



Appeal Decision

Site visit made on 5 September 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/K2230/W/22/3310315

40 Wrotham Road, Gravesend, Kent DA11 0QF

- 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 Avtar Photay against the decision of Gravesend Borough Council.
 - The application Ref 20220549, dated 23 May 2022, was refused by notice dated 28 July 2022.
 - The development proposed is described as the erection of two storey rear extension and part storey rear extension to provide 2 additional units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above has been taken from the application form, albeit that the reference to Kent has been made after Gravesend rather than preceding as shown on the application form.

Main Issues

3. The main issues are the effect of the proposal on i) the living conditions for future occupiers; ii) the integrity of the Thames Estuary and Marshes Special Protection Area and Ramsar Site (SPA/RAMSAR); and iii) the character and appearance of the area, including the setting of the Upper Windmill Street Conservation Area (UWSCA).

Reasons

Living conditions for future occupiers

4. From the details before me, the proposal would provide 4 flats at the site, which would meet with the minimum internal space requirements for new dwellings contained in the Government's nationally described space standard, March 2015. At the ground floor, the proposed Units 1 and 2 would have single aspect bedrooms with the view of a public alleyway (Victoria Avenue) as their main outlook. There would be a similar single aspect outlook at the first-floor, from the bedroom of Unit 3, albeit at a higher level.
5. There are high walls and existing buildings in close proximity to these proposed windows, creating a modest separation distance across the public alleyway, with a dark and narrow feel. These windows would be the only natural light source for the aforementioned bedrooms and would have a north facing aspect. I have no details before me in respect to any sunlight/daylight analysis to demonstrate whether acceptable levels of daylight can be achieved within these rooms. However, given the orientation of the proposal and existing built

environment, the amount of natural light that could enter these single aspect rooms would be significantly restricted, leading to poor living conditions. In addition, the modest separation distance across the alleyway, coupled with the height of the surrounding buildings would dominate any views from these windows, leading to poor outlook and a feeling of enclosure from these bedrooms.

6. Furthermore, members of the public would pass directly in front of these windows, which would lead to a loss of privacy, particularly for Units 1 and 2 at the ground floor. It is acknowledged that a condition could be imposed were the appeal to be allowed to require the windows on this elevation to be obscured glazed, however this would not overcome the above concerns regarding outlook, and would in fact lead to a heightened sense of enclosure and a feeling of being hemmed in.
7. Consequently, the proposed development would have an unacceptably harmful effect upon the living conditions of its future occupiers, with particular reference to outlook, daylight/sunlight and privacy. The proposal is therefore contrary to the relevant provisions of Policy CS19 of the Gravesham Local Plan Core Strategy (CS), adopted September 2014 which among other things, requires new development to provide an appropriate standard of amenity, including privacy, daylight and sunlight for occupiers of the proposed development and neighbouring properties. It would also be contrary to the National Planning Policy Framework (the Framework) which, amongst other things, expects planning decisions to ensure healthy living conditions and create better places to live, indicating that higher densities should not be at the expense of acceptable living standards.

Integrity of the Thames Estuary and Marshes SPA/RAMSAR

8. The appeal site falls within the 6km protection zone of the Thames Estuary and Marshes SPA/RAMSAR. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations'). The Habitats Regulations impose a duty on me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA/RAMSAR, either alone or in combination with other plans and projects.
9. The Council has advised that the proposed development may adversely impact the SPA/RAMSAR due to the net increase in residential units on the site. To avoid any adverse impact, the Council's adopted North Kent Strategic Access Management and Monitoring Scheme (SAMMS) sets out a tariff-based approach to mitigate the impact of recreational disturbance on the SPA/RAMSAR.
10. The appellant's statement suggests they are prepared to secure any financial contribution should this be considered an appropriate mitigation measure. However, I have no substantive evidence to suggest that the contribution has been made nor is there a planning obligation before me. Nevertheless, as I'm dismissing the appeal due to the harm of the living conditions of future occupants, I do not need to consider this matter further, as no significant likely effects on the SPA/RAMSAR site would arise from my decision.

