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# Appeal Decision

Site visit made on 16 November 2021

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 November 2021**

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**Appeal Ref: APP/K2230/W/21/3267838**

**31 Windmill Street, Gravesend DA12 1AS**

- 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 M Stevens against the decision of Gravesham Borough Council.
  - The application Ref 20201058, dated 7 June 2019, was refused by notice dated 9 December 2020.
  - The development proposed is a first floor rear extension to provide a one bedroom flat incorporating the existing staircase to the upper floor accommodation and including the re-roofing of existing building.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The National Planning Policy Framework (the Framework) has been updated since the parties' appeal submissions were made. They were given the opportunity to comment on any consequences of the revised version for the appeal. I have taken into account the appellant's comments on beauty in building design and the preservation and enhancement of the historic environment. I have referred to the paragraph numbers in the revision version of the document.

## Main Issues

3. The main issues are:
  - whether the proposal would be likely to have a significant adverse effect, alone or in combination, on the North Kent Marshes Special Protection Area (SPA)/Ramsar Sites or, if necessary, provide satisfactory mitigation;
  - the effect of the proposal on the character and appearance of the site and the Upper Windmill Street Conservation Area.

## Reasons

### *Special Protection Area/Ramsar Sites*

4. The appeal site is within 6km of the North Kent Marshes SPA/Ramsar Sites where the Council's assessment finds that residential proposals, either alone or in-combination, are likely to have a significant effect on the over-wintering bird interest due to recreational disturbance. Natural England has advised that
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mitigation in the form of an appropriate tariff should be collected to fund strategic measures at the Thames, Medway and Swale Estuaries. The strategic measures anticipated accord with the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM).

5. The appellant has not disputed this position or the need to make a financial contribution to mitigate the effect of the proposal. It has advised that a contribution will be made. However, no mechanism to secure the contribution has been submitted with the appeal. In the absence of a contribution, I cannot be satisfied that the proposal would not have a significant adverse effect on the North Kent Marshes SPA/Ramsar Sites. Consequently, the proposal would not comply with Policy CS12 of the Gravesham Local Plan Core Strategy 2014 (CS) which requires a high level of protection to be given to internationally designated sites including SPAs and Ramsar Sites. Nor would it accord with Framework paragraphs 174 and 180 to the extent that they have similar aims.

#### *Character and appearance*

6. In the vicinity of the appeal site, the Upper Windmill Conservation Area (CA) is characterised by two to four storey nineteenth century terraces lining a fairly regular pattern of streets. The three storey, mid-terrace appeal property is typical of these buildings. Variations in this pattern include the Civic Centre to the west of the appeal site and the open car parking area at Eden Place to the east. The Council advise that permission has been granted for flatted development on this area. The proposed extension would be to the rear of the appeal property and face onto Eden Place.
7. Open yards and single storey extensions of varying lengths prevail to the rear of the appeal terrace, although there is a two storey extension at 21-24 and the return frontage with Lord Street is three storeys in height. The CA Appraisal notes *'the loss of a strong rear plot line and delineation between the public and private realms'* which has created *'a much more open, ragged character'* in this space.
8. As such, the setting for the proposed extension contributes little to the heritage significance of the CA. The appeal building itself includes a full length, stepped height, flat roof extension with a variety of structures projecting above it. These include a stairwell enclosure which has been referred to by both parties. However, this is the subject of enforcement action. Pending the outcome of that process, I can give little weight to the claimed benefit of the proposal in enclosing that structure.
9. Nevertheless, I consider that the proposed extension would give a degree of coherence to the rear of the appeal property. While it would add to the bulk of the building, it would have a simple form, consistent with outrigger extensions on terraces of this type and comparable in scale with the multi-storey extensions facing Lord Street and at 21-24. Although the parapeted flank walls would be blank, there would be a reasonably wide gap to the upper floors of the main building which would help to break up the overall massing of the building.
10. A gabled end with window and door openings would address Eden Place. The extension walls would be finished in brickwork and a condition could be used to ensure that external materials match the existing building and thereby help to assimilate the extension with its surroundings. The officer report refers to a

haphazard roof form with the eaves at a lower level on the north side. However, this is not apparent from application drawing WS31-A-P3.

11. Overall therefore, I find that the proposal would preserve the character and appearance of the site and the CA. As such, it would accord with Policies CS19 and CS20 of the CS. Together, these policies require development to conserve and enhance the character of the local built environment, integrate with its surroundings and give high priority to the preservation of the significance of heritage assets. It would also comply with Framework paragraphs 130, 197 and 199 which have similar aims and the statutory duty at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

### **Planning Balance and Conclusion**

12. The proposal would provide one additional housing unit and the Framework seeks to significantly boost the supply of new homes. Policies CS02 and CS05 of the CS also support residential development in town centre sites. The Council accepts that it cannot demonstrate a five-year supply of housing. The appellant's evidence indicates that the 2020 Housing Delivery Test found that, for 2018-2020, of the 1,043 new homes required, 731 were delivered, that is less than 75%. The Council has not disputed these figures. Nevertheless, appeal proposal would make a very modest contribution to the shortfall.
13. Framework paragraph 11d(i) advises that, where the policies for determining an appeal are out of date, planning permission should be granted unless Framework policies that protect areas of particular importance provide a clear reason for refusing the development. Such policies include habitats sites<sup>1</sup> and I have found that the proposal would not accord with development plan or Framework policies on this matter. Consequently, I consider that the presumption in favour of sustainable development does not apply in this case.
14. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. While there is development plan policy support for residential development in locations such as the appeal site, the benefit of the proposal is minor as it would make a very modest contribution to the supply of housing. On the other hand, the proposal conflicts with development plan policy to protect internationally significant habitat sites. Consequently, it conflicts with the development plan as a whole. Nor does the proposal benefit from the 'tilted balance' in Framework paragraph 11d. Therefore, material considerations do not indicate that the appeal should be determined other than in accordance with the development plan.
15. For the reasons set out above, the appeal should be dismissed.

*Simon Warder*

INSPECTOR

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<sup>1</sup> Framework footnote 7