
Appeal Decision

Site visit made on 28 June 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2022

Appeal Ref: APP/K2230/W/21/3278562

98 Old Road West, Gravesend DA11 0LR

- 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 JB Construction against the decision of Gravesend Borough Council.
 - The application Ref 20201324, dated 4 January 2021, was refused by notice dated 10 March 2021.
 - The development proposed is the erection of 2 x 1 bed flats within the roof space of this purpose built three storey block of one and two bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the 'Framework') was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal.
3. The appellant acknowledges that the existing car parking area is not laid out in accordance with the approved plans for the site. The proposal includes land which was not part of the original site edged red when planning permission was granted. However, the current scheme is not a variation of that previous permission but an entirely fresh proposal. It is clear from the submitted drawings the extent of the current proposal and the land it encompasses. I am therefore satisfied that interested parties have not been prejudiced in commenting on the current proposal.

Main Issues

4. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the building and surrounding area including the effect on the setting of a designated heritage asset;
 - (ii) Whether or not the proposal would harm the living conditions of future occupiers with particular regard to refuse storage and external amenity space;
 - (iii) Whether or not the proposed development would harm the living conditions of neighbours with particular regard to noise and disturbance;

- (iv) Whether or not the proposed development would provide sufficient on-site car and cycle parking; and
- (v) the effect of the proposed development on the integrity of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site.

Reasons

Character and Appearance

5. The appeal site comprises a three storey purpose built block of flats on the corner of Old Road West and Darnley Road, together with the attached car parking/service area to the rear. The area is predominantly residential in character with houses in the adjoining roads being predominantly semi-detached or forming short terraces. Housing is generally two storeys although a significant number of nearby houses appear to have been originally designed with accommodation in the roof space, as demonstrated by the number of front dormer windows and windows in front gables at roof height.
6. Houses are set back from the highway but gaps between buildings are limited giving the roads the appearance of an almost contiguous frontage and strong building line. Notwithstanding Dashwood Open Space diagonally across Old Road West from the appeal site, the area has an urban, built up character, to which the appeal property contributes.
7. The proposed dormers would be interspersed amongst the existing gables and projecting hipped roofs. Although their ridges would sit higher than those of the existing gables and hips, and so would add some additional bulk and clutter to the existing roof, they would not be so out of keeping with the design of the roof, the building's overall appearance or that of the wider area as to be harmful.
8. In contrast, introducing doors, glazing and balustrades and inserting small balconies into the upper parts of the existing gables would draw the eye and appear out of keeping with the otherwise coherent design and appearance of the building. Unlike other properties in the vicinity which have incorporated fenestration at roof level into their overall design, the balconies would appear as obvious additions that would be incongruous features to both the building and overall street scene.
9. Furthermore, as the balcony areas are very restricted, they are unlikely to provide a useable area for sitting out. Indeed, the outward opening door and restricted headroom significantly compromises their practicality for most uses or activities. It seems to me that there is a very real prospect of the balcony areas becoming little more than outside storage areas, which visually would be a further negative feature of this element of the proposal.
10. To the rear of the building two new dormers would rise from the wall plate, which would give them an elongated appearance. Together with their fenestration detailing and positioning, they will appear as awkward additions to the building. The existing projection which houses the internal staircase would be increased in height. Whereas its existing flat roof currently sits somewhat inconspicuously just above eaves level, it would be noticeably extended to a height similar to the ridge of the dormers. Thus, the current simple and coherent design of the rear elevation would be replaced by one that would be cluttered and harmful to the building's appearance.

11. By virtue of the shape of the existing building and the position of these additions to the rear elevation, they would not be widely visible from outside of the site. Nevertheless, these shortcomings to the design of the building would be visible from Kent Street.
12. The appeal site is adjacent to and so within the setting of the Darnley Road Conservation Area (DRCA), a designated heritage asset. Paragraph 200 of the Framework requires that consideration be given to any harm to, or loss of, the significance of a designated heritage asset. The DRCA is characterised by its 19th century urban street pattern which contains small groups and terraces of two and three storey 19th century houses, many of which display elaborate architectural detailing.
13. Views of the appeal site from within the DRCA are limited. The increases to the building's bulk and shape would be seen briefly from Kent Street and the southern end of Darnley Road. The front elevations of the building would be seen most clearly when looking north towards the DRCA from the junction of Dashwood Road and Old Road West. Whilst the proposed changes would be visible, I find that the core value of the DRCA would be preserved and that the works themselves do not affect the relationship between the setting of the conservation area and the building itself. As such, the works would not be contrary to Policy CS20 of the Gravesham Local Plan Core Strategy 2014 (the 'Core Strategy') or Policy TC3 of the Gravesham Local Plan First Review (1994) (the 'Local Plan') which broadly seek to preserve heritage assets.
14. Nevertheless, the proposal would cause harm to the character and appearance of the building and surrounding areas such that it would be contrary to Policy CS19 of the Core Strategy. This policy, amongst other things, seeks to ensure developments make a positive contribution to the street scene and character of the area. The proposal would also be contrary to Paragraph 130 of the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions – Future Occupiers

15. It is suggested by the Council that the existing enclosure to store wheelie bins in the rear car park/service area is not large enough. A photograph has been produced which shows bins outside the store. At the time of my site visit I also saw bins in a similar position to those in the Council's photograph.
16. Whether this was because the bins were due to be emptied, as suggested by the appellant, or for another reason, is unclear. The important issue for this appeal is that the existing enclosure appeared to me to be of sufficient size to accommodate all of the existing bins, including those that were not in the enclosure at the time of my site visit.
17. The additional flats would require additional refuse bins. The appellant suggests that there is sufficient space in the existing store to accommodate any additional requirement that would be generated. However, my observations on site suggest that the storage area would be filled if all the existing bins were stored within it. It is therefore not clear that the existing store would be large enough to accommodate the additional requirements.
18. However, sufficient space exists next to the existing store for this to be extended without too much difficulty, were it necessary. Although no details of

an additional or extended bin store have been provided, such provision could be required and controlled by condition. Accordingly, it would not harm the living conditions of future occupiers.

19. The Council is concerned that the flats have larger floor areas than stated on the drawings and so there might be a temptation to subdivide the accommodation and create additional bedrooms. I note from the Council's Supplementary Planning Guidance (SPG) 'Residential layout guidelines' (amended June 2020) that there is an amenity space requirement for family sized two bedroom flats but no such requirement for one-bedroom units.
20. Although the internal accommodation appears generous for a one bedroom flat, the appellant is content for any approval to be limited to one-bedroom accommodation. I also note that without seeking to revise the window positions such a sub-division could be difficult to achieve or at the very least leave the main living accommodation compromised in terms of natural light. Thus, there is no substantive evidence to indicate that such a sub-division would occur. I have therefore considered the accommodation on the basis of the layout which is before me.
21. In contrast to the internal accommodation, I have already noted the restrictive nature of the balcony areas. However, the absence of useable outdoor space would not be contrary to the SPG in this instance. Indeed, given the internal accommodation, I am satisfied that this would not harm the living conditions of future occupiers.
22. Overall, I find that the proposal with regard to refuse storage and outdoor amenity space would not harm the living conditions of future occupiers and would therefore not be contrary to Policy CS19 of the Core Strategy which, amongst other things, seeks to ensure new developments are designed to provide future occupiers with suitable standards of accommodation.

Living Conditions - Neighbours

23. The proposal would increase the number of units within the building and so patterns of movement may differ from those currently associated with it. However, I have not been provided with any substantive evidence to suggest that the proposal would result in a significant increase in comings and goings which would harm the occupants of neighbouring properties.
24. However, the vertical arrangement (or stacking) of the proposed flats would result in the living areas in Flats 1 and 2 being directly above some or all of the bedrooms of the flats below. Conversely the proposed bedrooms would be above some of the living areas of the flats below. These overlaps could give rise to unacceptable noise and disturbance transfer between these spaces.
25. The appellant indicates that sound insulation would be provided and would be governed by Building Regulations. Whilst the building appears to be of relatively modern construction, the separation distance between the existing top floor and the proposed additional flats appears less generous than those between the existing floors of the building. There is no evidence or information before me to indicate whether sound proofing could be accommodated or that the transfer of noise between living areas and bedrooms could be minimised to acceptable standards.

26. I have considered the use of a condition to secure sound attenuation between the living areas and bedrooms. However, given the extent of the overlap between living areas and bedrooms and the uncertainty as to whether such an approach would be effective, the use of a condition would not be reasonable in this case.
27. Therefore, it is not certain that the proposed development would be able to provide satisfactory living conditions for occupiers of the existing top floor flats. It would not therefore satisfy the provisions of Policy CS19 of the Core Strategy which requires, amongst other things, that developments are designed to safeguard the amenity of neighbouring occupiers.

Car and Cycle Parking

28. Although the existing and proposed block plans show parking spaces 1-3 not extending beyond the spaces for No.96B Old West Road, the situation on site is slightly different. Spaces 1-3 already extend beyond the eastern end of the marked spaces for No.96B. Parking space 11, as shown on the proposed block plan, would therefore be likely to extend further east than shown on that drawing. Adding this further parking space on to the end of this row would therefore appear to entail extending the position of parked cars out into the main vehicular route through the parking area.
29. Furthermore, it seemed to me from my site visit that revised parking space number 9 might require some manoeuvring of a vehicle in order to access or exit it, particularly if the neighbouring spaces were occupied. The probable positioning of space 11 would be likely to add to such difficulties.
30. The appellant notes that the existing parking layout works. However, given the absence of accurate details for the revised layout, it is not possible for me to conclude with sufficient certainty that the proposed layout could be achieved and function as intended, and thus appropriate parking would be provided.
31. Whilst cycle parking would only be required for the two new flats, no details have been provided. The appellant suggests there is space next to the bin storage area and that this matter could be dealt with by way of a condition. However, if this storage area were to be extended to accommodate the additional bins, then it is far from clear that there is sufficient space to provide the required cycle parking. The revised car parking layout would seem to me to severely limit the options for cycle parking on other parts of the site without interfering with the movement and turning of cars.
32. The need for cycle parking, which helps to reduce the pressure on car use/ownership, is an important objective in making the scheme acceptable in planning terms. Given the uncertainty I have identified in whether or not it can realistically be provided, it would not be appropriate to leave this matter to a condition.
33. There is no information before me such as parking stress or accident data which might indicate that any displaced vehicle parking would directly lead to an unacceptable impact on highway safety in the vicinity of the site. Nevertheless, as the proposal has not demonstrated that it would provide sufficient on-site car and cycle parking, it would be contrary to Policy CS11 of the Core Strategy and Policies T1, P3 and P5 of the Local Plan which, amongst other things, seek to ensure new development delivers sufficient provision.

Thames Estuary and Marshes SPA and Ramsar Site

34. I note the appellant's contributions towards mitigation. However, as I have found the proposal to be unacceptable for other reasons there is no need for me to consider the implications of the proposal on the integrity of the SPA or the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended).

Other Matters

35. Part 20 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows for additional storeys to blocks of flats. However, I have no evidence before me to indicate that such an application is likely, particularly given the appellant's assessment on the probable unacceptability of such an application. Therefore, at this stage, extending the building through permitted development does not appear to be anything more than a theoretical possibility. The weight I could therefore attach to this matter would be limited.

Planning Balance & Conclusion

36. The main parties agree that the Council cannot demonstrate a five year housing land supply, thereby engaging paragraph 11 of the Framework. Accordingly, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
37. Providing two additional one bed flats with reasonable access to services would be a benefit that would accord with the Framework. The development would also have economic benefits through employment opportunities created during the construction phase, Council tax revenue and spending in the local area by future occupants. However, given the modest scale of the development proposed, the weight attributable to these matters is limited.
38. For the reasons given, I consider that the proposal would be harmful to the character and appearance of the building and surrounding area, nor would it safeguard the living conditions of some occupiers of the existing building. Furthermore, it is uncertain if the scheme could provide satisfactory car or cycle storage provision for future residents. These harms would be long lasting and worthy of significant weight which would lead to conflict with Paragraphs 110 and 130 of the Framework which, amongst other things, seek to ensure that new development is sympathetic to local character, protects the amenity of existing and future users and promotes sustainable transport.
39. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits. In these circumstances, the proposal would not therefore be sustainable development for which the presumption in favour applies.
40. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Stewart Glassar

INSPECTOR