



Appeal Decision

Hearing held on 6 September 2023

Site visit made on 6 September 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/K2230/W/23/3316999

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

- 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 C King (CT Building Contractors Ltd) against the decision of Gravesend Borough Council.
 - The application Ref 20220642, dated 09 June 2022, was refused by notice dated 29 September 2022.
 - The development proposed is Demolition of the existing garage and erection of 3no. four-bedroom houses and creation of new vehicular access and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr C King against Gravesend Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. At the Hearing the Council confirmed that it is no longer defending reason for refusal 3 as listed on the decision notice. This reason for refusal relates to the provision of affordable housing. As such, I have considered this appeal on that basis. The discussion at the Hearing therefore centred on the first and second reasons for refusal.
4. 28 Coutts Avenue (No 28) and the associated land to the rear has a relatively extensive planning history. Indeed, there are several planning permissions of particular relevance to this appeal. Outline planning permission was granted under Council reference 20190870 for the demolition of the existing garage and erection of two dwellings. One of the two approved dwellings would be located to the front of the site (28a), adjacent to No28, with the other located to the rear of No 28 (28b). The Council subsequently approved an application for approval of reserved matters, which included a two-storey design for the dwelling to the front (28a) and a single storey design for the proposed dwelling to the rear (28b). In addition, planning permission was granted for extensions to the existing dwelling at No 28 which would, if completed, create a two-storey dwelling at No 28 (in contrast to the existing single storey appearance).
5. At the Hearing the main parties agreed that these permissions all remain extant and that they could all be implemented. In summary, the existing permissions would facilitate two two-storey dwellings at the front of the appeal site and a bungalow to the rear. Given that these planning permissions remain

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 they will be implemented. As such, these permissions represent a 'fallback position' which is a material consideration in the determination of this appeal. I address this further in relation to the 'planning balance'.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the area.
- The effect of the proposed development on the living conditions of the occupiers of 26 Coutts Avenue, with particular regard to outlook.

Reasons

Character and Appearance

7. The appeal site comprises land adjacent to 28 Coutts Avenue (No 28), which is a detached chalet-style bungalow comprising a single storey appearance with dormer windows. Attached to No 28 are two double garages with a flat roof. The appeal site comprises the existing garages and the land to the rear and side of No 28. The garden to the rear is deeper and wider than those of neighbouring dwellings on Coutts Avenue and it extends to the rear of No 30.
8. This part of Coutts Avenue is predominantly characterised by bungalows, many of which have accommodation at first-floor level and therefore exhibit a chalet-style similar to No 28. There is some two-storey development nearby albeit this is not so prevalent that it defines the character of the area. The majority of dwellings on Coutts Avenue are semi-detached, although some detached properties nearby. Residential properties in the surrounding area are typically laid out in a linear manner with very few examples of development set back in-depth. The appearance of properties in the surrounding area is not particularly uniform, with a variety of building materials utilised.
9. The proposed development would include a new two-storey dwelling to the front of the plot, which would be dominant when compared to the character of the more diminutive dwellings to the east and west of the appeal site. Notwithstanding this, the fallback permission already effectively allows for the development of two two-storey dwellings to the front of the appeal site and the appeal proposals would not be any more harmful in this regard.
10. However, the two dwellings proposed to the rear of the plot would also both have a two-storey appearance. This is because, whilst they might be described as 'chalet-style' bungalows, both dwellings would have two prominent dormer windows on the front elevation. The width of these dormer windows would leave very little of the front roof plane visible and would effectively result in a two-storey appearance. Furthermore, whilst the maximum ridge height of the approved bungalow to the rear would match that of the proposed dwelling (28b), the overall mass of the development at first floor level would be significantly more prominent, particularly when viewed from the neighbouring garden at No 26.

11. The location of two large dwellings to the rear of the appeal site would be completely contrary to the prevailing linear character of Coutts Avenue. I note that there is already permission, under the fallback, for a dwelling to the rear of No 28. However, this dwelling would have a single storey appearance. The proposed development would be far more prominent, given its increased bulk and the increased quantum of development proposed.
12. The two-storey appearance of the dwellings proposed to the rear of the appeal site would reflect those allowed to the front of the site under the fallback. However, their prominent size would serve to exacerbate the harmful effect of the development in terms of its non-linear layout. This harm would be visible from the shared surfaces within the development, as well as from the neighbouring dwelling and garden at No 26. More limited views would likely be obtained across the proposed driveway and between No 28 and the proposed dwelling to the front of the appeal site. As such, the proposed development would result in a far more harmful visual impact than the development allowed under the fallback position.
13. It is acknowledged that the garden of No 28 is much larger than surrounding properties. Whilst this represents a deviation from the prevailing character of the area, it this does not currently result in any harmful impact on this character. I also accept that there is existing screening on and near the site boundaries to the east, west and south and that additional planting could be controlled by condition. Notwithstanding this - given the layout of the proposed parking areas, access and pedestrian accesses - there is no real scope for planting proposals to sufficiently mitigate the visual impact of the proposal.
14. The Council has suggested that the density of the proposed development would not be in keeping with that which prevails in the surrounding area. The evidence before me indicates that the density of the development allowed under the fallback position would be approximately 15 dwellings per hectare. In contrast the proposed development would result in a density of approximately 21 dwellings per hectare, which is more in-keeping with the prevailing density of the surrounding area of between 21 and 25 dwellings per hectare. Indeed, it is not the density of the development which would result in harm to the character of the area, rather it is the proposed non-linear layout, exacerbated by the prominent two-storey scale of the proposed dwellings to the rear of the appeal site.
15. For these reasons, the proposed development would be harmful to the character and appearance of the area and it would therefore conflict with Core Strategy¹ Policy CS19, which seeks to ensure that new development is in-keeping with local character.
16. There would not be a conflict with Core Strategy Policy CS15 on density, given that this policy states that densities should not compromise the distinctive character of the area. Whilst this policy sets minimum densities, these are described as an 'overriding consideration' as opposed to an absolutely determinative requirement. For example, it might not be appropriate to seek minimum densities of 30 dwellings per hectare in an area characterised by lower density development. Indeed, that is the case here.

