



Appeal Decision

Site visit made on 23 June 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 17 July 2020

Appeal Ref: APP/K2230/W/19/3243430
33 Chalk Road, Gravesend 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 Gravesham Borough Council.
 - The application Ref: 20190991, dated 18 September 2019, was refused by notice dated 14 November 2019.
 - The development proposed is the erection of a pair of two-bedroom houses 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 application was submitted in outline form, with landscaping reserved for future consideration. I have had regard to details regarding landscaping on an indicative basis only.

Main Issues

3. The main issues are:
 - the effect of the development upon the Special Protection Area (the SPA);
 - whether appropriate living conditions would be provided for the future occupiers of the development;
 - the effect of the development on the living conditions of the occupiers of neighbouring properties;
 - the effect of the development upon highway safety; and
 - the effect of the development upon the character and appearance of the surrounding area.

Reasons

Effect of the development upon the SPA

4. The appeal site falls within 6km of the Thames Estuary and Marshes Special Protection Area (the SPA). The SPA is also identified as a Wetland of International Importance under the Ramsar Convention. The SPA supports a number of wintering water birds and migrating birds. As a residential development, the proposal would increase the number of residents within the

vicinity. In turn, this is likely to increase the demand for outdoor recreation facilities, which could be required within the SPA.

5. This is a concern, as owing to the particular environmental sensitivities of the SPA, an increase in the level of recreation activity is likely to erode its special significance. The evidence before me indicates that mitigation could be provided via the provision Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM), which might be secured through a legal agreement.
6. The appeal documentation suggests that such a legal agreement will be entered into. However, no such agreement is part of the evidence before me. In consequence, I am unable to identify a legally binding mechanism by which the requisite SPA mitigation could be secured. The documentation also suggests that a payment would be made directly to the Council. However, this in the absence of any formal obligations does not provide me with certainty that the required mitigation would be provided.
7. I have had regard as to whether a condition could be imposed in order to overcome this point. However, given that a financial contribution is required, this would not meet the legal and policy tests for the imposition of planning conditions. In consequence, a planning condition would not provide a mechanism regarding the delivery of the required mitigation.
8. Although the proposed development has the potential to accommodate additional planting, this would not equate to a SANG.
9. I therefore conclude that the proposed development would be likely to have an adverse effect on the SPA. The development, in this regard, would fail to accord with the requirements of Policy CS12 of the Gravesham Local Plan Core Strategy (2014) (the Core Strategy). This policy, amongst other matters, seeks to ensure that sites designated for their biodiversity value will be protected, with the highest level of protection being given to those that have been internationally designated.

Living conditions of the occupiers of the proposed development

10. Whilst the application was submitted in outline form, the siting of the proposed dwellings has not been reserved for future consideration. The proposed dwellings would be located to the rear of the existing bungalow, which has a dormer window in the rear roof slope. The adjoining dwellings are houses with first-floor rear windows that face the appeal site.
11. By reason of the height of the existing dwellings views would exist into the front elevation windows of the proposed dwellings. As these windows would, amongst other rooms, serve a main living room, the residents of the proposed development would not experience a sufficient level of privacy.
12. On account of the closeness between the proposed dwellings, the existing bungalow, and the site's boundaries, in addition to the height of the existing houses it would not be feasible to install landscaping or boundary treatments that might provide some screening of views.
13. I understand that the proposed development would not comply with the Nationally Defined Space Standards (NDSS). However, I have not been directed towards a policy that requires developments to be carried out in

accordance with these standards. Therefore, whilst the room sizes may not be the largest, the smaller rooms might be attractive to some households.

14. In consequence, as the development includes all the facilities that might be reasonably anticipated within a residential development, I do not believe that the actual layout of the proposed dwellings would prevent residents experiencing satisfactory living conditions. However, this does not overcome the lack of privacy that future residents would experience.
15. I therefore conclude that the proposed development would fail to provide appropriate living conditions for the future occupiers of the development. The development, in this regard, would fail to comply with the requirements of Policy CS19 of the Core Strategy. Amongst other matters, this policy requires that new development be located, designed and constructed to safeguard the living conditions of its occupants.

Living conditions of the occupiers of neighbouring properties

16. The proposed development would be located within a rear garden, which is surrounded by wooden fences. The site, and some neighbouring properties, feature rear outbuildings. Access to the proposed development would be created via a new driveway to be sited in between the existing dwelling and 35 Chalk Road.
17. The area between the two existing dwellings is narrow in nature and, in consequence, the bulk of this gap would be taken up by the proposed access. Several properties within the immediate vicinity of the site feature dropped kerbs, which lessens the availability of on-street parking. Therefore, it is likely that the proposed car parking would be widely used owing to its convenience.
18. This creates a concern as there are a large number of windows on the side elevation of the existing dwelling, and a single side window on the neighbouring house at No. 35. In consequence, it is likely that vehicle movements would generate excessive noise, which would harm the living conditions of the occupiers of the existing dwellings. This is particularly noteworthy as the access could be used during late evenings, or early mornings.
19. The access would potentially be used by people unconnected with the occupiers of the existing bungalow. This would prevent the on-going securing of a satisfactory level of privacy for existing residents. Owing to the scale of the access, and its proximity to existing residents, it would not be reasonably possible to screen any such views.
20. The proposed dwellings would be of a single storey and, in result, the limited height would prevent the development from having an overbearing effect upon the occupiers of adjoining properties. In reaching this view, I have had regard to the screening effect that the site's boundary fences would have. In addition, the proposed dwellings would have a relatively small footprint, whilst the appeal site, and several other neighbouring dwellings, feature outbuildings. This arrangement also means that the levels of light experienced by the occupiers of existing properties would not be significantly diminished.
21. Whilst I do not believe that the proposed development would have a notable adverse effect on the levels of light and outlook experienced by the occupiers of existing properties, this does not outweigh the harm arising from the

adverse effect on privacy levels. I conclude that the proposed development would have an adverse effect on the living conditions of the occupiers of existing properties. The development, in this regard, would fail to accord with the requirements of Policy CS19 of the Core Strategy. This policy, amongst other matters, seeks to maintain the living conditions of the occupiers of neighbouring properties and not have an adverse environmental impact, including from noise.

