



Appeal Decision

Site visit made on 1 February 2021

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021.

Appeal Ref: W/4001327

20 Kitchener Avenue, Gravesend DA12 5HY

- 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 S & J Cheema against the decision of Gravesham Borough Council.
 - The application Ref 20191097, dated 14 October 2019, was refused by notice dated 23 January 2020.
 - The development proposed is for partial demolition of rear single storey shop extension of 20 Kitchener Avenue and re-development of land to the rear of 20, 20a and 22 Kitchener Avenue fronting onto School Road to create 2 two bedroom two storey homes with associated landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for partial demolition of rear single storey shop extension of 20 Kitchener Avenue and re-development of land to the rear of 20, 20a and 22 Kitchener Avenue fronting onto School Road to create 2 two bedroom two storey homes with associated landscaping and parking at 20 Kitchener Avenue, Gravesham DA12 5HY in accordance with the terms of the application ref. 20191097, dated 14 October 2019 subject to the conditions set out within the schedule attached to this decision.

Procedural Matter

2. In response to the fifth reason for refusal that can be found on the Council's decision notice, at the time of issue the proposal failed to secure a contribution towards strategic measures to mitigate likely significant effects, either alone or in combination upon the Coastal North Kent Special Protection Areas (SPA's)/Ramsar sites, from recreational disturbance to their over-wintering bird interest. Natural England had advised that an appropriate tariff of £245.56 per dwelling should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries.
3. I understand that the strategic measures are in the process of being developed, but are likely to be in accordance with the category A measures identified in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS); that the interim tariff should be collected in anticipation of an administrative body being identified and, amongst other things, enable a delivery mechanism to be secured.
4. The appellant has demonstrated that they have paid a contribution of £500.78 to the Council, consequently the fifth reason for refusal falls away. I have determined the appeal on this basis.

Main Issues

5. The main issues therefore are the effect of the appeal proposal upon the character and appearance of the area; the living conditions of the occupants of both existing and future residents, with specific reference to privacy and noise; and upon highway safety, with specific regard to shop servicing and highway visibility.

Reasons

Character and Appearance

4. The appeal site currently comprises a rather ramshackle collection of storage rooms and an unkempt external yard which serves a mini supermarket that fronts on to Kitchener Avenue. It forms part of a parade of commercial premises at ground floor level which all back on to School Road, a single track road that provides service access to 18-22a Kitchener Avenue, a builders yard to the rear of flats at 24-28 Kitchener Avenue and Whitehill Primary School and Nursery.
5. I noted on my site visit that the rear boundaries of the Kitchener Avenue premises tend to be utilitarian or to use the appellants' term, 'aggressive' in their appearance, and provide a soulless elevation to those using School Road and the footway that runs along its western side. A pair of linked detached two storey dwellings have been built in recent times at 2 and 4 Jellicoe Avenue West at the junction with School Road, the flank elevation and rear garden side boundary for the latter also being contiguous with the eastern edge of the adjoining highway. A relatively recently constructed detached garage has been built at the rear of 18 Kitchener Avenue, therefore some new development within the immediate vicinity of the appeal site is readily apparent.
6. I accept that the introduction of a pair of two storey semi-detached dwellings on the appeal site could in isolation appear at odds with their immediate surroundings, although I can see clear benefits in creating an active frontage along the eastern side of School Road. This would give rise to an uplift in the general ambience of the street scene, as well as providing greater natural surveillance for passing pedestrians. Combined with the enhancement of the remainder of the existing site, through the rationalisation of the yard and the space currently taken up by the dilapidated rear-most storeroom and other accretions that would be demolished, I consider that the aesthetics of the site would be significantly enhanced.
7. Therefore, on balance, I consider that the proposal would enhance the character and appearance of the area. It complies with policy CS19 of the Gravesham Local Plan Core Strategy 2014 (GLPCS) which requires schemes to be visually attractive, fit for purpose, and locally distinctive, whilst enhancing and conserving the character of the local built environment. The proposal also complies with paragraph 127. b) of the National Planning Policy Framework (the 'Framework') which requires planning decisions to ensure that developments are visually attractive as a result of good architecture.

Living Conditions

8. The appellant has provided a long elevation drawing which identifies the distances between habitable room windows serving above ground floor flats on Kitchener Avenue, as well as those on the rear of the proposed dwellings.
9. The Council states that the distance between these existing windows and the first floor rear windows of the proposed dwellings would be approximately 20.5m which falls short of the privacy distances of at least 21m adopted by them. However in

response to this, the appellant highlights that their long elevation drawing, specifically 'North Elevation A-A', shows this distance to be over 22m. I am not in a position to definitively determine which of these dimensions are correct, however even going by the Council's measurement, the shortfall below the adopted standard would not be significant. Consequently I consider that the proposed development would not give rise to a mutual loss of privacy between the habitable room windows of the existing flats and the rear bedroom windows of the proposed dwellings.

10. I note that the Council also has concerns with regard to overlooking of the proposed rear gardens to serve the new dwellings. However, the gardens adhere to the local housing standard's minimum depth of 7.6m, and by virtue of the retention of storeroom 01 I consider that this would partially screen views from upper floor rear windows of the Kitchener Avenue flats, especially for proposed unit 01. I consider that it is inevitable that some levels of overlooking of rear gardens in urban areas is inevitable, and that overall I find that this would not be significant particularly bearing in mind the other separation distances.
11. In respect of noise I have not been made aware of any complaints from local residents with regards to the operation of the Kitchener Avenue commercial premises, neither have any concerns been raised in this respect by the Council's Environmental Health department. Bearing in mind the fact that flats are located above a number of the commercial premises and there are other residential properties within close proximity of the parade of shops, I have been given no substantive reason to conclude that the future living conditions of the proposed dwellings would be unduly harmed by noise and disturbance.
12. Therefore on this issue, I also consider that the proposal complies with GLPCS policy CS19 which seeks to achieve new development to encourage sustainable living and choice through a mix of compatible uses which are well connected to places that people want to use and be located, designed and constructed to safeguard the amenity, including privacy of its occupants and those of neighbouring properties, as well as avoiding adverse environmental impacts, including noise.

Highway Safety

13. I note the Council's concern with regard to the loss of the rear service yard serving the mini-supermarket, although I am lead to understand that the majority of deliveries are made to the front of the property where there are no parking restrictions. The local highway authority (LHA) raised concerns about levels of on-street parking and it is quite clear that these vary throughout a typical day. The bus stop is however due north of the appeal site, beyond the parade of shops, and therefore I consider the potential for conflicts between deliveries and buses serving the locality would be slim. I accept that at times there might be little space for a delivery vehicle to pull up right outside the shop, and that the parking of a lorry on the opposite side of the road could give rise to associated dangers to its operative crossing the road with deliveries. However, a rear commercial access via School Road would also be retained and therefore in the event that there was no safe place to park outside the front of the shop there remains an option to provide deliveries directly into the rear storeroom.
14. The appellant hasn't provided annotated highway visibility splays on their drawings, although traffic flows are very low and slow along School Road; and both respective parking spaces would be set in from the side boundaries of the site,

providing some forward visibility. It is quite clear that there are currently no visibility splays serving the existing access on to School Road however.

15. Taking into account that vehicle movements from the proposed dwellings would be low I consider that at the very least there would be no increased dangers or potential for conflict between highway users. As highlighted by the LHA, due to the limited number of vehicle movements on the road it would be difficult to gather sufficient data to determine the exact visibility requirements by a speed survey. Nonetheless, I doubt that vehicle speeds would exceed 10mph, over such a short stretch of road.
16. On balance, I consider that the proposal would not give rise to harm to highway safety and would comply with GLPCS policy CS11 and policy T1 of the Gravesham Local Plan First Review¹ which together require the impact on the transport system to be considered, whilst ensuring that all proposed developments are adequately served by the highway network and enable sufficient parking to be provided in accordance with the adopted parking standards.

