



---

# Appeal Decision

Site visit made on 2 February 2022

**by S Tudhope LLB (Hons) MSc MRTPI**

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

**Decision date: 29 April 2022**

---

**Appeal Ref: APP/K2230/W/21/3277319**

**19 Cross Lane West, Gravesend DA11 7PZ**

- 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 Light against the decision of Gravesend Borough Council.
  - The application Ref 20210415, dated 2 April 2021, was refused by notice dated 27 May 2021.
  - The development proposed is erection of a side extension to create 2 self-contained flats (1x 1 bedroom and 1 x 2 bedroom) and creation of cycle and refuse storage.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development was changed by the Council, from that given on the application form, with the agreement of the appellant. As a result, I am satisfied that neither party has been prejudiced by this change of description.
3. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. The main parties have had the opportunity to address this matter in their appeal submissions. All references to the Framework in this decision relate to the updated document.

## Main Issues

4. The main issues are the effect of the proposed development on (i) the character and appearance of the area; (ii) the living conditions of the occupiers of 19 Cross Lane West with regard to external space; (iii) the living conditions of the occupiers of 21, 32 and 34 Cross Lane West with regard to privacy; and (iv) whether or not the proposed development would provide adequate parking provision.

## Reasons

### *Character and appearance*

5. Cross Lane West forms part of an extensive area of streets containing terraced housing situated on narrow plots. There is a tight urban grain and an architectural consistency amongst the two storey terraces, with short front gardens set behind low boundary treatments, uninterrupted pitched roofs, bay windows and small porches. There is a mixture of finishes, with some brick and other painted brick or render and some variety in window styles but these are generally consistent in size and placement.

6. The appeal site is situated at the end of a terrace, where Cross Lane West is intersected by Woodfield Avenue. The site is triangular shaped and currently forms part of the garden of 19 Cross Lane West (No 19).
7. The proposal for two flats would form a continuation of the adjoining terrace, in terms of height, roof pitch and building lines at first floor level. However, the ground floor would project to the front, side and rear in flat roof form behind a parapet and would occupy the full width of the plot bringing built form up to the pavement edge. Whilst this would take maximum advantage of the irregular shaped plot, it would result in an oddly angular structure which would appear incongruous in this prominent end of terrace location.
8. The uncharacteristic form of the development would be exacerbated by the entirely painted render finish and the introduction of access, from the first floor side elevation, to a triangular shaped balcony space, enclosed by a glass balustrade, which would be an alien feature in the street scene. In addition, the proposed dormer, which would occupy the majority of the property's rear roof slope, along with the front rooflights, two of which would be awkwardly positioned adjacent the ridgeline, would unacceptably detract from the simple and uniform lines of the roof of the host terrace.
9. Further, the arrangement of the proposed fenestration which would be staggered between the ground and first floor, would sit uncomfortably alongside the existing regular pattern of openings. The proposed fenestration would be similar in height, width and style to the existing fenestration within the terrace, however, these details would not overcome the harm identified.
10. I acknowledge that the ground floor element would not extend further forward than existing porches, however the width and overall form of this projection would visually jar with the appearance of the rest of the terrace where bay windows and modest porches prevail.
11. Policy CS14 of the Gravesham Local Plan Core Strategy 2014 (LP) sets an expectation that new housing development will provide a range of dwelling types and sizes taking into account the existing character of the area. The proposal would introduce a mix of accommodation choice. However, notwithstanding the appellant's contention, in support of the proposal, that the existing properties in the terrace all have large lofts that could be converted into flats, there is no substantive evidence to indicate that this is the case. Particularly given that the existing roofline does not contain dormer windows. The predominant form of development is two storey dwellings. The proposal for flats would be noticeably out of keeping with its surrounding context.
12. Consequently, I conclude that the proposed development would unacceptably harm the character and appearance of the area. It would conflict with LP Policies CS14, CS15 and CS19 which seek, among other matters, development that integrates well with the surrounding area. The proposal would also conflict with Paragraph 130 of the Framework in this regard.

*Living conditions – external space*

13. The resultant garden space for the host property, No 19, would have an area of approximately 43 square metres with an approximate depth of 7.3 metres. This falls below the Councils adopted residential standards (as set out in the Gravesham Residential Layout Guidelines Supplementary Planning Guidance 2

2020 (SPG2)) which require a minimum area of 60 square metres with a minimum depth of 10 metres for a three bedroom dwelling. The appellant considers that the proposal would provide some 50 square metres of garden space for that property when combined with the parking spaces to the rear.

14. However, notwithstanding that this combined area would still fall short of the required standard, the SPG makes clear that calculation of private garden areas shall exclude the area used for the parking or garaging of private motor vehicles. I note that the SPG allows a flexible approach, but this is in regard to exceptional circumstances. No such circumstances have been advanced in this case. The proposal would not provide sufficient external space for the occupiers of No 19.
15. I therefore conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of No 19 with regard to the provision of external space. The proposal would be contrary to LP Policy CS19 which seeks, among other matters, to safeguard the amenity of neighbouring and future occupiers. The proposal would also conflict with Paragraph 130 of the Framework in this regard.

