
Appeal Decisions

Site visit made on 24 November 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal A - Ref: APP/K2230/W/21/3287988 55 Rochester Road, Gravesend, Kent, DA12 2JN.

- 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 RDS Property Services Ltd against the decision of Gravesham Borough Council.
 - The application Ref 20211037, dated 23 August 2021, was refused by notice dated 28 October 2021.
 - The development proposed is the relocation of 5 parking spaces and erection of two single storey dwellings and three additional car parking spaces with ancillary works.
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Appeal B - Ref: APP/K2230/W/22/3298438 55 Rochester Road, Gravesend, Kent, DA12 2JN.

- 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 RDS Property Services Ltd against the decision of Gravesham Borough Council.
 - The application Ref. 20220052, dated 25 January 2022, was refused by notice dated 7 April 2022.
 - The development proposed is the construction of third floor extension to facilitate the conversion of the existing roof penthouse to form 2 flats, relocation of 5no. parking spaces and formation of additional 1no. parking space to the rear, formation of 2no car park spaces to the front with associated landscaping.
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Decisions

Appeal A - Ref: APP/K2230/W/21/3287988

1. The appeal is dismissed.

Appeal B - Ref: APP/K2230/W/22/3298438

2. The appeal is dismissed.

Preliminary matter

3. I have used the Council's description of the development in Appeal B rather than that used in the application forms as it better describes the proposal shown on the submitted plans.

Main Issues

4. The main issues in both appeals are:
 - The effect on the character and appearance of the area;

- The effect on living conditions and amenity space, both on the occupiers of the existing properties in No 55 and on the occupiers of the new dwellings proposed; and
- The effect on Special Protection Areas¹.

Reasons

Background

5. The appeal site comprises a 2.5 storey residential block of five apartments, which was approved in 2015 as a redevelopment of the then existing bungalow, which lies in a mainly residential area on the eastern side of Rochester Road. There is a large school on the western side. Neighbouring development is described in relation to the first main issue below. There is a private driveway on the southern side of the existing building which provides access to the rear courtyard and to parking spaces/garages to the rear of properties fronting Denton Court Road.
6. It is proposed in appeal A to build 2 single storey apartments on the sloping land to the rear of the building and relocate 6 parking spaces to be accessed off the private drive. In appeal B the proposal is to extend the existing accommodation at second floor (third level) to make a full storey and use this as two flats.
7. There is extensive planning history at the appeal site including refusals of development in depth in the rear part of the site.

Policy Context

8. At the time when the applications were decided the Council could not demonstrate a five year supply of new housing sites (3.27 year's supply) and that the delivery of housing has been substantially below that required in the Housing Delivery Test (less than 75%). Paragraph 11(d) of the National Planning Policy Framework (the Framework) (sometimes referred to as the 'tilted balance') is therefore engaged in this case.

The effect on the character and appearance of the area

9. In terms of the scheme in appeal A the Council says that the land to the rear of the existing block of flats is the private amenity space for the occupiers of these 5 flats although I saw at my site visit that the space appears little used and poorly managed. It slopes away from the building and there is a high concrete block wall along the northern boundary of the site.
10. Although the single storey building of two flats would make use of the slope of the land, further development in depth would go against the character and grain established by the new building on the appeal site and the adjoining bungalow No. 57 which are mainly frontage development. At the visit I took note of the other development to the north at 3-7 Rochester Road where there is development in depth but this is a more comprehensive form of redevelopment on a larger site and accessed off an estate road. Locally the properties tend to be spaced out and have individual gardens. In contrast, there would be little space around the proposed combined development at

¹ Thames Estuary and Marshes, the Medway Estuary and Marshes and The Swale Special Protection Areas (SPAs)

No.55. The re-sited and additional parking in the appeal scheme would be mostly served off a narrow private driveway.

11. Although the proposed two additional dwellings would be away from the public realm and generally not open to public view, in spatial terms I am concerned that these dwellings would physically be located very close to the rear of the existing dwelling and would have a 'squeezed in' appearance. Overall I agree with the Council that the proposal in appeal A would not be sympathetic to the existing character and appearance of the site nor integrate well with its surroundings and would represent an over development contrary to the provisions of Policies CS15 and CS19.
12. Turning to Appeal B the issue here is the effect of the additional two flats on the townscape of the area and I considered the proposal in the frontage from St Marys Church to the properties at 3-7 Rochester Road. The present flatted building at No.55 is mainly of a two storey form and although there is accommodation at second floor this is in the roof of the building and the dormer windows are designed to be ancillary features. Moreover the present building sits in a frontage of two bungalows to the north and one immediately to the south.
13. The appellant's representations stress the variety in property layout, designs and forms particularly around the land to the north of the appeal site but it appear to me that these buildings generally adhere to a two storey basic form. No's 23-31 have a mansard roof and although there is a glimpse of a flat roof at second floor on the side elevation, the main frontage displays a tiled roof at second floor. Similarly with No.51 the unit at second floor is set back from the front and sides of the basic two storey form, similar to the arrangement of the existing building at No.55.
14. In this context, the proposal to have a full three storey building with a flat roof would appear as a prominent feature with an overbearing impact in the street scene. In particular, it would dominate the setting of the adjoining bungalows. I find that the proposal would not accord with the requirements of Policy CS19 to ensure that new development integrates well with its surroundings.
15. In relation to national policy, section 12 of the Framework seeks to achieve well designed places where new development is sympathetic to local character and creates a strong sense of place. However, for the reasons given above concerning the scale and layout of the development, the proposals in both schemes would not achieve this but would harm the character and townscape of the area.

