



Appeal Decision

Site visit made on 8 May 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/K2230/D/23/3324637

49 Gouge Avenue, Northfleet, Gravesend, Kent DA11 8DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Matthews against the decision of Gravesend Borough Council.
 - The application Ref is 20230243.
 - The development proposed is described as demolition of an existing single storey garage outbuilding and its replacement with a single storey annex building for residential accommodation ancillary to the main house alongside associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether the proposal would provide acceptable living conditions for future occupiers, including whether or not it would be considered a safe place to live;
 - iii) whether or not the proposed development would constitute a separate dwelling; and
 - iv) 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

4. The appeal site lies within a predominantly residential area. There is uniformity in the pattern of development in the locality which generally consists of dwellings that front the highway with elongated rear gardens. No 49 Gouge Avenue, however, is a detached two-storey dwelling located at the end of a long terrace of dwellings with a long rear garden of irregular shape to its north-eastern extent. A large, detached garage is currently *in situ*, accessed via an unmade access road which serves a significant number of garages.
5. The proposed would have a greater prominence than the existing garage on site, including by reason of its increased height. The introduction of a sizeable building to the rear of the site, whether an annex or an independent dwelling, would contrast with the existing pattern of development along Gouge Avenue and Coulton Avenue. While the proposal would make efficient use of land the proposal would represent a piecemeal development of a large garden that would be at odds with the existing pattern of development in the locality.
6. The proposed building would be a visual enhancement when compared to the existing garage and an appropriate palette of materials could be secured by a suitably worded condition. However, this would not overcome the harms I have identified.
7. While I am satisfied that the proposal would accord with Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (Core Strategy) insofar as it prioritises development in urban areas as a sustainable location for development it would fail to have regard to the character and the area.
8. For the reasons stated, I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would therefore conflict with Policies CS15 and CS19 of the Core Strategy. Among other matters, these seek well designed new developments and to protect the character of the area. I also find conflict with the Framework which seeks to ensure that new development is, amongst other things, locally distinctive and reinforces the local character of the area.

Living Conditions

9. Parking would be retained adjacent to the building, accessed via the unmade track to the east of the site which extends from Coulton Avenue. Given the presence of an existing gated pedestrian access from the track it would be highly unlikely that the future occupiers would access the building via Gouge Avenue. Accordingly, future occupiers would likely access the property from an unlit, unmade access track which would be poor in terms of creating well-designed places.
10. While the appellant submits that the proposal would improve natural surveillance there would be no openings facing towards the track and movements associated with the rear access would be for short periods of time. The proposal would therefore have a limited positive effect on such matters.
11. If I were minded to allow the appeal a condition could be imposed to ensure the provision of external lighting. However, this would not overcome the harms I have identified.

12. In conclusion on this matter, I am not satisfied that the proposal would provide acceptable living conditions for future occupiers. Accordingly, I find conflict with Policy CS19 of the Core Strategy, which, among others, seeks to create a safe and secure environment.

Whether a separate dwelling

13. The Council has alleged that the proposal would be tantamount to a self-contained independent residential unit. The proposed development has been applied for as an extension and the householder application form submitted. The appellants submissions indicates that the building has been designed to meet the appellant's requirement for guest accommodation and home office working.
14. The proposed building would be positioned approximately 25m from the main dwelling. The plans indicate that the existing fence would be removed so that there would be no subdivision of the land. Irrespective of whether the proposal is considered as a dwelling or annex, the proposal would be sizeable and includes a range of facilities (e.g. kitchen, utility, living/dining area, bedroom and bathroom), which is indicative of a building which could be occupied for extensive periods of time (throughout the day and night). Furthermore, owing to the access and parking arrangements, including the retention of a pedestrian gateway it is highly likely that future occupiers would access the building via the unmade track rather than entering via Gouge Avenue. Accordingly, the proposed building would be independently accessible from the main house. For these reasons the proposal would be capable of supporting independent occupation.
15. Case law, including *Uttlesford DC v SSE & White [1992]*, has held that, even if the accommodation provides the capability for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. That is a matter of fact and degree. An appropriately worded condition could restrict the occupancy and plot severance.
16. Even if the development could be used as a separate dwelling, such a proposal is not before me. If the structure is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
17. Accordingly, based on the evidence before me, the proposed development would not constitute a separate dwelling, I find no conflict with Policy CS02 of the Core Strategy which is concerned with the scale and distribution of development.
18. The Council cites paragraphs 149 and 150 of the 2021 version of the Framework in their reason for refusal. However, as these paragraphs relate to Green Belt, they are not determinative to this appeal.

Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA)

19. I am advised that the appeal site lies within the Thames Estuary and Marshes Ramsar site and SPA. The area is internationally important for nature conservation as the area is wetland and supports important numbers of wintering birds and migrating birds.

20. 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.
21. There is dispute between the parties as to whether the proposal is required to pay the financial contribution in accordance with the SAMMS Mitigation Contribution Agreement Tariff. However, the appellant has expressed willingness to make a financial contribution in accordance with the SAMMS.
22. Although no evidence has been provided to indicate payment has been made, or that a Unilateral Undertaking or a S106 Agreement has been submitted, as I am dismissing the appeal for other substantive reasons there has been no need to pursue this matter. Furthermore, even if such a document had been provided, it would not have altered my Decision.

Other Matters

23. I note the appellants desire for accommodation for their use and enjoyment, including, homeworking, and for use by friends and family. However, from the evidence before me, I am not persuaded that this cannot be met by a less harmful scheme.
24. I note the thermal performance of the proposed building in accordance with Building Regulations. However, this is a neutral matter.
25. I note the evolution of the proposal from previously refused schemes. However, I have considered the appeal proposal on its own merits, based on the evidence before me.

Conclusion

26. The proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, which would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

R. Gee

INSPECTOR