Highway safety

22. The proposed development would be located to the rear of an existing dwelling, which would be accessed via a single-track drive. The proposed development includes some off-street car parking spaces, which are located adjacent to a turning area.
23. By reason of the length of the driveway, and the scale of the proposed dwellings, it is likely that the proposed parking spaces would be widely used. This poses a concern as if these spaces are to be utilised, it reduces the available space for larger vehicles to turn in, so that they might enter and leave the site in a forward gear.
24. Concerns have been raised regarding the length of the driveway and the fact that fire appliances would not have enough room to turn around. Whilst I acknowledge that such vehicles might not attend the site on a regular basis, their presence cannot be discounted, and therefore appropriately sized turning areas should be provided. Although a fire appliance could stop part way down the access road so that it is closer to the road, operators of the appliance may not be familiar with the layout of the site and therefore would not know where to stop. As such, parking may take place closer to the proposed dwellings.
25. In result, the proposed development is likely to require larger vehicles to either reverse onto, or off, the site. This would not be desirable as owing to the size of such vehicles a manoeuvre of this type and complexity is likely to result in conflict with other road users and pedestrians. In addition, the layout of the proposed development, and pattern of buildings within the vicinity would mean that such a manoeuvring vehicle would not be easily seen by other highway users.
26. I note that the proposed development would include cycle storage and electric car charging points, and that these could be secured via a planning condition. Whilst this is of some benefit, it would not overcome the harm to highway safety as previously identified.
27. I therefore conclude that the proposed development would have an adverse effect on the levels of highway safety. The development, in this regard, would fail to comply with the requirements of Policy CS11 of the Core Strategy and Policies P3 and T5 of the Gravesham Local Plan First Review (1994). These policies, amongst other matters, seek to ensure that new developments mitigate their impact on the highway system, have properly formed accesses, and have appropriate car parking provision.

Character and appearance

28. Although the planning application was submitted in outline form, design and siting have not been reserved for future consideration. The proposed development consists of two bungalows located to the rear of an existing

- bungalow. The existing dwelling is sited within a linear form of development, with houses immediately adjoining the site. Existing dwellings are constructed to a variety of designs and some have been constructed to the rear of other buildings.
29. Due to the mixture of the dwelling designs in the surrounding area, the proposed development would not appear unduly incongruous as it would be viewed against a backdrop of buildings that have a variety of different designs and locations.
30. In addition, the proposed dwellings would be located behind a bungalow, with houses either side. In result, views of the proposed development from the wider area would be particularly limited as they would be screened by existing buildings within the surrounding area. This would substantially reduce their prominence.
31. Whilst views would be possible in front of the site, these would be relatively fleeting owing to the presence of the existing bungalow. In consequence, the proposed development would only be viewable through the relatively narrow gaps to the side of the existing bungalow. As such, the proposed development would not be particularly prominent within the street.
32. The proposed development would be viewable from adjoining properties. However, any such views would be reduced by reason of the limited height of the development and screened, to an extent, by the site's boundary treatment. In consequence, the development would not be particularly prominent. In addition, the development would be viewed against a backdrop that includes some outbuildings. In consequence, the proposed development would not appear unduly incongruous or strident.
33. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, would comply with the requirements of Policies CS14, CS15, and CS19 of the Core Strategy. These, amongst other matters, seek to ensure that new developments provide a range of dwellings; does not compromise the distinctive characteristics of an area; and are visually attractive.

Other Matters

34. The evidence before me is indicative that the Council cannot currently demonstrate a five-year housing land supply. Accordingly, the 'tilted balance' as outlined in paragraph 11(d) of the Framework applies. This states that planning permission should be granted for residential development unless the benefits of the proposal are significantly and demonstrably outweighed by the harm.
35. Whilst the development would deliver some additional dwellings, the benefits arising from this are somewhat limited given that the proposal is for two dwellings only. Furthermore, any economic benefits arising from the construction and occupation of the development would be limited by reason of the scale of the proposal and relatively localised in impact. Accordingly, I find that the benefits of the proposal are significantly and demonstrably outweighed by the harm to the SPA, the living conditions of the occupiers of neighbouring

properties and the lack of appropriate living conditions for the future occupiers of the development.

36. My attention has been drawn to several different developments and sites within the surrounding area. I do not have the full information regarding their planning circumstances before me, which lessens the weight that I can attribute to them. However, I note that these developments are of differing designs, have different relationships with other residential properties and, in some cases, are for different types of residential accommodation, such as a residential annexe. Accordingly, I do not believe that the presence of these buildings requires me to disregard my previous conclusions.

Planning Balance and Conclusion

37. Whilst I do not believe that the proposed development would have an adverse effect upon the character and appearance of the surrounding area, this is outweighed by the significant harm arising to the SPA, the living conditions of the occupiers of neighbouring properties and the lack of appropriate living conditions for the occupiers of the proposed development. Accordingly, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR