill Street, with particular regard to daylight and outlook. The proposal would therefore be contrary to Policy CS19 of the LPCS, which, amongst other things, states that new development will safeguard the amenity of neighbouring properties. It would also be contrary to paragraph 127 of the Framework, which, seeks a high standard of amenity for existing users.

Cycle parking

26. Cycle storage provision is not shown on the proposed plan, however, the rear yard is large enough to accommodate a suitable cycle storage facility. Therefore, a planning condition could be imposed to require details of cycle storage provision to be submitted to the Council for approval.
27. I therefore conclude that adequate cycle storage facilities could be provided and so the proposal would comply with Policy CS11 of the LPCS, which, amongst other things, seeks improvements to cycling facilities in the Borough.

Other Matters

28. The Council states that the proposed development would be located within the buffer zone of the Thames Estuary and Marshes Ramsar Special Protection Area (the SPA). The SPA is a European designated site which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, regulation 63(1) of the Habitat Regulations indicates that the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. As I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter further.
29. I have had regard to the representations from local residents, which, in addition to the above main issues, raise concerns including: the proposal will cause disruption and noise and will adversely affect quality of life; it will add to the population of an area that is already overcrowded; insufficient parking; and construction vehicles will block the service road. As I am dismissing the appeal for other reasons, these considerations would not alter my decision.

Planning Balance and Conclusion

30. The Council cannot demonstrate a deliverable 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 is engaged.
31. The proposal would result in the creation of 4 dwellings in an accessible location, which would make a limited contribution towards addressing the shortfall in housing land supply. The proposal would bring temporary economic benefit from the construction process, and the long-term economic benefit from the boost to local services from the new residents. These factors weigh in favour of the proposal, but the benefits would be limited because only 4

residential units are proposed. As such, I give these considerations only limited weight in my decision.

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. It would also cause harm to the living conditions of the occupiers of No 65 Windmill Street.
33. Even if I had found that the proposal would avoid an adverse effect on the integrity of the SPA, and hence that there was not a clear reason for refusing the development proposed, I conclude that the identified adverse effects of the proposal would significantly and demonstrably outweigh the benefits outlined above, when assessed against the policies in the Framework taken as a whole. Furthermore, there would be clear conflict with the development plan policies in respect of the identified adverse effects of the proposal. Therefore, the appeal should be dismissed.

C Osgathorp

INSPECTOR