
Appeal Decision

Site visit made on 21 September 2020

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/K2230/W/20/3253264

Rear of No 22 St Hilda's Way, Gravesend, Kent DA12 4AP

- 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 Chunhua Fu against the decision of Gravesend Borough Council.
 - The application Ref 20200127, dated 7 January 2020, was refused by notice dated 2 April 2020.
 - The development proposed is described as to divert the plot into two, removal of shed and greenhouse, construction of single storey detached dwelling associated with new driveway (1 No. parking bay) and footway to the main road (St Hilda's Way).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is an inconsistency in the red line boundary of the appeal site as shown in the 'as existing' site and location plans¹ and in the equivalent 'as proposed' plans.² I note that the appellant's appeal documents correspond to the as proposed plans. I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the area;
 - the living conditions of the existing occupiers of the host dwelling and of No 20 St Hilda's Way and No 16 The Drive, having particular regard to privacy, disturbance and outlook; and
 - the living conditions of future occupiers, having particular regard to outlook and privacy.

Reasons

Character and Appearance of the Area

4. No 22 St Hilda's Way (No 22) is a two-storey semi-detached house in a residential suburb of Gravesend. It is near the corner and junction with St David's Crescent and is broadly typical of the siting and design of the majority of nearby houses which have been developed at a moderate density facing along road frontages. Most of these, including No 22, have reasonably

¹ Drawing number 18060 (01) 001

² Drawing number 18060 (02) 001 A

long rear gardens (which at No 22 is wider than many) and include domestic scale outbuildings. This part of St Hilda's Way slopes up behind No 22 so that the more distant two storey houses and intervening bungalows in a short cul-de-sac in The Drive form an elevated backdrop. This arrangement of houses and gardens provides an appreciable spaciousness to the area, especially at No 22.

5. The appeal proposal would sub-divide the far end of the rear garden, which is the highest part, into a new residential curtilage. The bungalow would occupy most of the plot width and about half of the plot depth. As a result, it would be very close to boundaries on three sides and reasonably close to the bungalow at No 16 The Drive (No 16). Such a tight, intensive layout and arrangement of built form would unduly erode openness and be at odds with the looser knit pattern of development in St Hilda's Way and St David's Crescent.
6. Furthermore, even though the garden would meet the Council's minimum standard in area for a two bedroom dwelling, its relatively limited size and almost square shape would nevertheless be disproportionate to the majority of rear gardens in St Hilda's Way and St David's Crescent. In addition, combined with the proposed car parking area the appeal proposal would severely truncate the size and shape of the rear garden of No 22, which despite its width to the side of the house would nonetheless be less than half its current size and also therefore at odds with the prevailing layout of these gardens.
7. Despite excavation of the appeal site to lower ground level, and the relatively low pitch and ridge height, parts of the bungalow would nonetheless project appreciably above proposed boundary fences. Its overall scale and massing would be disproportionately greater than domestic outbuildings and it would therefore be visually intrusive in public upward views from St Hilda's Way through the wide gap between No 22 and No 24 St Hilda's Way, from the access way next to the appeal site (and be all the more conspicuous in both of these views due to the removal of a tall side boundary hedgerow and a tree at the appeal site), from the lower part of St David's Crescent near the junction, upwards and across rear gardens and an access way facing towards the appeal site, and downwards from The Drive in the vicinity of the bungalows across a communal open space.
8. I appreciate that the proposed bungalow would have an orientation, layout, floorplan and scale and massing that was similar to some of the bungalows in The Drive, including No 16. However, due to the significant change in land levels and the position and height of intervening boundary treatments it would have no meaningful visual or physical interrelationship with these bungalows, which form a discrete arrangement of development beyond the appeal site (distinct from St Hilda's Way and St David's Crescent). The appellant contends that separation distances between existing and proposed elevations of dwellings would meet the requirements of the Kent Design Guide. However, the Kent Design Guide is not before me in evidence in this appeal and the appellant has not therefore substantiated this.
9. Considering the above, infilling the appeal site as proposed would appear as an incongruous form of development, manifestly out of keeping with the existing distinctive pattern of houses and gardens and would as a result cause significant harm to the character and appearance of the area. It would not accord with Policies CS14, CS15 and CS19 of the Gravesham Local Plan Core

Strategy, September 2014 (the CS). These policies include that development should not compromise the distinctive character of the local built environment and integrate well with the local surrounding area. It would also be inconsistent with the National Planning Policy Framework (the Framework) paragraphs 124 and 127. These include that development should create high quality places and add to the overall quality of the area, be visually attractive as a result of good layout and be sympathetic to local character and to the surrounding built environment.

Living Conditions of Existing Occupiers

10. The car parking area would be partly on raised ground level above the rear garden of No 22 and enclosed by a 1.5m high fence. This would therefore allow unobstructed short distance views down into the rear garden of No 22 and angled views towards the rear elevation of No 22 which includes ground floor habitable room windows and a mainly glazed conservatory, and horizontal views towards first floor habitable room windows. Consequently, there would be an unduly intrusive degree of overlooking. Furthermore, while it is not unusual for gardens to be next to each other, the close proximity and therefore reasonably steep elevation of the parking area would render noise and observation of activity in this area, including people and vehicle engines and manoeuvring, significantly more apparent to the occupiers of No 22. It would therefore unduly disturb the use of the rear garden and be overly intrusive in outlook from the garden and windows.
11. The rear elevation of the bungalow would be reasonably narrow and set down at a lower level than the rear garden of No 20 St Hilda's Way (No 20). The vertical part would therefore be mostly screened from view by the existing fence along this common boundary. Furthermore, despite its proximity the height of the pitched roof it would be fully hipped so would narrow as it increased in height and its slope would recede away from the garden at No 20. It would not therefore unduly affect the outlook of occupiers in the rear garden of No 20.
12. While a side elevation of the bungalow would be sited reasonably close to the bungalow at No 16, the vertical part would be set down at a lower level and in combination with a boundary fence would therefore be screened in views from a window in the facing elevation of No 16. Although the reasonably long and extensive bungalow roof would be seen in this view, it would be at an angle and sited slightly off-set to one side of the direct line of sight. In addition, as its height increased, the fully hipped roof slope would recede away from No 16. It would not therefore unduly affect the outlook of the occupiers of No 16.
13. Considering the above, the appeal proposal would cause significant harm to the living conditions of the existing occupiers of No 22 (the host dwelling), having particular regard to privacy, disturbance and outlook. It would not accord with CS Policy CS19. This policy includes that development should safeguard the amenity, including privacy, of the occupants of neighbouring properties and avoid adverse environmental impacts from pollution including noise. It would also be inconsistent with the National Planning Policy Framework (the Framework) paragraph 127 which includes that development should have a high standard of amenity for existing users.

Living Conditions of Future Occupiers

14. It is not unusual for there to be a more limited outlook from a non-habitable room window. Although the proposed kitchen window would face towards a relatively close retaining wall and fence above, it would be across a reasonably wide passageway along this side of the bungalow and therefore provide sufficient distance for satisfactory outlook commensurate with the function of this room. In addition, two secondary windows of the combined living and dining room would face towards the tall rear garden fence of No 20 which would be in relatively close proximity across a narrow pathway. However, the main outlook for this habitable room would be through a wider end window, including opening French style doors, and be to the side and across the rear garden. This would therefore provide satisfactory outlook.
15. Views from the first floor windows in the rear elevations of No 20 and No 22, towards the main window and doors of the proposed living and dining room would be significantly limited by the position and height of the intervening garden boundary fences (and in the case of No 20, be at an angle which would further reduce the extent of view) and would not therefore be unduly intrusive. Furthermore, the view out of the window in the facing elevation of No 16 would not be towards any habitable room windows in the proposed bungalow or even into the passageway due to the abrupt change in land levels and the reasonably steep angle of view. In addition, the bungalow would itself screen any views from this window towards the proposed rear garden.
16. Considering the above, the appeal proposal would not cause harm to the living conditions of the future occupiers of the bungalow having particular regard to outlook and privacy. It would accord with CS Policy CS19. This policy includes that development should safeguard the amenity, including privacy, of the occupants of neighbouring properties. It would also be consistent with the National Planning Policy Framework (the Framework) paragraph 127 which includes that development should have a high standard of amenity for future users.

Other Matters

17. The Council did not object to the appeal proposal for highways or parking reasons and, on the evidence before me, I have no reason to reach a different view in these regards. I also appreciate that were planning permission to be granted it could include a condition to ensure that details of external finishes and joinery are submitted to and approved by the Council. However, the absence of harm in these matters is a neutral factor in my decision.
18. The appeal proposal would be located within 6km of the Thames Estuary and Marshes Special Protection Area (SPA), which is also a Ramsar site wetland of international importance. On the very limited evidence before me, the Council has adopted a mitigation strategy which includes a tariff style financial contribution for new residential development, to be secured by a planning obligation. However, the appellant has not submitted a planning obligation in this regard. This matter cannot therefore be appropriately dealt with by a condition, as the appellant otherwise suggests. In the absence of suitable mitigation of the impact of the appeal proposal on the SPA and Ramsar, I cannot be certain that it would not adversely affect the integrity of the SPA and Ramsar. Nonetheless, as I intend to dismiss the appeal on other grounds, there

is no prospect of planning permission being granted in this case and it is not necessary for me to consider this matter any further.

19. The Council states that it not able to demonstrate a 5-year housing land supply (HLS), though there is no evidence before in this appeal regarding the scale of the shortfall. Nonetheless, on the evidence that is before me the Council cannot therefore presently demonstrate a 5-year HLS. As a consequence, by virtue of footnote 7, Framework paragraph 11(d) is engaged such that the development plan policies which are most important for determining the application are out-of-date. Accordingly, the presumption of sustainable development as set out in Framework paragraph 11 requires planning permission to be granted unless either of two circumstances apply.
20. The first is where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed (paragraph 11(d)(i)). These policies are set out in footnote 6 to paragraph 11 and include (by virtue of Framework paragraph 176) SPAs and Ramsars. Given my findings on the SPA and Ramsar above, the Framework provides a clear reason for refusing the proposal in this regard. The second is where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole, in which case in accordance with Framework paragraph 11(d)(ii) the presumption in favour of sustainable development would not apply.

Planning Balance and Conclusion

21. As explained in the main issues above, the appeal proposal would cause significant harm to the character and appearance of the area and to the living conditions of the existing occupiers of No 22 St Hilda's Way. I attach substantial weight to both of these harms. It would not cause harm to the living conditions of the future occupiers of the proposed bungalow, however the absence of harm in this regard is a neutral factor in my decision. Even if the extent of the HLS shortfall was substantial, a single two-bedroom bungalow would add to the number and range of dwelling type and size in the locality but this would be a modest benefit of the development and I give this limited weight. The appeal proposal would not therefore accord with the development plan overall.
22. Consequently, I find that the scale of the development proposed and the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR