
Appeal Decision

Hearing held and site visit made on 11 October 2016

by Jane Miles BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2016

Appeal Ref: APP/T2215/W/16/3149748

62-68 Joydens Wood Road, Bexley, Kent DA5 2HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Kevin Clark of Skillcrown Homes Ltd against the decision of Dartford Borough Council.
 - The application ref: DA/14/01600/OUT, dated 14 November 2014, was refused by notice dated 8 January 2016.
 - The development proposed is demolition of two existing dwellings at 64 and 66 Joydens Wood Road with the construction of a replacement dwelling on the road frontage and a new access road serving 7 detached properties on the land to the rear.
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Decision

1. The appeal is dismissed.

Background & Preliminary Matters

2. The application is made in outline, with details of access and layout for consideration now, leaving scale, appearance and landscaping to be dealt with as reserved matters. I have therefore had regard to the various submitted plans showing the proposed housetypes and matters such as solar panels on the basis that they are for illustrative purposes only.
3. A lengthy planning history for this site dates back to an outline planning permission (granted in 1988 but not progressed) through to a scheme for eight dwellings that was dismissed on appeal (following redetermination) in October 2012¹. In this current scheme additional supporting information was submitted during 2015, prior to the Council's refusal, all of which I have taken into account in determining the appeal.

Reasons

4. The **main issue** is whether or not the appeal site is an appropriate location for the proposed development, having regard to development plan policy, the *National Planning Policy Framework* and other material considerations.

Policy context

5. Although the development plan includes the Dartford Core Strategy (CS) (2011) and saved policies of the Borough of Dartford Local Plan (LP) (1995) the

¹ Appeal ref: APP/T2215/A/11/2144463, decision dated 15 October 2012 (the 2012 appeal decision)

Council's refusal reason refers only to CS Policy CS10. This policy sets out in broad terms the intended distribution of new housing across the Borough, focusing most new housing on previously developed sites north of the A2. The appeal site is south of the A2 where only a very limited amount of new housing is proposed², and sufficient dwellings have already been completed and/or permitted to satisfy that requirement. The housing distribution in Policy CS10 is part of the overall CS spatial strategy, set out principally in Policy CS1. Other key elements of the strategy seek to promote regeneration and a significant modal shift from private cars to more sustainable forms of transport.

6. The appeal scheme would be a windfall development and Policy CS10 also includes criteria for assessing such development. It is common ground that, of four criteria at CS10.4, the most relevant in this particular case are (a) the sustainability of the site for housing development and (b) whether benefits of development outweigh disbenefits. A Housing Windfall Supplementary Planning Document (SPD), adopted in 2014³, provides further guidance on the Council's approach to assessing proposals/windfall sites which includes, at Appendix 1, the 'Windfall Sites Sustainability Criteria' (the SPD Criteria).
7. CS Policies CS1, CS10 and the overall strategy are broadly consistent with the more recent *Framework*, which is a key material consideration. In addition the Council's position is that it can demonstrate a five-year housing land supply, and this is not disputed by the appellant. Consequently the appeal should be determined in accordance with the adopted development plan policies unless material considerations indicate otherwise.
8. Such considerations include draft Policies DP6 (Sustainable Residential Locations) and DP7 (Borough Housing Stock and Residential Amenity) of the emerging Dartford Development Policies Plan (eDPP). The pre-submission version of the eDPP was published in December 2015 and is currently being examined. Given the stage the eDPP has reached, the information provided about objections to these two policies⁴ and the extent to which they appear consistent with the *Framework*, I give them considerable weight.
9. It is also relevant to note that neither CS policy nor SPD guidance precludes development of windfall sites as a matter of principle. The Council confirmed at the hearing that the appeal application was not refused simply on that basis. Rather the categories and weighting in the SPD Criteria should be used to evaluate a proposal's benefits and disbenefits and to determine whether or not the housing would be in a sustainable location. I shall therefore consider the SPD Criteria, taking account also of eDPP Policies DP6 and DP7 as appropriate, before considering other relevant matters and, in accordance with Policy CS10, assessing benefits against disbenefits.

Windfall sites: previously developed (brownfield) land and development of residential gardens

10. The first category in the SPD Criteria, to which the highest weighting is to be attached, is concerned with whether a proposal would bring previously developed land into beneficial use. In this case the great majority of the appeal site comprises private residential garden land. Such land is explicitly

² 200 dwellings, in the period 2006 to 2026

³ After publication of the *Framework* in March 2012 and after the r 2012 appeal decision

⁴ To the effect that there were no objections to Policy DP7, and only two objections to Policy DP6 (relating primarily to the clarity of its wording)

excluded from the definition of previously developed land in the *Framework*. The predominantly 'greenfield' nature of the appeal site therefore weighs heavily against the appeal scheme.

