



Appeal Decision

Site visit made on 6 February 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/K2230/W/23/3318724

98 Old Road West, Gravesend, Kent 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 Mr Minda Bains on behalf of JB Construction against the decision of Gravesend Borough Council.
 - The application Ref 20221237, dated 20 December 2022, was refused by notice dated 23 February 2023.
 - The development proposed is erection of two x one-bed flats within the roof space of this purpose-built, three-storey block of nine, one and two-bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the National Planning Policy Framework (the Framework) was revised by government. In the interests of fairness, the main parties were invited to comment on the significance of such revisions in respect of the appeal proposal.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - The character and appearance of the appeal property and area;
 - Highway safety, with particular regard to car parking and cycle storage; and
 - Living conditions of occupants of Flats 7-9, 98 Old Road West.

Reasons

Character and appearance

4. The appeal site comprises a modern, three-storey block of flats with a parking area at the rear, prominently located at a corner formed by a road junction. The surrounding area has a generally dense, urban character comprised of semi-detached dwellings and rows of two and three-storey terraced dwellings with short front gardens. A public open space opposite the appeal site contributes greenery and openness.
5. The appeal site is outside but adjacent to the Darnley Road Conservation Area (DRCA). The DRCA comprises Darnley Road, a straight route toward the town centre, and the buildings which front onto it. The area is principally residential

in character, with a mix of period properties, including pairs of semi-detached villas and terraced rows which follow a uniform building line. Dwellings are principally two-storey and constructed from brick, with architectural details including canted bay windows, brick patterning, sections of render, and decorative front doorways and porches.

6. Due to its siting near the DRCA boundary, the appeal site is within the setting of the DRCA. Paragraph 201 of the Framework requires assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
7. The DRCA's significance is derived from its street layout, the form of development, and the age and architectural style of its dwellings. The block of flats is modern and is not contemporary with buildings within the DRCA. The proposed changes to the west elevation would be visible from the street at the junction of Darnley Road and Old Road West and therefore the proposed alterations to the exterior of the building would be visible from within the DRCA. However, such visual impacts would not affect features which contribute to the DRCA's significance. Consequently, the proposal's effects on the DRCA and its setting would be neutral.
8. The building has prominent gable ends on the south and west elevation, finished with cream render and black-painted detail. The appearance of the gable ends is replicated on the storm porch and at the frontages of nos 163, 165, and 167 Darnley Road, and nos 96A and 96B Old Road West. The decorative gable ends therefore contribute visual interest to the appearance of the building and uniformity within the street scene.
9. The proposal would insert a window into each gable of similar size and appearance to other windows found on the south and west elevations. However, the spacing and alignment of the windows would be inconsistent with the arrangement of existing windows. The gable windows would therefore appear as incongruous additions to the south and west elevations. In addition, insertion of the gable windows would disrupt the coherent and uniform appearance of the street scene, and therefore would have an adverse impact upon the character and appearance of the area.
10. To provide access to the roof space, the proposal would involve the upward extension of the existing enclosed stairwell which projects from the rear of the building. The existing stairwell is flat-roofed and of similar height to the eaves. Through raising the height of the stairwell and the addition of the hipped roof above, the proposal would add considerable bulk and massing to the roof and would interrupt the simple form of the roof line to the detriment of the appearance of the building. The proposed roof extension at the stairwell would be prominent within the roof line from public vantage points at Kent Road and Lynton Road and therefore would harm the character and appearance of the area.
11. The proposal would result in harm to the character and appearance of the area, leading to conflict with Policy CS19 of the Gravesham Local Plan Core Strategy 2014 (GLPCS), which requires proposals be visually attractive, locally distinctive, and conserve and enhance the character of the local built environment. In addition, the proposal would fail to accord with paragraph 135 of the Framework which requires proposals be visually attractive as a result of good architecture and be sympathetic to local character.

