



Appeal Decision

Site visit made on 30 August 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2023

Appeal Ref: APP/K2230/W/22/3306933

Rear of 8 Burch Road, Kent DA11 9NG

- 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 Ms Verity Graham against the decision of Gravesham Borough Council.
 - The application Ref 20220440, dated 20 April 2022, was refused by notice dated 22 July 2022.
 - The development proposed is erection of a two-storey dwelling to accommodate 2 x 1 bed units.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposal would preserve or enhance the character and appearance of the Overcliffe Conservation Area;
 - whether the proposal would provide suitable living conditions for future occupants, and the effect of the development on the living conditions of the occupants of No 8 Burch Road;
 - the effects of the proposal on highway safety and parking provision; and
 - the effects of the proposal on the integrity of the North Kent Special Protection Area and Ramsar, including the Thames Estuary and Marshes.

Reasons

Character and appearance

3. The application site is a yard comprised of an area of hard standing and a detached garage building at the rear of 8 Burch Road. The appeal site is within the Overcliffe Conservation Area (CA).
4. Nos 2-8 Burch Road form a continuous terrace of three-storey buildings raised above a basement, set back from the pavement by front basement wells contained by cast iron railings. The Overcliffe Conservation Area Appraisal (2007), as cited in the Council's delegated report, indicates that the terrace row formed part of the early 19th century Rosherville New Town development. Elegant detailing on the buildings hints at the original vision of Rosherville New Town as a prestigious suburb to Gravesend, and features such as porches, steps to the front doors, and many of the timber sash windows remain intact.

Since the proposed development would be located at the rear of No 8, it would not affect views of the terrace row's frontage.

5. However, the proposed dwellings would front onto Cross Road, a short street connecting Burch Road and Pier Road which runs parallel with the rear gardens of period properties, from which the height and form of the Burch Road terrace are clearly visible. The proposed development would be positioned close to the terrace row. The orientation of the proposed development would therefore appear out of keeping with the historic pattern of development in the area, and its siting would detract from views of the terrace row from Cross Road.
6. The design of the proposed dwellings would be of two-storey height and would incorporate features found on terraced villas fronting Burch Road. However, the proposed development would not be viewed within this context but would appear alongside The Nest, a converted single storey building with a pitched roof. The scale, massing and design of the proposed development would therefore appear out of keeping with adjacent buildings. In addition, the siting of the proposed development very close to The Nest would result in the development appearing cramped, overbearing, and prominent within the street scene.
7. For these reasons, the proposal would fail to preserve or enhance the character and appearance of the CA. The proposal would therefore conflict with Gravesham Local Plan Core Strategy 2014 (CS) Policies CS19 and CS20, and saved Policy TC3 of the Gravesham Local Plan First Review 1994 (LP), which together require new development to conserve and enhance the character of the local, built and historic environment and affords a high priority toward the preservation, protection and enhancement of the area's heritage and historic environment.
8. In addition, the proposal would not satisfy paragraph 189 of the National Planning Policy Framework (the Framework) which requires heritage assets be conserved in a manner appropriate to their significance.

Living conditions of future occupants

9. Each flat would have one bedroom with a floor area of 14sqm thus forming a 2-person dwelling within the context of the Nationally Described Space Standard (NDSS) and the Council's Residential Layout Guidelines. The ground floor dwelling would have a total internal floor area of 42.5sqm and the first-floor dwelling would have a floor area of 44sqm, and therefore would be significantly below the 50sqm standard set out in the NDSS. The proposed dwellings would therefore fail to provide adequate living space for future occupants. In addition, the bathroom of each proposed dwelling would not include an openable window and therefore would not offer adequate natural lighting, as required by the Residential Layout Guidelines, resulting in a poor quality of accommodation for future occupants.
10. The proposed dwellings would be situated close to the rear of No 8, with a separation distance of less than 10m. Due to this close proximity between the buildings, the proposed development would appear overbearing, resulting in a loss of outlook for occupants of No 8 and offering poor outlook for future occupants of the proposed dwellings.

11. The bedroom window of each proposed flat would face windows to habitable rooms at No 8, with limited separation distance. The proposal would therefore result in overlooking between habitable rooms which would harm the privacy of existing occupants of No 8 and fail to achieve a suitable standard of privacy for future occupants of the proposed dwellings.
12. Through inadequate internal space, poor outlook, privacy and lack of natural lighting, the proposal would not provide adequate living conditions for future occupants. Through adverse effects on outlook and privacy, the proposal would harm the living conditions of occupants of No 8.
13. The proposal would therefore conflict with CS Policy CS19 which requires new development to be fit for purpose and safeguard amenity including the privacy of its occupants and to provide a design and layout that accords with the Council's Residential Layout Guidelines incorporating the Housing Standards Policy Statement October 2015. In addition, the proposal would not accord with Section 12 of the Framework which, at paragraph 130, requires new development to provide a high standard of amenity for existing and future users.

