



Appeal Decision

Site visit made on 6 June 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/K2230/W/22/3297881

12-16 Queen Street, Gravesend, Kent DA12 2EE

- 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 Cam Javed against the decision of Gravesend Borough Council.
 - The application Ref 20211511, dated 20 December 2021, was refused by notice dated 22 March 2022.
 - The development proposed is demolition of existing outbuilding and construction of a new 1.5 storey building comprising 6 studio apartments.
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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 High Street & Queen Street Conservation Area;
 - the effects of the development on the living conditions of future occupants, with particular regard to daylight, ventilation, access, and storage of waste; and
 - the effects of the development on the living conditions of nearby occupants, with particular regard to outlook and privacy.

Reasons

Character and appearance

3. The site is located within the High Street & Queen Street Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 instructs that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. The High Street & Queen Street Conservation Area Character Appraisal 2009 (CACA) describes Queen Street's special interest as a back lane to the medieval High Street linked by a variety of yards and alleys close to the town's historic centre. Queen Street is an established commercial street which provided the town's historic marketplace and connected to an ancient landing place on the Thames riverside.

5. In present times, Queen Street has the character of a small specialist shopping area, which despite modern development and shopfronts, retains a strong 19th century character.
6. The proposed development would be situated within the rear yard of Nos 12-16 and would thus be concealed from view from Queen Street's public highway by this terrace row. The proposed development would not therefore affect the arrangement of streets and buildings or predominantly commercial character of the CA that contribute to its historic significance. However, it is this pattern and form of development which is a positive contribution to the special attributes of the Conservation Area.
7. The CACA indicates that courtyard developments, form a part of the town's commercial history, once occupied by traditional industries, tucked away from the main routes. From my site visit I noted a development of flats to the rear of 5 Queen Street and commercial units at Dolphin Yard, and thus courtyard developments remain a feature of the area, formative of its character. However, such courtyard developments are arranged around routes between breaks in the row of buildings.
8. Conversely, the appeal site's connection to Queen Street is via a narrow passageway concealed by a door within the terrace row's front elevation. The proposed development would not therefore reflect the layout and character of the area's historic courtyards.
9. Nos 12-16 form a part of a historic terrace row, three-storeys in height. There are a variety of building types in the surrounding area which have been altered over time with some more modern infill development. However, Nos 12-16 are generally typical of the height, bulk and massing of development along Queen Street and the terrace contributes to the uniform building line along the rear edge of the pedestrian footway. The backs of a row of traditional two-storey terrace houses at Berkely Road appear prominent from the appeal site and provides a uniform roof line.
10. The proposed development would be sited in the rear yard of a row of terraced buildings. Whilst the proposed building would replace an existing single-storey outbuilding, its footprint would occupy a large portion of the rear yard. Whilst a small communal amenity area would be provided at its front, the building would be positioned close to the side and rear boundaries of the site and would be close to the rear elevation of Nos 12-16. The proposed building would therefore appear cramped within the site and, due to its close proximity and orientation perpendicular to adjacent terrace rows, would relate poorly to surrounding dwellings.
11. The form of the proposed 1.5 storey building with a triple gable roof would therefore be out of keeping with those surrounding buildings and would not be typical of the scale and form of buildings normally found in rear gardens.
12. Furthermore, Flats 4, 5 and 6 would be accessed via an external staircase at first floor level. This would appear visually prominent on the front elevation to the detriment of the building's appearance.
13. For these reasons the proposal would not deliver visual improvement but would harm the character and appearance of the area. The proposal therefore conflicts with Gravesham Local Plan Core Strategy 2014 (CS) Policy CS19

which requires new development to be visually attractive, integrate well with the surrounding area, and enhance local built character.

14. The proposal would also fail to comply with CS Policy CS20 which accords a high priority toward the preservation, protection and enhancement of its heritage and historic environment, and saved Policy TC3 of the Gravesham Local Plan: First Review 1994 which expects development to make a positive contribution to the conservation area. 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.
15. 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.

