
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: 18 January 2021

Appeal Ref: APP/K2230/W/3252788

Hollycroft, Watling Street, Higham, Rochester ME2 3UQ

- 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 K Singh against the decision of Gravesham Borough Council.
 - The application Ref 20200194, dated 21 February 2020, was refused by notice dated 17 April 2020.
 - The development proposed is described as conversion of existing double garage into a self contained annex dwelling for clients elderly parents accommodation on site of his home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. According to the appeal questionnaire, the appeal site is within a Green Belt (GB) and also in, or adjacent to, or likely to affect a site of special scientific interest (SSSI) or an internationally designated site (IDS). On the evidence before me the appeal site is located in a settlement inset from the GB and there is no GB reason for refusal in the Council's decision. I have dealt with the appeal on this basis. I deal with the SSSI and the IDS in 'other matters' below.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - its effect on the living conditions of the existing occupiers of Hollycroft and on the future occupiers of the annexe, having particular regard to privacy; and
 - its effect on controlled waters, having particular regard to pollution.

Reasons

Character and Appearance

4. Hollybrook is a large detached house set back from Watling Street behind a wide grass verge, on a slightly lower ground level, with views through to countryside at the rear. The front garden is quite long and wide with a wall facing the road and in one corner is a large detached double garage with a pitched roof. There are some shrubs and trees in the garden (including

evergreen species) which appear above the wall, and a large tree in the verge next to the wall. Hollybrook is in a row of similar sized houses with landscaped front gardens along this part and side of Watling Street and many have reasonably large outbuildings. There is higher density housing on the opposite side of Watling Street but it is distant from the road and behind a wide belt of trees. While it is a busy main road, the area nonetheless has a distinct spacious and verdant semi-rural nature.

5. The appeal proposal would convert and extend the garage to provide a detached 2-bedroom residential annexe with a small private side garden space. At ground level the floorplan of the garage would be significantly enlarged mainly to one side and to the rear (facing towards Watling Street) and slightly to its front (facing Hollybrook). It would require some tall shrubs to be removed. Considering the large area of the front garden the increased floorplan of the building would not therefore significantly erode the extent of openness or unduly close the gap to Hollybrook in this regard.
6. However, the development would fundamentally alter the simple rectilinear floorplan and simple pitched roof design of the garage. The new pitched roof would be aligned at right angles to the existing roof to create a distinct 'L' shape and be at the same height to the existing ridge. Despite the lower flat and hipped roofed parts, and that the building would remain subservient to Hollybrook and be smaller in scale and massing than some other development in front gardens along this side and part of Watling Street, the pitched roof part would nonetheless therefore be a substantial addition and be on a part of the building with an aspect facing towards Watling Street. Consequently, it would result in an unduly disproportionate addition to the volume of the garage building at the most prominent roof level.
7. The increased scale and massing of the building at roof level would therefore be an overdevelopment at the appeal site and a cramped arrangement of built form in relation to Hollybrook. It would be unduly conspicuous in short distance public views from the higher ground in Watling Street, through some gaps in the remaining trees and shrubs or over the top of some shrubs and the wall, particularly in summer months when the large verge tree was not in leaf. In addition, while there would be no public views of some parts of the building (due to boundary treatments and its orientation) nonetheless the flat roofed part would be intrinsically at odds with the predominant pitched roof form of the building and the double 'bay' windows would give an overly domestic appearance. This would result in a disparate arrangement and appearance of built form and a building reminiscent of a separate dwelling rather than a converted and annexed utilitarian outbuilding.
8. Considering the above, the appeal proposal would therefore cause significant harm to the character and appearance of the area. Consequently, it would not accord with Policy CS19 of the Gravesham Local Plan Core Strategy, September 2014 (the CS). This policy includes that development should conserve and enhance the character of the local built environment, integrate well with the surrounding local area and make a positive contribution to the street scene including with regard to scale and height. It would also conflict with the National Planning Policy Framework (the Framework) paragraphs 124 and 127. These include that development should create high quality buildings and places, add to the overall quality of the area and be sympathetic to local character.

