



Appeal Decision

Site visit made on 7 October 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 01 November 2021

Appeal Ref: APP/K2230/W/20/3264360
100C Wrotham Road, Gravesend, DA11 0QH

- 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 S Gill against the decision of Gravesham Borough Council.
 - The application Ref: 20200478 dated 19 May 2020 was refused by notice dated 24 July 2020.
 - The development is existing use of the two outbuildings in the rear garden as two residential dwellings with minor alterations to the existing buildings and garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. An enforcement appeal under Ref APP/K2230/C/20/3245867 dated 9 December 2020, was dismissed and the enforcement notice upheld with a variation. The appeal had been submitted under ground d) that the breach of control alleged in the notice commenced four years before the date of the issue and of the enforcement notice and has continued since and secondly under ground g) that the six month period to carry out the required steps was insufficient. The Inspector upheld the enforcement notice albeit varying it to allow 9 months as the stipulated compliance period. The Inspector stated that the reason for allowing this longer period was in order to try and allow sufficient time for a full and definitive planning position for the site to be reached. He also made clear that he was not considering the merits of the separate appeal which had then been made, which is the appeal now before me.
3. The appeal before me seeks for planning permission to be granted for the continued use of two outbuildings as two separate residential dwellings with proposed minor alterations to the existing buildings and garage fronting Elmfield Close. The two buildings, originally garden outbuildings, have been in existence for some period of time, and the Council has confirmed that they, as buildings, are immune from enforcement action. The concern relates to their use as two independent dwellings.
4. Since the appeal was submitted and all representations completed, the National Planning Policy Framework (Framework) has been updated in July 2021. The Council submitted comments in respect of the changed paragraph numbering of the Framework, as relevant to the appeal. The Appellant has been offered an opportunity to comment on these further representations, and

its relevance to this case, but no further comments have been received. All references in this decision are to the July 2021 Framework.

Main Issues

5. The main issues in this appeal are:

- a) The effect of the development on the character and appearance of the local area;
- b) Whether the two residential units currently and following the proposed alterations would provide satisfactory living accommodation for future residents, and
- c) The impact on interests of ecological importance with particular reference to the integrity of SPA / Ramsar sites.

Reasons

Issue a) Character and Appearance

6. The appeal site relates to the rear part of a long garden serving 100C Wrotham Road, in a predominantly residential area with a mix of house types. Access is currently, and following the proposed alterations, would be taken from Elmfield Close, a cul de sac of residential development. Elmfield Close has two parts, a number of bungalows at the northern end end, with a row of garages on the western side and parking around the turning head and another arm with three storey properties. The three storey properties on the northern side adjoin the southern boundary of the appeal site.
7. Unit 1 sits directly to the rear of the garages in Elmfield Close and is a two storey building comprising the living accommodation on the ground floor and a bedroom above. Unit 2 is a longer but narrower single storey building part way along the southern boundary of the site.
8. Access is via an existing garage which would be further altered to provide two access points to the two units. The former garage would be subdivided with two external front doors facing Elmfield Close leading through archways to the two properties, the gardens for which would be subdivided by a fence following a staggered line.
9. Section 12 of the Framework and Policy CS19 of the Gravesham Local Plan Core Strategy (Core Strategy) seek for new development to be of high quality which respects the local context. Paragraph 126 of the Framework states that *the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.*
10. I agree with the Council that the two buildings were clearly not designed as residential dwellings and they have an awkward and unsatisfactory visual relationship with each other and with the surrounding buildings, in terms of siting, scale and design. The proposed access would be devised and contrived to enable independent access from Elmfield Close to both units, but the two front doors in the garage entrance would appear visually incongruous in the street scene, from Elmfield Close.
11. I therefore find that the development as existing and as proposed to be altered would not be of high quality and would harm the character and appearance of

the local area. This would conflict with Policies CS14 and CS19 of the Core Strategy and Section 12 of the Framework all of which, amongst other things, seek a high standard of design which respects the local context.

