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## Appeal Decision

Site visit made on 20 April 2021

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28 April 2021**

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**Appeal Ref: APP/K2230/W/20/3248470**

**56A Arthur Street, Gravesend, Kent DA11 0PR**

- 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 J Dhillon against the decision of Gravesend Borough Council.
  - The application Ref 20191237, dated 18 November 2019, was refused by notice dated 16 January 2020.
  - The development proposed is conversion of part of ground floor retail unit into a self-contained flat.
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### Decision

1. The appeal is dismissed.

### Background and preliminary matters

2. From the information submitted, it appears that the whole of the ground floor of the appeal property was originally part of the frontage retail unit. In 2018 the rear part was converted to a self-contained dwelling, comprising a combined kitchen/dining/living room, a bedroom, and a shower room/wc. In 2018 and 2019, two applications were made which included retrospective permission for the use of this area as a one-bedroom flat. These were refused.
3. In the present application, the submitted plans show a proposed alteration to the internal layout, which would include removing two internal walls, to form a single combined kitchen/dining/living/sleeping space. The accompanying letter describes the accommodation, as thus altered, as a self-contained studio flat. This description is contradicted in the application form, and in some of the other documents, where the proposal is still described as a 1-bedroom flat. However, having regard to the application as a whole, it is clear that the intention was for a studio unit, and I have dealt with the appeal on this basis.
4. The Council's Refusal Reason 2 (RR2) related to a potential impact on the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. Subsequently, the appellant has accepted the need for a contribution to the relevant mitigation scheme. On the evidence before me therefore, RR2 is no longer in dispute. In the light of my conclusions on the other issues in this appeal, there is no need for me to consider this matter further.

### Main issue

5. The single main issue remaining in the appeal is whether the proposed residential unit would provide acceptable living conditions for future occupiers, in terms of the amount of space that it would offer.

## Reasons for decision

6. With the removal of the bedroom and lobby walls as now proposed, the ground floor flat would have a gross internal floorspace of about 31 sq m. Of this, about 2 sq m would be taken up by the bathroom, and the remainder would be a single combined living space.
7. In the Gravesham Core Strategy (the GCS), adopted in September 2014, Policy CS19 requires developments to be fit for purpose, and to meet a list of design criteria. Amongst other things, these include that the design and layout should accord with the Residential Layout Guidelines (the RLG), adopted as supplementary guidance in February 1996. For the present appeal proposal, the nearest applicable standard in the RLG is that for 'bedsits', which requires a minimum of 30 sq m in total. It does not appear to be disputed that, if that standard were applied, the appeal scheme as now configured would comply.
8. However, since the adoption of the GCS, the Nationally Described Space Standards (the NDSS) have been brought into effect, from October 2015. In the NDSS, the nearest applicable standard is that for 1-person flats with a shower room, which requires a gross internal area of 37 sq m, including 1.0 sq m of built-in storage. The Written Ministerial Statement (WMS) which introduced the NDSS, dated 25 March 2015, states that existing local plan policies relating to space within dwellings should now be interpreted by reference to the nearest equivalent NDSS standard.
9. In my view, it is clear from this that, where there is an applicable standard specified in the NDSS, national policy requires that standard to take precedence over the RLG. In the present case, I can see no reason why the NDSS standard for 1-person units should not be applicable to the appeal proposal. On this basis, the scheme falls short of the relevant NDSS requirement, by around 6 sq m.
10. I agree that, whichever standards are applied, they should be seen as guidance rather than mandatory. But even so, from my inspection it is clear that the accommodation provided at the appeal premises is very limited. Even with the removal of the two walls as proposed, it is difficult to see how larger items of furniture such as a table, desk or wardrobe would be fitted in. To my mind, the space would be unacceptably cramped, and would not offer the kind of living conditions that might reasonably be expected by any residential occupier. Irrespective of any quantitative space standards, the National Planning Policy Framework (the NPPF), at paragraph 127(f), advocates that all developments should achieve a high standard of amenity for existing and future users, and the present appeal scheme would fail to meet this expectation.
11. I have had regard to the appellants' contention that the Council has not formally adopted the NDSS. But the terms of the WMS do not require any such action. In any event, the Housing Policy Statement dated 1 October 2015 makes clear the Council's decision that, as a result of the introduction of the NDSS, the space standards in Tables 1 and 3 of the RLG will no longer be applied. Whilst this Policy Statement does not appear to have been formally adopted as an alteration to the development plan, I can see no reason why that would have been necessary, given that the RLG itself was only supplementary guidance.

12. I note the two appeal decisions referred to, where an Inspector concluded that the space to be provided in those cases would be acceptable, despite not complying with the NDSS. In one of those cases, the space provided was slightly less than in the present appeal. But those appeals were determined on their own particular merits, and on the evidence available at the time. That is also the approach that I have adopted. In the present case, the evidence leads me to the conclusions set out above.
13. I conclude that the proposed development would fail to provide acceptable living conditions for future occupiers, due to the inadequacy of the space provided. The scheme therefore conflicts with GCS Policy CS19.

#### **Other matters**

14. As at the date when permission was refused, it was agreed that the supply of housing land in Gravesham was less than the 5-years' worth required by the National Planning Policy Framework (NPPF). There is nothing before me to suggest that the position has changed since then. The NPPF aims to significantly boost the supply of housing, and the lack of a 5-year supply in the Borough is therefore a material consideration.
15. Given this acknowledged shortfall, if the appeal proposal were able to provide reasonable living conditions, then the benefit of providing an additional dwelling would carry significant weight. However, for the reasons already explained, I have found that living conditions in the dwelling now proposed would not be acceptable. In these circumstances, the potential benefit is largely negated, and carries little weight.

#### **Planning balance and overall conclusion**

16. As set out above, I have found that the proposed development would provide inadequate living space for future occupiers, contrary to GCS Policy CS19. No other directly relevant policies have been identified. The proposal therefore fails to accord with the development plan as a whole.
17. Given the shortfall in the 5-year housing supply, NPPF paragraph 11(d) requires the most important policies to be treated as out-of-date. But in this case there is no suggestion that Policy CS19 is inconsistent with national policies, and thus there is no reason to give it anything less than full weight.
18. Applying paragraph 11(d)(ii)'s 'tilted balance', for the reasons already stated, the benefits of the proposed development would be small, because the resulting dwelling would be inadequate. Whereas the harm caused to the future occupants' living conditions would be substantial. The benefits would thus be significantly and demonstrably outweighed by the adverse impacts.
19. Having taken account of all the other matters raised, nothing outweighs the identified conflict with the development plan. The appeal is therefore dismissed.

*J Felgate*

INSPECTOR