Living Conditions

9. Windows to the proposed bedrooms would face Hollybrook across an open courtyard with ground floor windows directly opposite, about 14 metres away. This distance would therefore be significantly below the Council's 21 metre guideline for facing windows.¹ On the evidence before me, it is not clear whether the windows in Hollybrook are to habitable rooms and I am therefore unable to reach a firm view on the potential impact of the development on the occupiers of Hollybrook. However, even if they are not habitable rooms, the proximity of these windows would nonetheless allow significant detrimental overlooking and unduly intrusive views towards the development and of activity within the proposed bedrooms.
10. It would not be reasonable for future occupiers to have to rely on drawing curtains or closing blinds to mitigate these effects as this would likely unduly interfere with the use and enjoyment of this living accommodation, for example having regard to daylight, sunlight and outlook. Intrinsic adverse impacts such as this could not be alleviated or justified by occupation of the development by family members because the development would nonetheless not meet normal and expected standards for satisfactory living accommodation.
11. Considering the above, the appeal proposal would cause significant harm to the living conditions of future occupiers, having regard to privacy. The development would not accord with CS Policy CS19. This policy includes that development should be fit for purpose and safeguard the amenity (including privacy, daylight and sunlight) of its occupants. It would also not reflect the Council's SPG and would conflict with Framework paragraph 127. This includes that development should have a high standard of amenity for future users.

Controlled Waters

12. The appeal site is located within a principal aquifer and safeguarded ground water source protection zone. These controlled waters are therefore particularly sensitive to potential pollution. The Council's officer report considered that means of disposal of surface water via a soakaway is the reason for an Environment Agency (EA) objection to the development² and the basis for the Council's third reason for refusal. However, this EA letter objects to the proposed non-mains foul drainage in circumstances where it considers that there is a local main foul sewer, though at appeal stage the EA commented again³, uncertain as to the extent of the nearest foul sewer or the details of any proposed non-mains drainage, such as private treatment plant or sealed cess pit (not septic tank).
13. I appreciate that the appellant considers that Hollybrook already discharges sewage to a septic tank in the rear garden, but nonetheless there is no objective evidence before me that mains foul drainage is not possible for the appeal proposal, or to justify that a septic tank would be suitable and appropriate. The appellant has not therefore substantiated that there would be no adverse impact on controlled waters. Accordingly, there is an unresolved risk of pollution and consequently significant potential harm to controlled waters.

¹ 'Residential Layout Guidelines' supplementary planning guidance, February 1996 (the SPG).

² EA letter dated 18 March 2020.

³ EA letter dated 3 August 2020.

14. In these circumstances, the development would not accord with CS Policies CS18 and CS19. These policies include that development should reduce impacts on the supply of potable water, avoid adverse environmental impacts from pollution and not pose an unacceptable risk or harm to the water environment including the quality and/quantity of ground water. It would also conflict with Framework paragraphs 170 and 178 which include that a site should be suitable for its proposed use taking account of ground conditions and that development should not have an unacceptable risk of soil pollution and wherever possible help to improve water quality.

Other Matters

15. The appeal proposal would provide facilities potentially for independent day-to-day living and could therefore be occupied as a separate dwelling, in a location where new dwellings are acceptable in principle. However, considered as a dwelling, the proposed building (and its plot) would be substantially smaller than Hollybrook and nearby dwellings and clearly sited in front of the general building line along Watling Street. It would as a result be an inconsistent and inappropriate sub-division of the appeal site, manifestly out of keeping with the prevailing pattern and layout of development in the immediate locality and would lead to an overly intensive form of residential development at the appeal site.
16. Nevertheless, the planning application was not submitted on the basis of a separate dwelling and whether or not it would be a residential annexe (ie ancillary living accommodation) or a separate dwelling would be a matter of fact and degree.⁴ In this respect, I have also had due regard to the personal reasons advanced by the appellant and that a residential annexe would allow extended family occupation by an elderly relative, as opposed to living in a care home elsewhere, which is of particular resonance in the current Covid-19 pandemic. I sympathise with the appellant and have no reason to doubt that these are genuine and sincere intentions, however these considerations do not outweigh the harm that I have identified in the main issues above. I have also borne in mind that the development would remain long after these personal circumstances have ceased to be material.
17. There is no SSSI or IDS reason for refusal in the Council's decision, neither is referred to in the Council's officer report and there is no substantive evidence before me in this appeal in these regards. In the absence of suitable mitigation of the impact of the appeal proposal on a SSSI or IDS, I cannot be certain that it would not adversely affect the integrity of a SSSI or IDS. 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.

Conclusion

18. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁴ *Uttlesford DC v SSE & White [1992] JPL 171.*