Issue b) Satisfactory Living Conditions for Future Residents

12. Given the number and position of windows in Unit 1, I consider that there are and would be appropriate levels of outlook from the principal rooms. Although there would be windows in the two shorter elevations, the outlook from the main window at the front of Unit 2 would be very restricted towards the proposed boundary fence. I consider that the residents of Unit 2 would have a limited outlook both from within the property as well as outside given the long but very narrow shape of the plot and the proposed dividing fence between the two units. This would materially harm the living conditions of the residents of Unit 2, through lack of outlook.
13. Furthermore, there is and would be overlooking of the amenity areas to Unit 2 from the upper floor window of Unit 1 and from the rear windows in properties along Elmfield Close. This already and would continue to materially harm the living conditions of the residents of Unit 2 through overlooking and loss of privacy. Given the three storey height of the dwellings along Elmfield Close, I also consider that there is and would continue to be some overlooking from these properties over the external amenity areas to Unit 1, again leading to a loss of amenity for these residents.
14. I also agree with the Council that the access arrangements would be poorly designed and would not offer a practical or attractive point of arrival at the two units; it would be a dark and oppressive point of entry.
15. I therefore find that the units as existing and the overall scheme as proposed to be amended do not and would not provide satisfactory living conditions for both units, with regard to means of access and overlooking and loss of privacy in respect of Unit 1 and in terms of means of access, outlook, overlooking and loss of privacy for Unit 2. This would conflict with Policy CS19 of the Core Strategy and paragraph 130 of the Framework which, amongst other things seeks to ensure that developments create places that are safe and accessible, with a high standard of amenity for existing and future users.
16. Concerns have been raised by the Council on other important matters, such as noise insulation for Unit 1 given that it directly abuts the garages in Elmfield Close and in respect of fire escape for both units. However, were no other matters of concern and planning permission were to be granted, these matters could be addressed under separate legislation.

Issue c) Ecology

17. I am advised that appeal site lies within 6km of the North Kent Marshes SPA/Ramsar sites and that as a result the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal SPA/Ramsar sites from recreational disturbance on the over-wintering bird interest. The Conservation of Habitat and Species Regulations 2017 require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.

18. I have very limited information before me regarding the steps taken by the Council, although the Council has confirmed that in accordance with advice from Natural England, an appropriate tariff per new dwelling should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries.
19. Whilst I do not doubt, in the basis of the representations before me, that the Appellant would be prepared to make the necessary contribution, no such contribution appears to have been made, nor a legal agreement submitted to provide for a contribution in the event of planning permission being granted.
20. I cannot therefore be satisfied on the very limited information before me from the Council as well as the absence of any contribution from the Appellants that there would not be a significant adverse effect on the SPA / Ramsar sites. The development would therefore be in conflict with the Conservation of Habitat and Species Regulations 2017 and is contrary to paragraphs 180 and 181 of the Framework and Policy CS12 of the Core Strategy in this regard.

Other Considerations

21. The Appellant has maintained that the residential units have been independent residential units for some considerable period of time. However, this matter is not before me and furthermore was considered under the earlier enforcement appeal.

Planning Balance and Conclusion

22. There is no dispute between the Council and the Appellant that the Council is unable at the current time to provide a 5 year supply of housing land. Consequently, Paragraph 11(d) of the Framework is engaged
23. Paragraph 59 of the Framework refers to the government's objective to boost significantly the supply of housing, and paragraph 68 confirms that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. In this instance, the proposal would contribute two additional units. When judged against some of the core planning principles the proposal would perform well in that there would be facilities within reasonable proximity. However, good design and creating a well designed built environment, ensuring a satisfactory living environment for residents as well as protecting ecological interests are also key aspects of sustainable development.
24. In terms of its component dimensions there would be a small social benefit in providing two extra housing units. Economic advantages would also arise from the construction and occupation of the new houses.
25. However, the harm identified to the character and appearance of the area, to the living conditions of residents and interests of ecological importance with particular reference to the integrity of SPA / Ramsar sites would each and cumulatively be significant and as a result the social and environmental roles of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

26. I have found that the proposal would conflict with the development plan when taken as a whole. There are no other considerations, including the advice of the Framework, that outweigh that conflict.
27. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR