
Appeal Decision

Site visit made on 20 February 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/K2230/W/24/3347375

28 Coutts Avenue, Shorne, Gravesend, Kent DA12 3HJ

- 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 C King, CT Building Contractors Ltd against the decision of Gravesham Borough Council.
 - The application Ref is 20240308.
 - The development proposed is Erection of 2 pairs of 2-bedroom semi-detached bungalows with associated parking and turning space.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 2 pairs of 2-bedroom semi-detached bungalows with associated parking and turning space at 28 Coutts Avenue, Shorne, Gravesend, Kent DA12 3HJ in accordance with the terms of the application, Ref 20240308, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. The appellant and Council were provided with the opportunity to comment on the updated version of the Framework.
3. The appeal site is within the Zone of Influence of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. The Council has confirmed that a financial contribution towards strategic mitigation measures within the SPA has been secured and that this overcomes the second reason for refusal. I therefore do not address this matter in the reasoning below, however, as the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA), which is concluded within the Other Matters section of this decision.
4. There is an extant planning permission (Council Ref: 20231219) for the erection of two detached bungalows within the appeal site. The submitted evidence indicates the bungalows which are the subject of this appeal would be in an identical location, and would have the same footprint and external dimensions as approved under the extant permission. Given that the planning permission remains extant and that the appellant has a clear intention to develop the appeal site (as evidenced by this appeal), I consider that there is a realistic prospect that it will be implemented. As such, the permission represents a 'fallback position' which is a material consideration in the determination of this appeal.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site is an area of land located to the rear of 28 and 28A Coutts Avenue, which are two detached houses fronting Coutts Avenue. The site is accessed from a central location between these two frontage dwellings.
7. This part of Coutts Avenue is largely characterised by bungalows, many of which have accommodation at first-floor level. The majority of dwellings on Coutts Avenue are semi-detached, although there are detached properties nearby including No's 28 and 28A. Residential properties in the surrounding area are typically laid out in a linear manner fronting Coutts Avenue, although the appearance of properties is not particularly uniform, with a variety of building materials utilised.
8. The fallback permission allows for the development of two bungalows in an identical location, with the same footprint and external dimensions as the current proposal. The proposal before me would have slight differences in the design of the bungalows' elevations as a result of the configuration of two pairs of semi-detached bungalows, rather than the two detached bungalows in the extant permission. There would also be a widened turning head and two additional car parking spaces provided on-site.
9. As the proposal would create four rather than two dwellings, the Council indicates that there would be an increase in density of 33 dwellings per hectare. Whilst this would be higher than the prevailing density on Coutts Avenue, Policy CS15 of the Gravesham Core Strategy (2014), specifically states that in rural areas, such as the appeal site, new residential development will be expected to achieve a minimum density of 30 dwellings per hectare. Notwithstanding this, Policy CS15, requires that densities should not compromise the distinctive character of the area.
10. Due to its single storey design and location to the rear of the neighbouring dwellings, the proposal would not be prominent in views from Coutts Avenue. Whilst there would be a slight increase in hardstanding and two additional car parking spaces, these would be located to the rear of the two frontage dwellings and would have limited effect on the character of the area. The additional hardstanding to provide pedestrian access around the bungalows' elevations would be of minimal scale and consequently would not have a harmful effect. The proposal also includes areas of additional planting and the existing hedgerow on the site's rear and side boundary would be maintained, which would bring some visual softening.
11. When compared to the fallback position the proposal would include limited additional boundary treatment within the dwelling's rear gardens. However, the layout of the dwellings with largely regular plots would reflect the regular and linear spatial quality of plots within Coutts Avenue. Overall, the spacing and layout of the development ensures that the dwellings would not appear cramped within their plots. It is unclear how the limited residential paraphernalia which is likely to be confined to the rear gardens, as is common on Coutts Avenue, would have a harmful effect on the character of the area. Likewise, the additional comings and

goings from the addition of two smaller dwellings, as opposed to the fallback position of two larger dwellings, would have limited effect on the character of the area.

12. For the above reasons, I conclude that the proposed development would not have a detrimental impact on the character and appearance of the area. I therefore find that it complies with Policies CS15 and CS19 of the Gravesham Core Strategy (2014) (CS). Amongst other aspects, these policies seek to secure development of a high standard of design which positively contributes to the existing character, appearance and context of the area.
13. The proposal would also comply with paragraph 135 of the Framework which states that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Other Matters

Affordable housing

14. Policy CS16 of the CS states that the provision of affordable housing will be required on new housing developments of 3 units or more in the rural area. Shorne Parish was designated as a rural area under Statutory Instrument 1999 No. 1307: The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas) Order 1999. Therefore, the requirement for affordable housing on this site would be 35% which equates to 1 dwelling.
15. The appellant submitted a Financial Viability Assessment (FVA) with their planning application and the Council have not included a lack of affordable housing as a reason for refusal. The Council's officer report confirms that they have chosen not to have the FVA independently verified and a further opportunity was offered during the determination of the appeal. The Council confirmed that they have no further comment to make on the FVA.
16. I have no substantive evidence before me to demonstrate that the FVA is not robust. I note that the Council refer to different catchment areas having been used within appendix 6 of the report. Having reviewed the sales comparables within the appendix, which include two examples from Coutts Avenue and a further example comparable close to Shorne, I am content that this has not adversely affected the overall findings of the FVA.
17. Therefore, on the basis of the limited evidence before me I am satisfied that the FVA demonstrates that the proposal is not able to provide affordable housing and therefore does not conflict with Policy CS16 of the CS.
18. The Council have referred to a recent appeal decision Ref: APP/K2230/W/20/3255704 within their officer report, where the Inspector dismissed the appeal due to a lack of affordable housing provision. I have limited information regarding this appeal, however I note the Inspector states that it was a reason for refusal and therefore the circumstances are not the same as those before me.

Habitats sites

19. The appeal site is within 6km of the Thames Estuary and Marshes (SPA) and Ramsar site. The SPA is important for bird species, and in particular supports numbers of wintering and migrating birds which are rare and/or vulnerable in a European context.
20. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority ensures that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPA and Ramsar site. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
21. The development as a whole would result in four dwellings with a consequent increase in local residents living within 6km of the SPA and Ramsar site. This would be likely to result in additional recreational activity in these areas, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar site. Therefore, the proposed development is likely to have a significant effect on the European Sites. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPA and Ramsar site.
22. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as the Thames Estuary SPA and Ramsar site. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SPA and Ramsar sites. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England (NE), I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA and Ramsar site.
23. The Council have confirmed a per dwelling contribution payment to fund the SAMMS has been made by the appellant. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
24. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the SPA and Ramsar site. The development would therefore comply with the Habitats Regulations.

Interested parties

25. Interested parties have raised concerns about the effect on the living conditions of occupiers of neighbouring properties. Given the separation distances, and as the bungalows would not have upper floor windows I do not find harm to the living conditions of neighbouring occupiers.
26. It has been suggested that the appeal site is not an appropriate location for development due to its limited access to shops and services. However, the appeal site is in an area inset from the Green Belt, and under policy CS2 of the CS the principle of new dwellings in this location is acceptable and specifically supported.
27. In relation to concerns about future car parking on the public highway, the proposal provides eight off-street car parking spaces which I consider sufficient to reduce the likelihood of future occupiers choosing to park on the highway, given the scale of the proposal. For this reason, I do not find that the proposal would increase difficulties for emergency, refuse or delivery vehicles to access Coutts Avenue or the appeal site.
28. The addition of a further two dwellings within a residential area is unlikely to cause harmful noise and disturbance or have a harmful effect on highway safety as a result of the additional comings and goings of future occupiers and visitors.
29. Concerns in relation to construction traffic and noise have also been raised. I have sympathy for existing occupiers as development of this nature would inevitably give rise to some disruption. However, the works would be time limited and it would not be reasonable to withhold consent on this basis alone.
30. In this instance, as I have found that the proposed development would cause no harm to the character and appearance of the area it would not create a precedent for other developments that would cause harmful effects in this regard. As bin storage is included within the submitted drawings, the additional bins from the appeal proposal would not have a harmful effect on character and appearance.
31. The existence of restrictive covenants does not affect the acceptability of the appeal proposal in terms of its planning merits.
32. A number of other matters have been raised by interested parties and I have taken them all into account. Those related to planning include ecology, drainage, crime and anti-social behaviour, and the effects on local regeneration. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects. Consequently, they do not lead me to a different overall conclusion that the appeal should not be allowed.

Conditions

33. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
34. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty. In the interests of character and appearance I have

imposed the suggested conditions related to the use of external materials, hard and soft landscaping and means of enclosure.