Highway safety and parking provision

14. The appeal site has a gated access and dropped kerb and is therefore accessible to vehicles from Cross Road. Aerial photography provided by the Council shows one vehicle parked on the site. At time of my site visit, there were no vehicles parked on the site.
15. The site's planning history indicates that planning permissions granted in 1987 and 1989 included the provision of four and five car parking spaces on the site respectively. However, the outbuilding was not removed, and parking spaces are not demarcated. It is therefore uncertain if parking provision had been provided in accordance with the historic permissions.
16. The site was sold to the appellant in April 2013, has been used exclusively by the appellant since that time. The appellant indicates that occupiers of the terrace row have no right of access to the land. On this basis, whilst there has been no formal change of use of the land since the 1980s permissions, any parking provision formerly offered by the site to the occupants of No 8 appears to have ceased. Therefore, in practical terms the proposed development would not result in a loss of parking provision within the site.
17. Whilst I note concerns regarding effects on on-street parking in the area, the proposed development would provide two car parking spaces thereby achieving parking provision required by the Kent Vehicle Parking Standards 2006. In this regard the proposal would comply with Saved LP Policy P3 which requires parking provision in accordance with those standards.
18. The parking spaces would utilise the existing site access. The submitted plans are not annotated with visibility splays and therefore the proposal does not demonstrate that access provides satisfactory visibility. To the west of the access, visibility would be constrained by existing boundary treatments and the side elevation of No 8 which abuts the pavement edge. These built features located outside the appeal site boundary would obscure views of approaching pedestrians.

19. As set out above, rights of access to the site for existing occupants has ceased. Vehicle movements associated with the proposed development would be modest, but nonetheless would represent an increase in vehicles accessing the site. Therefore, through the intensification of use of the site access which offers poor visibility, the proposal would have harm highway safety.
20. The proposal would therefore conflict with CS Policy CS11 and saved LP Policy T1, which require development proposals to consider and mitigate their impact on the highway, and would not comply with saved LP Policy T5 which permits the intensification of use of existing accesses to the highway network only where no danger would arise and the access would be to an acceptable to a standard.
21. In addition, the proposal would not comply with Section 9 of the Framework which requires development proposals to ensure safe and suitable access to the site can be achieved for all users.

Special Protection Area

22. The site is within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) which is also a Ramsar site. The conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive. The qualifying features include its assemblage of waterbirds and populations of bird species including hen harrier, pied avocet, ringed plover, grey plover, red knot, dunlin, black-tailed godwit, common redshank, and waterbird assemblage.
23. Recreational activity causes disturbance to the SPA's bird populations. The proposed development would result in the creation of two additional dwellings which would lead to an uplift in the local population, placing additional recreational pressure on the SPA. The scheme is therefore likely to have a significant adverse effect on the SPA's integrity in isolation and in association with other similar development.
24. The Council imposes a tariff on all new dwellings within the 6km zone to provide contributions toward the Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate the effects of recreational disturbance and protect the integrity of European sites. The appellant has expressed willingness to make a financial contribution in accordance with the SAMMS. However, no evidence has been provided to indicate payment has been made. Consequently, in the absence of a SAMMS contribution, the effects of the proposal on the integrity of the SPA would not be adequately mitigated.
25. The proposal would therefore conflict with CS Policy CS12 which requires proposals provide mitigation measures to address recreation needs arising from development. In addition, paragraph 180 of the Framework indicates that permission should be refused where significant harm to biodiversity resulting from a development cannot be avoided.

Heritage Balance

26. The proposed development would result in a cramped form of development in the CA, with a design and layout that would appear out of keeping with the street scene. Therefore, the development as a whole would fail to preserve or enhance the CA and would further erode its historical context and have an

adverse impact on its significance. However, noting that the character of the CA is broadly derived from the pattern of development and contribution of those buildings which reflect the original vision of Rosherville New Town, I consider that the proposed development would result in less than substantial harm to the CA.

27. Paragraph 199 of the Framework states that great weight should be given to a heritage asset's conservation, and paragraph 202 requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against its public benefits.
28. The proposal would contribute two dwellings to the area's housing supply through the redevelopment of previously developed land in an established urban, residential area, with good access to the town centre, shopping facilities and transport interchanges. The dwellings would provide minor support to the Council's housing supply, which at present has a significant shortfall against the five-year housing land supply requirement.
29. These modest benefits are not considered to outweigh the identified harm to which I must attach considerable importance and weight as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would, therefore, fail to preserve or enhance the Conservation Area, and thereby the significance of, the designated heritage asset. It would not accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Other Matters

30. The Council cannot demonstrate a five-year supply of deliverable housing sites. Its delegated report identifies a housing land supply equivalent to 3.27 years' supply, a significant shortfall, and indicates the past delivery of housing is substantially below that required by the Housing Delivery Test. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date.
31. However, due to the proposal's likely significant effects in respect of harm to the integrity of the SPA, the Framework's policies which protect assets of particular importance provide a strong reason for restricting the development. On this basis, the proposal does not benefit from the presumption in favour of sustainable development, as set out at paragraph 11.d) of the Framework.

Conclusion

32. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

E Dade

INSPECTOR