Highway safety

12. The rear car park serves the block of flats and dwellings nos 96A and 96B. The proposal would provide two additional car parking spaces to serve each proposed flat, as required by local parking standards, and would alter the layout of one existing space. In addition, cycle storage would be provided beside the existing bin store. Since the proposal would change the existing car park layout and intensify its use, it is necessary to consider the proposed car park layout as a whole.
13. Whilst a swept path for access and egress has not been provided, it would appear that a vehicle turning out of the parking space for No 96B would conflict with the spaces for No 96A, which would result in the space being unusable. Therefore, the development would not meet the required parking standards.
14. In addition, Local Transport Note 1/20 (LTN) recommends a desirable minimum width for a cycle lane of 2m, with a minimum width of 1.5m. Drawing on the LTN's guidance, the Highways Officer recommends the access aisle to the cycle store be a minimum 1.8m width. The block plan suggests the access would be 1.2m wide, thus falling short of the recommended minimum standard, and therefore does not demonstrate there would be adequate space to access the cycle store by persons mounted or walking adjacent to a cycle.
15. In the absence of adequate information to demonstrate accessibility of car parking spaces and cycle storage, I must conclude that the proposal would harm highway safety.
16. The proposal would therefore conflict with GLPCS Policy CS11, and Saved Policies T1 and P3 of the Gravesham Local Plan First Review 1994 GLPFR, which together require development make sufficient provision for vehicle parking.

Living conditions

17. The proposal would involve conversion of the block of flats' roof space. The proposed flats would be situated above existing flats nos 7, 8 and 9. In a previous appeal¹ for a similar proposal the Inspector noted that the proposed living areas would be above bedrooms of the flats below, and the proposed flats' bedrooms would be above existing living areas. The Inspector concluded this vertical arrangement would give rise to unacceptable noise and disturbance transfer between spaces.
18. Likewise, for the appeal proposal, the living room / kitchen of each proposed flat would be situated above bedrooms. In addition, the bedrooms of the proposed flats would overlap kitchens and living areas of the flats below.
19. Whilst the provision of sound insulation would be governed by Building Regulations, the separation distance between the existing top floor and the proposed additional flats appears less generous than between existing floors of the building. The proposal also provides no information to demonstrate that sound-proofing insulation could be accommodated or that the transfer of noise between living areas and bedrooms could be minimised to acceptable standards. In this regard my findings are consistent with the previous Inspector.

¹ APP/K2230/W/21/3278562

20. The proposal therefore fails to demonstrate that the proposal would not give rise to noise and disturbance, and that suitable living conditions would be maintained for occupants of flat nos 7-9. The proposal would therefore conflict with GLPCS Policy CS19 which requires development proposals safeguard the amenity of neighbouring properties.

Other Matters

21. The appeal site is within 6 km of the Thames Estuary and Marshes Special Protection Area (SPA) and is therefore deemed to be within the zone of influence of the SPA, which is a European Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). I note the appellant made a financial contribution toward mitigation in relation to a previous scheme at the site. Where a proposal is likely to have a significant effect on European Sites, Regulation 63 of the Habitats Regulations requires the competent authority to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal on the basis of identified harm to character and appearance of the area, it is not necessary to address the proposal's effects on European Sites in further detail.

Planning Balance

22. The Council cannot demonstrate a five-year supply of deliverable housing sites and past delivery of housing was below 75% of that required by the Housing Delivery Test. The evidence before me suggests there is a substantial shortfall in housing supply in the area. Consequently, because of the provisions of footnote 8, paragraph 11d) ii. of the Framework should be applied.
23. The Local Plan dates from 2014. However, paragraph 225 of the Framework makes clear that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework's publication, and requires due weight be given to existing policies according to their degree of consistency with the Framework.
24. Paragraph 135 of the Framework supports developments which are visually attractive as a result of good architecture and are sympathetic to local character and create a high standard of amenity for existing users. Paragraph 114 requires the design of parking areas reflect national guidance, and paragraph 115 indicates development should be refused where there would be an unacceptable impact on highway safety. Consequently, there is a high degree of consistency between relevant development plan policies and the Framework. The proposal's conflict with GLPCS Policies CS19 and CS11 and GLPFR Saved Policies T1 and P3 therefore carries significant weight against the scheme.
25. Set against this harm, the proposal would provide two dwellings, in an accessible location in proximity of the town centre, which offers shopping facilities and public transport. However, even taking into account the substantial shortfall of housing supply, the extent of the social and economic benefits associated with the proposal would be small, attracting only modest weight in favour of the scheme.

26. Consequently, the adverse impacts on the character and appearance of the appeal property and area, highway safety, and living conditions would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

27. 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 be dismissed.

E Dade

INSPECTOR