#### *Living conditions - privacy*

16. The SPD2 contains guidance that where windows of habitable rooms face each other (whether across a road, pedestrian way or private garden) a window-to-window distance of at least 21 metres should be provided. Habitable rooms are defined as bedrooms and living areas, but specifically exclude kitchens and bathrooms.
17. Habitable room windows at the proposal would look directly towards properties opposite the site on Cross Lane West (Nos 32 and 34) at a separation distance of approximately 16.5 metres, failing to comply with the SPD2. However, this separation distance would reflect the existing dimensions that characterise the area. Although Nos 32 and 34 are not currently directly overlooked by an opposing property, I do not consider that the overlooking that would be introduced by the proposal, from the provision of windows serving two bedrooms at ground floor and a kitchen, which is excluded from the definition of a habitable room, and a stairwell at first floor, would result in material harm to the living conditions of the occupiers of those opposing properties in terms of privacy.
18. Concern has been raised regarding the introduction of overlooking from the proposed balcony space. However, given that it is designed to be wide at its Cross Lane West end, tapering away towards the rear of the building, any perceived view towards properties to the rear of the proposal along Woodfield Avenue would be interrupted by the side elevation of the building. Further, because its balustrade would be obscured glass of a height, that when factoring in the parapet feature, would for the most part prevent users looking out, this element of the proposal would not result in unacceptable overlooking of nearby properties, including Nos 32 and 34, or 21 Woodfield Avenue.
19. I therefore conclude that the proposed development would not have an unacceptable effect on the living conditions of the occupiers of neighbouring properties with regards to privacy. The proposal would accord with LP policy CS19 and the aims of the SPD2, where they seek to safeguard the privacy of

neighbouring occupiers. The proposal would accord with Paragraph 130 of the Framework in relation to this matter.

### *Parking provision*

20. The proposal would provide two off-street parking spaces which appear to be for the use of the existing property, No 19. A total of four off-street spaces are required in conjunction with the proposals. There would be a shortfall of two spaces for the development overall.
21. Largely unrestricted on-street parking is available in the vicinity of the site. However, this is already heavily competed for. The proposed development would further exacerbate that situation, adding to the existing high demand for parking. The appellant suggests that, because the side wall of the proposed development would be over 20 metres long adjacent to the street, this would allow for over four cars to park freely on the side road without restrictions. Thereby satisfactorily providing for the development, which would also benefit from the provision of cycle parking spaces.
22. Even if it were possible that the spaces alongside the proposed development were only used by its future occupiers, existing users would be forced to compete for other nearby parking spaces. Thus, the additional parking demand likely to be generated by the development could result in cars being parked on street corners or in other dangerous positions. As such the development could lead to an adverse impact on highway safety which could also negatively affect the living conditions of the occupiers of neighbouring properties.
23. I conclude that the proposed development would fail to provide adequate parking provision for its future occupiers. It would fail to accord with LP Policies CS11 and CS19 which together seek to ensure that parking will be provided in accordance with adopted standards and will safeguard the amenity of neighbouring occupiers.

## **Other Matters**

### *Habitats Sites*

24. The appeal site lies within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site, an important wetland, providing wintering and breeding habitats for important wetland bird species. The proximity of the appeal site means that it cannot be excluded that the development would not have a likely significant effect on the SPA, either alone or in combination with other plans or projects. The SPA is protected as a Habitats Site under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the Habitats Site.
25. The Council has determined that additional residential development may adversely impact the protected Habitats Site due to increased recreational pressures. In order to avoid adverse impacts from the proposal, mitigation is required in the form of contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy.
26. There is no evidence before me to demonstrate that such payment has been made. The appellant has suggested that the onus is on the Council to inform

them what additional contributions are required. However, this information is set out in the Council's officer report, such that the appellant should have been aware prior to this appeal, if not before. Although no legally binding mechanism to secure such payment has been received during the appeal process, the appellant has not disputed the need. Had this been the only remaining objection to the development, it would have been reasonable to offer the appellant a further opportunity to consider entering into a legal obligation to secure the required payment. However, as I have found that the scheme is unacceptable for other reasons, this is not necessary as it would have no bearing on my decision.

27. I note the support from an interested party. However, this does not lead me to a different overall conclusion on the main issues.

### **Planning Balance**

28. At the time of its decision the Council was unable to demonstrate a five year deliverable supply of housing sites. I have not been provided with any update to its position of 3.27 year supply. In the absence of any evidence to the contrary it is assumed for the purposes of this appeal that the land supply situation has not improved. In such cases, the provisions of paragraph 11 d) of the Framework are triggered and the presumption in favour of sustainable development applies.
29. The proposal would result in the delivery of two units of accommodation, thereby boosting the supply and mix of housing. The Framework recognises the important contribution that small and medium sized sites can contribute to meeting the housing requirement of an area. There would be an increase in the type of housing choice available to meet identified demand. The overall contribution to housing supply would be modest but meaningful. I afford these benefits modest weight commensurate with the quantum of development proposed.
30. The proposal would have economic benefits resulting from both the construction and subsequent occupation of the proposed flats and the support by future occupiers for services and facilities. I attribute limited weight to these benefits because of the scale of development proposed. The proposal would make a more efficient use of land in an urban area close to local services and facilities. The combined benefits of the proposal attract moderate weight.
31. However, I have found that the proposal would give rise to unacceptable harm to the character and appearance of the area, the living conditions of neighbouring occupiers and would fail to provide adequate parking. These matters fall contrary to the requirements of the Framework for high quality design and development that is sympathetic to local character and adds to the overall quality of the area. In seeking to make effective use of land the Framework makes clear that this should be balanced with safeguarding and improving the environment. These matters attract significant weight.
32. Consequently, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development. Consequently, no material considerations justify a decision other than in accordance with the development plan.

**Conclusion**

33. For the above reasons the appeal is dismissed.

*S Tudhope*

INSPECTOR