Effect on living conditions

16. The issue is concerned with the effect on living conditions, both for the occupiers of the new residential accommodation, and the existing and neighbouring properties to the site.
17. In the scheme in Appeal A the Council submits that the new houses would have inadequate garden areas compared to the standards on size and extent set out in the Residential Layout Guidance (2020) (RLG) whereas the appellant suggests that the total amenity green space for the increased units would be increased from 239m² at present to 350² and that the quality of the space would be better. However, the latter figure includes the green roof above the

two new dwellings, which does not appear to have been designed for practical garden use, together with the 'grass-crete' parking areas and the shared amenity space includes the bike storage shed. To my mind this proposed layout does not provide adequate and useable amenity space for the 7 and potential 9 dwellings envisaged at the appeal site, and this would harm the living conditions of the existing occupiers of the flats in No.55 and the proposed new ones.

18. In terms of the effects on existing neighbours I am satisfied that the scheme in appeal A would not result in overlooking and a loss of privacy because of the level of the land and the presence of the block wall on the northern boundary of the site. However for Appeal B there is an issue over increased overlooking of surrounding neighbouring properties. The existing rear (east facing) elevation of No.55 has a pair of bedroom and a kitchen/diner window at first floor level with French doors and Juliet balcony together with a dormer window at second floor level lighting a dining/living room.
19. The proposed scheme would have in addition two French doors with balconies at second floor level. This would cause direct overlooking of the adjacent properties and their rear gardens, or at least the occupiers would have the perception of being overlooked, with a material loss of privacy. This would harm the living conditions of these occupiers and the proposal would conflict with the third bullet point of Policy CS19.

The effect on SPAs.

1. The evidence submitted indicates that the designated sites for nature conservation in the Thames Estuary and Marshes Special Protection Area (SPA) are in an unfavourable ecological state, particularly as a wetland for birds. This is likely to be made worse by additional population in the area arising from new residential development with an increase in recreational pressures. The site lies within the 6Km buffer zone identified in the North Kent Birds Disturbance Report. Accordingly, avoidance and/or mitigation measures as set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy should form part of the proposals for new residential development.
2. I note that the Appellant and the Council reached an informal agreement to pay a financial contribution to avoid or mitigate the effects on the SPA through a Unilateral Undertaking. However there is no formal mechanism before me and I cannot assess if that procedure accords with the guidance on Planning Obligations as set out in paragraph 57 of the Framework. Nevertheless, I am satisfied that if all other aspects of the appeal scheme were acceptable this matter could be addressed by the appellant and Council together, completing an Agreement before a final decision is reached on the appeal.

Other matters

3. Local people also raised concern about the effect of additional traffic arising from the development entering Rochester Road particularly as the access and site frontage is close to a school and busy pedestrian crossing point. I have taken account of the evidence submitted including a photograph said to be of a local road traffic accident. However, I note that the highway authority do not object to either proposal and at the site visit I saw that the exit from the

private drive had reasonable visibility. Therefore the refusal of either scheme on highway safety grounds is not justified.

Planning balance

4. On the main issues I have found in appeal A that the proposed single storey dwellings would not integrate well with the established grain of the surrounding area but would appear 'squeezed in' and harm the character of the area. The scale and form of the proposed full additional storey in appeal B would have an overbearing impact in the local frontage of principally single and two storey properties. Moreover, the schemes proposed would not provide adequate amenity space and this would harm the living conditions of the occupiers of the flats at No.55 and in appeal B the additional fenestration at second floor level would cause overlooking and a loss of privacy to neighbours. This means that the proposal conflicts with the relevant local policy and national guidance to ensure that new development fits in with its surroundings and respects the amenity of existing properties. However I have concluded that the effect of the development on the habitat of the SPAs could be avoided or mitigated by a formal agreement.
5. These adverse effects have to be balanced with other factors in favour and especially the lack of new housing being delivered by the Council, and which limits the weight that can be placed on Policy CS19. The proposals would also make more effective use of land which is also a qualified aim of the Framework. However, I find that the proposal conflicts with the Framework when read as a whole and that the proposal is not 'sustainable development' because of the environmental impact. The adverse effects and conflict with the Framework, in achieving well designed places where new development is sympathetic to local character, is not significantly and demonstrably outweighed by these benefits. The appeal should therefore not be allowed. Given this overall conclusion I do not need to carry out an Appropriate Assessment under the Habitat Regulations.

Conclusions

6. For the reasons given above I conclude that both appeals should be dismissed.

David Murray

INSPECTOR