Character and appearance

11. The appeal site occupies a mixed-use area with commercial and residential units located in close proximity to one another. The appeal site was a former public house, although now converted into residential units, and has a traditional appearance. The site adjoins Victoria Avenue, a small public alleyway which leads to Sheppy Place and the Upper Windmill Street Conservation Area (UWSCA) beyond. Nevertheless, the appeal site is located outside the UWSCA boundary as shown on the submitted Conservation Area Map and the Council have confirmed this in their questionnaire.
12. Paragraph 206 of the Framework requires new development within the setting of Conservation Areas to enhance or better reveal its significance. The Framework defines the setting of a heritage asset as *"the surroundings in which a heritage asset is experienced."*
13. The UWSCA Character Appraisal indicates that the area closest to the appeal site is known as Character Area 3: Zion Place, Sheppy Place and Victoria Avenue, with the rear of properties in Sheppy Place adjoining the rear of the appeal site. The area is characterised by two-storey buildings of the first half of the 19th century, which were laid out on newly constructed roads as the town expanded southwards during this period. The properties in Sheppy Place are of a simple form, arranged in pairs predominantly of yellow brick. I consider that the consistent and established pattern of development in Sheppy Place which has a high degree of uniformity, makes a positive contribution to the significance of the UWSCA.
14. However, there is a pronounced change in land level between Sheppy Place and the appeal site, and any close-range views of the UWSCA along Victoria Avenue are largely obscured by high walls and existing buildings along the alleyway. Therefore, whilst the proposal would be sited in relatively close proximity to the UWSCA, there is a sufficient level of separation with limited inter-visibility between the areas, such that the UWSCA is not experienced from the appeal site. As such, I find no harm in this respect and consider that the appeal site is not within the setting of the UWSCA.
15. The mixed-use nature of the area provides a wide range of materials, designs and heights varying between 2 to 4 storeys along this section of Wrotham Road. When viewed from Victoria Place, the rear of these properties provide a varied treatment with a mixture of outriggers and flat roofed additions at both single storey and two storey levels. The rear extensions at the ground and first floor of the proposal would be of generous proportions, however the scale of these extensions would be read within the context of a much broader elevation at the rear. Given the varied nature of the built environment I do not consider that there is a defined urban grain. As a result, the proposal would not appear incongruous or contrived in character and appearance terms having regard to the variety of the development that is visible from within the enclosed alleyway.
16. Whilst the quantum of the development would be visibly increased, having regard to the general character of the area with its range of styles and heights, the proposed extensions would not harm the overall character of the area, and would at the very least preserve it. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area and would comply with CS Policy CS19 which amongst other things, requires development to be visually attractive, fit for purpose and locally distinctive. The

development would also be in accordance with CS Policy CS20, Saved Policy TC3 of the Gravesham Local Plan First Review Saved Deleted Policies Version (September 2014) and Section 16 of the Framework which collectively seek to conserve and enhance the historic environment.

Other Matters

17. The appellant indicates that the proposed development could be undertaken under prior approval had the property been a single dwelling. However, I have not been provided with any confirmation that a prior approval has been applied for or consented at the appeal site. As such, I cannot be sure that there would be a greater than theoretical possibility that this development might take place as a realistic or probable alternative. I therefore give limited weight to this as a fallback option.

Planning Balance and conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
19. I have found that the proposed development would harm living conditions for future occupiers which attracts substantial weight against the scheme. However, the scheme would provide a windfall of 2 new units towards the Council's existing housing stock. The Housing Delivery Test (HDT) provides a figure of 57% for the Gravesham Borough Council on the 2021 HDT results. As such, the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 8, paragraph 11 d) (ii) of the Framework should be applied.
20. Therefore, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme. I have found the development would offer potential benefits in terms of providing 2 modest dwellings to the Council's housing stock, given that this is a small site and could be brought forward relatively quickly. It would also have environmental, economic and social benefits, through potential energy efficiency measures, employment opportunities during the construction phase of the development, and future residents accessing and supporting local services. I have attached moderate weight to these factors in favour of the proposal.
21. Taking all of the above into account, in applying paragraph 11 d) (ii) of the Framework, the extent to which there would be adverse impacts of granting planning permission, relating to my findings on the main issues above, would significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.
22. For the reasons outlined above and having regard to the development plan as a whole, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

Robert Naylor

INSPECTOR