



Appeal Decision

Site visit made on 22 February 2022

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH April 2022

Appeal Ref: APP/K2230/D/21/3288505

2 Martins Close, Higham, Rochester, ME3 7HE

- 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 Mrs Suzan Ataseven against the decision of Gravesham Borough Council.
 - The application Ref 20211172, dated 22 September 2021, was refused by notice dated 17 November 2021.
 - The development proposed is for the demolition of existing rear outbuilding and construction of a new rear outbuilding to be used as an annex for the main house.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing rear outbuilding and construction of a new rear outbuilding to be used as an annex for the main house at 2 Martins Close, Higham, Rochester, ME3 7HE in accordance with the terms of the application, Ref 20211172, dated 22 September 2021 and the plans submitted with it, subject to the conditions set out in the attached conditions schedule.

Main Issues

2. The first main issue is whether the proposal would constitute a separate unit of residential accommodation, rather than an ancillary use; and if so, the effect of the proposal on the living conditions of the occupiers of the resultant and host dwellings, with particular regard to privacy and private garden areas. The second main issue is whether the proposal would place unacceptable pressure on the demand for on-street parking in the locality.

Reasons

3. Martins Close is characterised by pairs of similarly designed semi-detached bungalows with varied front building lines and on-site parking to the front, side or rear of the dwellings. Consistent with this, the appeal property comprises a modest sized semi-detached bungalow, although it is the only dwelling in the road which does not have any on-site parking.
4. The appeal dwelling occupies an irregular shaped plot and its front garden, which is enclosed by a low wall, is wide and spacious. The rear garden sits at an angle to the dwelling, is uncharacteristically narrow and backs onto Gore Green Road. Although there is a garage structure within the rear garden there is no vehicular or pedestrian access between the appeal site and Gore Green Road.

5. Together and amongst other things Policy CS19 of the Gravesham Local Plan Core Strategy (2014) (CS) and paragraph 130 (f) of the National Planning Policy Framework 2021 (the Framework), require new development to be attractive, fit for purpose and adaptable to allow changes to be made to meet the needs of users. It should conserve and enhance the character of the local built environment, integrate well with the surrounding local area and provide appropriate levels of private garden space.
6. The Technical housing standards – nationally described space standard states that the minimum gross internal space for a one bedroom, one person dwelling with a shower room is 37m². The Gravesham Supplementary planning guidance 2 - Residential Layout Guidelines amended 202 (SPG) sets out minimum room sizes and advises that the minimum size of a garden to serve a one/two bedroom dwelling is 37.2 m².

Use and Living conditions

7. The Council has referred to an appeal decision which refers to two high court judgements, which are similarly helpful in assessing the current appeal. In the 1983 High Court decision¹, the judge considered that the distinctive characteristics of a dwellinghouse is its ability to afford those who use it the facilities required for day-to-day private domestic existence. In a subsequent judgement², Uttlesford DC v SSE & White [1992] the judge considered that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling.
8. With the appeal proposal the planning unit logically comprises the dwelling and its front and rear gardens. The proposed outbuilding would be sited within the enclosed rear garden. It would comprise a single storey "L" shaped building with a floor area of less than 30m², which is comparable in size to a domestic double garage. The proposed outbuilding would have a flat roof and would sit at a lower level to the host dwelling. The proposed outbuilding's mass would be materially smaller and it would be visually subservient to the host dwelling.
9. Internally, the proposed outbuilding would include a small study, gym and shower room. Access to the building would be from a door leading into the main rear garden area and there would be just one window, which similarly would look into the rear garden. There would be no openings in the rear elevation which faces Gore Green Road and the gaps between the building and its side elevations narrow to approximately 0.5 metres. They are not suitable for pedestrian access. The appellant has confirmed that the building would be used for purposes incidental/ancillary to the host dwelling. Thus, although the building would be physically detached from the dwelling, it would have some physical links along with strong functional links to it.
10. For these reasons I find that no new planning unit would be created, the lawful use of the property would remain that of a single dwellinghouse and no material change of use would occur.

As an ancillary domestic building within the rear garden of the host property, its use should not harm the living conditions of the occupiers of the host

¹ Gravesham BC v SSE & O'Brien [1982] 47 P&CR 142; [1983] JPL 307

² Uttlesford DC v SSE & White [1992]

property. In addition, the resultant garden area would continue to exceed the Councils' minimal garden space standard.

11. Due to the limited size, orientation and proximity to the host dwelling, the proposed outbuilding does not appear to be designed for use as an independent dwelling. Notwithstanding this, it is conceivable that the study could be used for a bedroom and the gym could be used for a kitchen/living area. The building would then afford those who use it the facilities required for day-to-day living. However, that would not automatically mean that a separate planning unit had been created or that a material change of use had taken place. Much would depend on who occupied the building, any changes made to the building or the garden area and what, if any, functional ties the occupiers had with the host dwelling and its occupants.
12. As suggested by the appellant and the council the use of the proposed outbuilding for purposes ancillary or incidental to the host dwelling is something that could be secured by the imposition of a planning condition. I consider that in this instance such a condition would be necessary in the interests of certainty and to protect the living conditions of the occupiers of the host and neighbouring dwellings.
13. Should at any time in the future a planning application be submitted for the change of use to a separate dwelling, associated matters relating living conditions and parking provision would then need to be taken into consideration.
14. I conclude on the first main issue that the proposal would not constitute a separate unit of residential accommodation. As an ancillary domestic building, it would not have an adverse impact on the living conditions of the occupiers of the property due to loss of privacy or inadequate garden space. In this respect there would be no conflict with CS Policy CS19 and paragraph 130 (f) of the Framework.

Parking

15. Collectively and amongst other things CS Policies CS11 & CS19 and saved policy P3 of the Gravesham Local Plan First Review 1994 (LP), state that new developments should provide sufficient parking in accordance with the adopted standards. Car parking should be well related to the development it serves and ideally provided on-site. The council has stated that the parking standard for a two bedroom dwelling is a minimum of 1.5 spaces.
16. The appeal property does not have any on-site parking spaces. Although there is a garage building in the rear garden, it is clearly not used for parking as there is no crossover onto Gore Green Road. All of the other properties in Martins Close have on-site parking provision and most have at least two on-site spaces, accessed off Martins Close. In addition, although Martins Close is narrow, on-street parking is available close to the appeal property, in Lower Rochester Road.
17. With the proposal the property would continue to comprise a two bedroom dwelling and the proposed outbuilding would be used for purposes ancillary to it. As such, it would not increase the current shortfall in on-site parking spaces. For these reasons the proposal would be highly unlikely to materially

increase the day-to-day demand and capacity for parking in close proximity to the appeal site.

18. The Council has stated that the proposal would remove the potential to re-establish a vehicle crossover off Gore Green Road. However, as indicated by the Council it is not an ideal location for a vehicle access. Gore Green Road is a narrow through road, with no pavements and visibility from any vehicular crossover would be restricted by the planting and fencing to the rear of the nearby properties. Irrespective of this, the appeal property has a generous sized front garden, where it would be possible to create a vehicle crossover and at least two on-site parking spaces. As such the proposal would not unacceptably prejudice the potential to provide on-site parking within the appeal site.
19. It is acknowledged that should the proposed building be occupied independently from the host dwelling, for residential or commercial purposes a second planning unit and change of use would occur. Subject to the imposition of an occupancy condition, any such change would require planning permission and at that stage the council would be able to assess whether on-site parking was required to meet the needs of the proposed new use.
20. I conclude on the second main issue that the proposal would not place unacceptable pressure on the demand for on-street parking in the locality. It would not conflict with CS Policies CS11 & CS19 and LP Policy P3.

Other matters

21. The appeal property has an open and spacious frontage and although the rear garden is narrow it slopes down to the rear adding to the sense of space. The proposed outbuilding would be located at the rear of the garden and would sit at a lower level to the host and adjacent dwellings, as shown on drawing Nos. AWA/1074/08 and AWA/1074/02. An appropriate amount of open garden area would be retained between the proposed outbuilding and the host dwelling and the proposed outbuilding would be largely screened from neighbouring properties by fencing and planting. Where it could be seen it would be readily assimilated into the rear garden environment, where there are a number of outbuildings and rear extensions.
22. For these reasons the use of the outbuilding for purposes incidental or ancillary to the host dwelling should not result in a material loss of privacy or unacceptable levels of noise or disturbance for the occupiers of nearby dwellings.

Conditions

23. In addition to the suggested occupancy condition the Council has suggested the imposition of a condition which requires the development to be carried out in accordance with the submitted drawings. This is necessary in the interests of completeness and enforceability. I have however made minor changes to the wording of both of the suggested conditions in the interests of precision.
24. The application form states that the proposed external walls would be brick, whereas the appeal statement states that they would be rendered to match the host dwelling. In the interests of certainty and to ensure the proposed building respects the host dwelling and the rear garden environment I consider that a materials condition is also required.

Neither the Council, nor the appellant have raised any concerns relating to the minor changes to the wording of the suggested conditions or the introduction of a condition which deals with external materials.

Conclusion

25. Having regard to the conclusion on the main issue and all other matters raised the appeal is allowed.

Elizabeth Lawrence

INSPECTOR

Conditions schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no. AWA/1074/01 (site location plan); Drawing no. AWA/1074/02 (existing block plan); Drawing no. AWA/1074/03 (proposed block plan); Drawing no. AWA/1074/04 (existing floor plans); Drawing no. AWA/1074/05 (floor plans); Drawing no. AWA/1074/06 (roof plans); Drawing no. AWA/1074/07 (existing house elevations); and Drawing no. AWA/1074/08 (elevations).
- 3) No development above slab level shall take place until full details of the materials to be used in the construction of the external surfaces of the outbuilding hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.
- 4) The outbuilding hereby permitted shall be used only for purposes ancillary to the main dwelling and for no other purpose including business or commercial use, or for an independent dwelling, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015, as amended, without the prior approval, in writing, of the Local Planning Authority.