Conclusions and Conditions

17. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should succeed.
18. Other than the standard time limit the Council has also recommended that the development be carried out in accordance with the approved plans, that details of facing materials to be used in the external surfaces of the dwellings be submitted, along with details of hard and soft landscaping. I consider these conditions are reasonable and necessary in the interests of protecting the character and appearance of the area.
19. Furthermore the Council also recommends that the vehicle parking areas shown on the plans be formed, surfaced and drained prior to first occupation of the dwellings, so as to ensure sufficient off street car parking provision; and that the car ports remain open with no gates installed. I consider that these are necessary, as is the requirement of a Code of Construction Practice in the interests of highway safety and protecting residential amenity. Furthermore it is also recommended that a contaminated land condition is necessary in order to protect the local environment from air and water pollution, which I consider is both necessary and reasonable.

C J Tivey

INSPECTOR

¹ Gravesham Local Plan First Review adopted 1994, Saved and Deleted Policies Version from September 2013

Schedule of Conditions

1. The development to which this permission relates must begin not later than the expiration of three years beginning with the date on which this permission is granted.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. EX01A (OS Plan) received 22 October 2019.

Drawing no. PA099 (Proposed Block Plan) received 15 October 2019.

Drawing no. EX100 (Existing Site Plan) received 15 October 2019.

Drawing no. PA201 (Proposed Elevations) received 15 October 2019.

Drawing no. PA202 (Proposed Elevations) received 15 October 2019.

Drawing no. PA101 (Proposed Floor Plans) received 15 October 2019.

Drawing no. EX200 (Existing Elevations) received 15 October 2019.

Drawing no. PA100A (Proposed Site Plan) received 15 October 2019.

Drawing no. PA200 (Proposed Long Elevations) received 15 October 2019.

Drawing no. EX099 (Existing Block Plan) received 15 October 2019.

3. Prior to the commencement of any above ground works, details of the facing materials to be used in the construction of the external surfaces of the dwellings hereby permitted, including bricks, tiles, windows, doors and rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

4. Within three months of the development commencing, a plan shall be submitted to the Local Planning Authority for approval showing a scheme of landscaping (hard and soft) and boundary treatment. The planting shall include two trees for every tree lost to the development. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Authority gives written consent to any variation.

5. The vehicle parking areas shown on the approved plans shall be formed, surfaced and drained prior to first occupation of the dwellings hereby approved. Thereafter, notwithstanding the provisions of the Town and Country (General Permitted Development) (England) Order 2015 as amended, or any provision equivalent to it in any statutory instrument replacing, revoking or re-enacting that Order (with or without modification), no development shall be carried out on the site in such a manner or in such a position as to preclude the unfettered use of or access to the vehicle parking areas.

6. No development shall take place until a comprehensive Code of Construction Practice (CoCP) covering all environmental impacts including pest control from the

clearance/construction phase of this development is provided by the applicant and submitted for approval to the Local Planning Authority. No works shall commence until approval of this report has been given by the Local Planning Authority.

The CoCP shall include details of the following, including any other measures deemed reasonably necessary:

- (a) Suitable mitigation measures to minimise noise pollution and vibration during the construction phase including the insulation of fixed plant and the silencing of vehicles and mobile machinery;
- (b) A Dust Management Plan to minimise emissions to air and to prevent nuisance from wind-blown dust including fencing and the dampening down with water of excavated construction and cover materials on site, and other areas traversed by plant vehicles and machinery;
- (c) A Construction Traffic Management Plan covering:
 - Routing of delivery vehicles to and from the site;
 - Parking and turning areas for construction and delivery vehicles and site personnel;
 - The hours of operation for construction traffic and timing of deliveries;
 - Type and location of wheel washing and chassis cleaning facilities;
 - Temporary traffic management/signage; and
- (d) Details of the location of the proposed construction compound.

The construction of the development shall adhere at all times and be carried out in full accordance with the relevant approved document or any subsequent variations that may be approved in writing by the Local Planning Authority.

7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

8. Notwithstanding the submitted plans the car ports shall remain open and no gates shall be fixed to, or used in association with them.