
Appeal Decision

Site visit made on 23 November 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/K2230/W/22/3294570

48 Wilberforce Way, Gravesend, Kent, DA12 5DQ.

- 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 S Burles against the decision of Gravesend Borough Council.
 - The application Ref. 20211594, dated 30 December 2021, was refused by notice dated 22 February 2022.
 - The development proposed is the erection of a single storey two bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect on the living conditions of future occupiers of the dwelling; and
 - the effect on the Thames Estuary and Marshes Special Protection Area (SPA).

Reasons

Background

3. The appeal site forms part of the side/rear garden of the host property which is a semi-detached two storey house situated at the end of a short cul-de-sac of similar properties with pedestrian access. It is apparent that many of these properties have vehicular access to the side/rear off a minor lane. It is proposed to subdivide the garden of the host property and construct a single storey detached two bedroom property.

Policy context

4. The Council do not dispute the appellant's claim that it cannot demonstrate a five year supply of new housing sites at the moment and that the delivery of housing has been substantially below that required in the Housing Delivery Test. Paragraph 11(d) of the National Planning Policy Framework (the Framework) (sometimes referred to as the 'tilted balance') is therefore engaged in this case.

Effect on character and appearance

5. The character of the area is formed by the group of 'semis' around the pedestrian pathway forming the cul-de-sac and this format is repeated along the northern side of Wilberforce Way. The scale of buildings in the groups is principally two storeys with ancillary garages and outbuildings being much lower. The proposal to add a dwelling as proposed would run contrary to this established urban grain in both layout and height. Moreover given the close proximity of the dwelling to the east and west side boundaries of the site and the degree of spread across the site the property would have a 'squeezed in' form which would not be characteristic of surrounding development. These factors taken together indicate that the proposed dwelling would be materially harmful to the character of the area.
6. I accept that views of the house in the public realm would be limited to mostly views of the top of the side walls and the roof through the gap between No's 46 and 48 and over the garden and outbuildings at No.46 but such remoteness from the public realm does not mean that the effect on the character of the area is otherwise acceptable.
7. I have taken account of the appellant's submission over a fallback position where an outbuilding of a similar footprint but with a flat roof may be 'permitted development' under the GPDO¹. However, I am not able to give this argument much weight as the provisions of the GPDO are for incidental outbuildings, and these are likely to be materially different in character and associated impact arising from such a building compared to a dwelling comprising primary residential accommodation.
8. I have also considered the permission granted by the Council for a new dwelling adjoining No's 16-18 Wilberforce Way but that scheme appears to involve a new detached two storey house being sited alongside the existing semi and which maintains a similar building line to the other properties in the cul-de-sac. It is therefore not similar to the current appeal proposal and I do not put much weight on any precedent set.
9. Overall on this issue I find that the proposed single storey house would not integrate well with the established form of the surrounding area but would harm this character contrary to the provision of Policy CS19 of the Council's Core Strategy. Moreover the proposal would not help achieve well designed places through good layout and be sympathetic to local character as set out in section 12 of the Framework.

Effect on living conditions

10. The Council's concern in this regard relates to the adequacy of the amenity space proposed for the new dwelling. Although this is of an overall extent which meets the standards set out in the Council's Residential Layout Guidelines (RLG) the Council submits that the maximum garden depth of 7.44m is inadequate compared to the standard of 7.6m. Although this deficiency may be a reflection of the general cramped form of the proposed dwelling on the plot, it is not in itself a reason to suggest that the living conditions of the occupiers of the new property would be materially harmed by the deficiency of space.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Effect on SPA

11. The evidence submitted indicates that the designated sites for nature conservation in the Thames Estuary and Marshes Special Protection Area (SPA) are in an unfavourable ecological state, particularly as a wetland for birds. This is likely to be made worse by additional population in the area arising from new residential development with an increase in recreational pressures. The site lies within the 6Km protection area identified in the North Kent Birds Disturbance Report. Accordingly, avoidance and/or mitigation measures as set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy should form part of proposals for new residential development.
12. The appellant says he signed an agreement with the Council to pay the recommended contribution of £253.83 as set out in the mitigation strategy. Although the copy of the Agreement included with the appeal documents is also signed by the Council and is dated 16 February 2022, i.e. before the planning application Ref. 20211594 was decided by the Council, I have no information as to whether the contribution was paid by the appellant or of the legal status of the Agreement under the Planning Acts. I am therefore unable to assess whether it meets the requirements on Planning Obligations as set out in paragraph 57 of the Framework.
13. Notwithstanding this, from the evidence before me and I am satisfied that if all other aspects of the scheme proved to be acceptable, it is likely that the effects of the additional dwelling on the special habitat of the SPA could be avoided or mitigated by a formal agreement which accorded with the adopted Mitigation Strategy.

Planning balance

14. On the main issues I have found that while the proposed single storey dwelling would have adequate amenity space to provide reasonable living conditions, its siting and form would not integrate well with the established grain of the surrounding area but would harm this character contrary to Policy CS19. This means that the proposal conflicts with the local policy and national guidance to ensure that new development fits in with its surroundings.
15. This adverse effect has to be balanced with other factors in favour and especially the lack of new housing being delivered by the Council, and which limits the weight that can be placed on Policy CS19. The proposal would also make more effective use of land which is also a qualified aim of the Framework. However, I find that the proposal conflicts with the Framework when read as a whole and that the proposal is not 'sustainable development' because of the environmental impact. The adverse effects and conflict with the Framework, in achieving well designed places where new development is sympathetic to local character, is not significantly and demonstrably outweighed by these benefits. The appeal should therefore not be allowed. Given this overall conclusion I do not need to carry out an Appropriate Assessment under the Habitat Regulations.

Conclusion

16. For the reasons given above I conclude that the appeal should not be allowed.

David Murray

INSPECTOR