Living conditions – future occupiers

16. At each proposed flat, the windows would be on the front, north-facing elevation only. To ensure adequate natural light, the Residential Layout Guidelines Supplementary Planning Guidance 2 June 2020 (SPG) requires bathrooms be provided with openable windows, where practicable. However, the washroom of each flat, and the bedrooms, would have no windows. Furthermore, flats 1 and 2 would be overshadowed by the external walkway. In the absence of windows in the washroom and bedroom, the flats would experience poor levels of daylight and ventilation in those rooms. On this basis, the proposal would conflict with Policy CS19 which requires new development to be designed to safeguard the amenity, including daylight, of its occupants.
17. The enclosed access to the site would appear dark and unappealing. Due to its narrow width, the access would obstruct the movement of cycles between the bike store and street. The means of access would not therefore provide a safe and secure environment that is inclusive to all members of the community, as required by Policy CS19.
18. Policy CS19 also requires new development to incorporate appropriate facilities for the storage and recycling of waste. The proposal does not include details of the provision of such facilities, and whilst the appellant suggests the provision of waste storage can be dealt with through a planning condition, it is unclear what space would remain on site to accommodate waste storage. The proposed plot is limited in size and bin storage within the site could lead to a reduction in the level of available amenity space. This would lead to a further reduction in the living conditions of future occupiers. Therefore, it is uncertain whether the scheme can be made acceptable via a planning condition.
19. The site would not be accessible to a refuse collection vehicle and, the pavement at Queen Street appears to provide the only available location for waste collection. Where placed on the pavement, bins would add visual clutter to the detriment of the appearance of the street scene, and thus would not preserve or enhance the character or appearance of the Conservation Area adding to the less than substantial harm I have identified above.

20. As set out above, the proposal would not satisfy all design criteria set out at Policy CS19. The consequence of which being that the scheme would fail to achieve adequate living conditions for future occupants. For the same reasons, the proposal would not accord with paragraph 130 of the Framework which requires developments to provide a high standard of amenity for future users.

Living conditions – existing occupiers

21. The building's side elevation would be positioned close to the site's rear boundary with dwellings Nos 4, 5 and 6 Berkley Road. From the rear of those dwellings, the proposed development's blank side wall and pitched roof would appear visually dominant and would have an enclosing effect on those rear gardens, thus harming outlook for occupants of Nos 4-6.
22. In addition, the first-floor level walkway serving proposed flats 4, 5 and 6 would enable direct overlooking of rear gardens and windows of Nos 4, 5 and 6 Berkely Road, thereby harming the privacy of the occupants.
23. Furthermore, the proposed development would be detrimental to outlook and privacy of Nos 4-6 Berkely Road, thus harming the living conditions of the occupants of those dwellings.
24. The proposal would therefore harm the living conditions of nearby occupants, with particular regard to outlook and privacy. The proposal would conflict with Policy CS 19 which requires development to safeguard the amenity, including privacy, of neighbouring properties, and would not accord with paragraph 130 of the Framework which seeks to create a high standard of amenity for existing users.

Heritage Balance

25. The proposed development would result in a cramped form of development in the CA, and the lack of bin storage would add visual clutter to the detriment of the appearance of 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 and form of development, I consider that the proposed development would result in less than substantial harm to the CA.
26. Paragraph 202 of the Framework states that such harm should be weighed against any public benefits of the proposal. The proposal would contribute six dwellings to the area's housing supply through the redevelopment of brownfield land in a town centre location with good access to shops, services, employment, and public transport. The proposal would give rise to some modest economic benefits during the construction phase and 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.
27. In addition, the appellant indicates the proposed development would provide a catalyst to bring the upper floors of other buildings on the site back into use. The rear elevation of Nos 12-16 would be rendered and windows would be replaced with timber sash windows, thus improving the vitality and appearance of the CA. However, no formal mechanism is included within the proposal to

secure investment in or re-use of the other buildings on site, and therefore I attach limited weight to this benefit.

28. 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

29. The site is within the buffer zone of the Thames Estuary and Marshes Special Protection Area and Ramsar site (SPA). 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.
30. Recreational activity causes disturbance to the SPA's bird populations. The proposed development would result in the creation of six additional dwellings which would lead to an uplift in the local population, placing additional recreational pressure on the use of the sites. The scheme is therefore likely to have a significant effect on the SPAs integrity in isolation and in association with other similar development.
31. The Council has adopted a tariff to fund strategic mitigation measures to mitigate harm to the SPA's integrity, payable for each new dwelling unit within 6km of the SPA. The appellant has expressed willingness to make a financial contribution prior to determination of this appeal. However, the evidence before me does not indicate the tariff has been paid, and no mechanism has been put forward to secure its payment. Consequently, the proposal does not provide mitigation necessary to avoid harm to the SPA arising from the development.
32. In the absence of mitigation, the scheme would have likely significant adverse effects on the SPA's integrity in isolation and in association with other similar development. On this basis the proposal would not comply with CS Policy CS12, which protects sites of biodiversity value and seeks to ensure no net loss in biodiversity. In addition, the proposal would conflict with the Conservation of Habitats and Species Regulations 2010 (as amended) and paragraph 180 of the Framework which requires significant harm to biodiversity be avoided.
33. 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. 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

34. 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