Living Conditions

¹ Gravesham Local Plan Core Strategy (Adopted September 2014)

17. During my site visit I viewed the appeal site from within the neighbouring gardens at No 26 and No 30. The proposed development would barely be visible from No 30 given the extensive planting located at the boundary. However, to the west of the appeal site, a significant section of existing boundary planting within the appeal site would need to be removed to facilitate pedestrian access to the rear of the dwelling proposed at No 28b. Indeed, when compared to the fallback scheme, whilst No 28 would be set back slightly further to the rear of the appeal site, the dwelling would be closer to the boundary with No 26. Furthermore, as I have already identified, the bulk and mass of the proposed flank wall facing No 26 would be significantly increased at first floor level. As a result, the proposal would have a far more dominant and overbearing impact on the occupiers of No 26 when viewed from the neighbouring garden.
18. During my site visit I noted that No 26 has a relatively small garden. As such, whilst there would not be a harmful impact when the proposal is viewed from within the property, there would be an unacceptable impact when the occupiers are in their garden. I note that there are existing trees within the garden of No 26. However, these do not provide a comprehensive screening effect and during winter months the appeal proposals would likely be even more prominent and overbearing.
19. In summary, the appeal proposal would result in a harmful overbearing impact on the occupiers of No 26 and this impact would be materially more harmful than the development approved under the fallback permission. For this reason the proposed development would conflict with Core Strategy Policy CS19, which in part seeks to ensure that new development safeguards the living conditions of neighbouring occupants.

Other Matters

20. The appeal site is located within the Zone of Influence of the Thames Estuary and Marshes Special Protection Area and Ramsar site. The evidence before me indicates that there would be likely significant effects (in combination with other residential development) on these sites because of increased recreational pressure caused by the provision of three new dwellings. I note that the appellant has made a financial contribution to mitigate these effects. However, given that I am dismissing this appeal on other grounds it is not necessary to consider this matter further nor undertake an appropriate assessment. For the avoidance of doubt, for the purpose of applying the Planning Balance I have assumed that these effects could be mitigated, which represents a best-case scenario for the appellant.
21. Interested parties have raised various other matters including in relation to parking and highway safety. However, given that I am dismissing this appeal on other grounds it is not necessary to consider these matters further.

Planning Balance

22. The Council's most recently published Housing Land Supply (HLS) position² confirms a HLS of 2.9 years. The evidence also indicates that the Council has failed the Housing Delivery Test (HDT) (57%) by a significant margin. As such, National Planning Policy Framework (Framework) Paragraph 11d is engaged.

² Five-year Housing Land Supply Statement 2022-2027 (March 2023)

There are no policies in the Framework which provide a clear reason for refusing the development in the context of Framework Paragraph 11d)i.

23. As such, Framework Paragraph 11d)ii applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The proposed development would result in an increase in the housing stock and it would also result in an efficient use of land, particularly given the large size of the existing garden at No 28. There would be social and economic benefits associated with the increase in the housing stock. These can be afforded great weight in the context of the Council's significant Housing Land Supply Shortfall and failure of the HDT. I also accept that the small-size of the development means that it could be delivered quickly, which is another benefit within the context of the HDT. In addition, there would be some temporary economic benefits associated with the construction jobs which would be supported. There would also be economic benefits to the local area through the small increase in the local population. These are all benefits which are supported by the Framework and they are consistent with the aim of significantly boosting the supply of housing.
25. However, the harm caused by the proposed development would be significant. In particular there would be permanent harm to the living conditions of the existing occupiers of No 26. Additional harm would also arise as a result of the harmful visual impact of the proposal. The former can be afforded considerable weight given that these occupiers should not be penalised for the shortcomings of the Council in terms of housing delivery. The latter is also important, given that the effects on character and appearance would also be enduring. Indeed, the proposal would conflict with Framework Paragraphs 130c and 130f, which seek to ensure that new development is sympathetic to local character and results in a high standard of amenity for existing 'users', respectively.
26. As such, whilst the benefits of the proposal can be afforded great weight, they would be significantly and demonstrably outweighed by the even greater harm which would be caused.
27. In addition, I afford significant weight to the fallback position as a material consideration. That said, as noted throughout this decision, the fallback scheme is materially less harmful than the proposed development in relation to its effect on both character and living conditions. As such, this consideration does not outweigh the harm which would be caused by the proposal.

Conclusion

28. The proposed development conflicts with the development plan taken as a whole. I have taken into account the material considerations raised, including the approach in the Framework and the existence of the fallback position. However, these considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steve Clarke BA (Hons) Dip.UPI MRTPI Associate Planner (Graham Simpkin Planning)

Mark Smith BSc (Estate Man) Director Affordable Housing 106 Ltd

Mr Calvin King Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sharon Sahota, BA(Hons) Planning Officer, GBC

Richard Hart, BA (Hons) MA TP Team Leader, GBC

Shazad Ghani, MPhil, MA, BA (Hons) Service Manager (Planning), GBC

INTERESTED PARTIES:

Mr Richard Mason Neighbouring resident

Mr Robin Theobald On behalf of Dickens' Country Protection Society
and speaking on behalf of Shorne Parish Council

Mr Len Prett Neighbouring resident