35. I have imposed the suggested condition in relation to the provision of bin and cycle storage. However, I have modified the condition wording to reflect the fact that this storage is detailed on the submitted drawings. A condition requiring the provision and retention of car parking areas is necessary in the interests of highway safety, as is a condition requiring the provision of visibility splays to the site access. I note the appellant's comments in relation to the location of a 0.9m post and rail fence in proximity to the vehicular access. However, as I have included a planning condition which requires the submission and approval of fences, walls or other means of enclosure, including those along the access drive, I am satisfied that a design can be provided which prevents any conflict with the necessary visibility splays.
36. A condition requiring the submission of a Code of Construction Practice covering environmental impacts of the development is necessary in the interests of neighbouring occupiers' living conditions. Likewise, a condition related to external lighting is also necessary in the interest of neighbouring occupiers' living conditions.
37. I have not imposed the suggested condition to remove permitted development rights. Paragraph 55 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition would not be necessary to make the appeal proposal acceptable in planning terms and would not comply with the Framework.

Conclusion

38. For the reasons above, and having regard to all other matters raised, I conclude that the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - Drawing no. 010 (Ver 1) (existing block plan);
 - Drawing no. 008 (Ver 1) (proposed roof plan);
 - Drawing no. 007 (Ver 1) (site location plan);
 - Drawing no. 001 (Ver 2) (proposed floor plans);
 - Drawing no. 002 (Ver 1) (proposed elevations);
 - Drawing no. 003 (Ver 1) (proposed block plan);
 - Drawing no. 006 (Ver 1) (comparative elevations);
 - Drawing no. 005 (Ver 1) (bicycle and bin store details).

- 3) No development approved by this permission shall be commenced until a comprehensive Code of Construction Practice covering all environmental impacts of this development has been submitted to and approved by the Local Planning Authority. The approved scheme shall include details of hours of work during the construction period, delivery times for materials, parking of vehicles of site personnel and visitors, loading and unloading of plant and materials, storage of materials and wheel washing proposals. The development hereby permitted shall be carried out in accordance with the approved Code of Construction Practice.
- 4) The materials to be used on the dwellings herein approved shall match those listed on plans No. 002, 004 and 006 (Ver 1) unless otherwise agreed in writing by the Local Planning Authority.
- 5) Notwithstanding the submitted plans and prior to the first occupation of the dwellings hereby approved, details of a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the type and species of planting to be carried out, to include their quantity and size as well as arrangements for aftercare. The approved scheme shall be carried out in full during the first available planting season following the completion or first occupation of the dwellings hereby approved whichever is the sooner. Any trees or plants that die, are damaged, removed or become diseased within five years from the date that the soft landscaping scheme is implemented shall be replaced with a tree or plant of a similar size and species during the next available planting season.
- 6) Prior to the first occupation of the development hereby approved and notwithstanding the details shown on the approved plans a scheme detailing the proposed hard surface treatments including car parking spaces, screening by walls, fences or other means shall be submitted to and approved in writing by the Local Planning Authority. This information shall include the means for surfacing, draining and demarcating the car parking spaces. The scheme shall then be constructed in accordance with these approved details and completed, in its entirety, prior to first occupation of the development. Thereafter the boundary treatment shall be retained and not subsequently altered.
- 7) Prior to the first occupation of the dwellings herein approved full particulars of all fences, walls or other means of enclosure to all plot boundaries of the residential units, and the main vehicular access to the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the first occupation of the dwellings herein approved the cycle and bin storage indicated on Drawing no. 005 (Ver 1) (bicycle and bin store details) and Drawing no. 004 (Ver 1) (proposed landscaping plan) shall be provided. The bin and cycle storage shall be maintained in an operable condition thereafter.
- 9) No external lighting shall be placed or erected within the site or on the buildings hereby approved unless details have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in

accordance with the approved details and no additional external lighting shall be provided on the site thereafter.

- 10) 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) Order 2015 as amended, or any provision equivalent to it in any statutory instrument revoking and re-enacting that Order, no development shall be carried out on the site in such a manner or in such a position as to preclude the use of or access to the vehicle parking areas.
- 11) Prior to the first occupation of the dwellings, vision splays of 2.0m x 2.0m shall be provided on both sides of the vehicular access point and no obstruction of sight more than 0.6m above carriageway level shall be permitted within the splays thereafter.

END OF SCHEDULE