11. I note here that, in relation to windfall developments of five or more dwellings, eDPP Policy DP6.2(a) appears to be more restrictive than the adopted policies. It sets out firstly that such development *must* be located on 'brownfield' land (my emphasis) and, secondly, that greenfield sites will only be permitted on an exceptional basis. However, as there appears to be an element of conflict between those two phrases and as this policy is not yet adopted, that in itself would not be a sound reason to reject the current appeal scheme. Rather the greenfield nature of the site is a matter to weigh in the balance.
12. However eDPP Policy DP7 is relevant to this proposal for developing a predominantly rear garden site. Moreover it reflects and is broadly consistent with various aspects of policy guidance in the *Framework*, such as providing a choice of housing; taking account of the character of different areas; securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The emerging policy also sets out the Council's approach to resisting inappropriate development of residential gardens, as allowed for in paragraph 53 of the *Framework*.
13. In this case the Council's principal concerns are, in effect, that the appeal scheme would reduce the number and choice of properties with large gardens; would neither retain nor enhance the area's character; would neither preserve nor reflect the historic pattern and form of development in the area⁵. The garden land in this case is part of a much larger area of such land mainly enclosed by dwellings to all four sides. Those fronting onto Joydens Wood Road and Birchwood Drive to the rear occupy substantially larger plots than those fronting Wood Close and Brackendene.
14. The net results of the appeal scheme would be twofold. Firstly, the garden lengths of two Joydens Wood Road and three Birchwood Drive properties would be reduced. Secondly, two existing dwellings and a large area of garden land would be replaced by three new dwellings in a relatively informal and spacious layout and another five set close together in a gently curving line. Despite a relatively low density for the development as a whole, five dwellings⁶ would have less generous plots with shallow rear gardens relative to the footprint size of the intended two-storey, four bedroom dwellings.
15. As developing residential garden land will almost always change (rather than preserve) historic development patterns to some degree it is perhaps more pertinent to consider the degree of change. In this case that would be from a former pattern of very large gardens to one which would include some very modest ones (relative to dwelling size). In terms of plot ratios the proposed plots 4-6 in particular compare unfavourably with nearby infill development in Hunters Close, which the appellant cites as an example of a previously permitted and more intensive redevelopment. Moreover both Hunters Close and the 2012 appeal decision⁷ predate the emerging Policy DP7.

⁵ These are matters which feature in eDPP Policy DP7.1 and DP7.3(a)

⁶ And especially plots 4,5 & 6

⁷ In which the Inspector found that scheme would not harm the area's character and appearance, albeit that finding was mainly in relation to the creation of a new cul-de-sac and its effect on the street scene

16. Primarily for the above reasons, rather than simply because existing garden sizes would be reduced, I find the appeal scheme would result in a harmful change to the character and development pattern of the site and surrounding area. The concern (implicit in Policy DP7.2) that a loss of large gardens could result in a loss of choice and diversity in the stock of housing and gardens follows a reference in the policy's explanatory text to there being only a limited number of houses with large gardens in the Borough. However there is nothing of substance before me to indicate the scarcity of such properties or indeed what constitutes a 'large' or an 'appropriate' garden size. Moreover some gardens in this case are very large indeed by any rule of thumb assessment⁸.
17. I have also borne in mind that nearby streets and short cul-de-sacs of higher density housing are part of the wider area's established character. I note the appellant's case that the scheme, retaining key trees and including some plots with generous gardens, would add to the choice of dwellings in the area. Even so none of these matters is sufficient to outweigh my finding, in the light of eDPP Policy DP7, that the intensification proposed in the appeal scheme would result in a harmful change to the area's historical pattern and form of development. This also weighs against the appeal scheme.

Windfall sites: accessibility

18. Accessibility to services, facilities and public transport forms the second category of considerations in the SPD Criteria. The appeal site is within an existing suburban residential area with a range of facilities including primary schools, small shops, library, medical and community centres. Irrespective of differing approaches to measuring distances⁹ these facilities, as listed by both the appellant and the Council, are all within 10 minutes walk (800m) of the appeal site, thereby satisfying one element of the SPD's accessibility criteria.
19. The more contentious issue is accessibility to public transport which would be necessary to reach many destinations, such as employment, secondary schools, town centres or larger shopping centres, other than by car. The SPD uses a 400m (or five minute) walk distance to bus stops as the standard to meet, on the basis that a 'desirable' rather than an 'acceptable'¹⁰ distance is needed to help achieve the modal shift which is one of the Core Strategy's key aims. Distances from the appeal site to the nearest bus stops exceed 400m even on the basis of the appellant's measurements. However exceeding this distance by some 25%, as the Council's measurements indicate, would increase walking time by little more than one minute, which is unlikely to be a significant deterrent. Distance alone is not therefore a determining factor in assessing this particular appeal site's accessibility.
20. However the number and frequency of daytime bus services and the range of destinations served are also important factors and, for this purpose, the PTAL¹¹ analysis submitted by the appellant is of little relevance¹². Nonetheless I have had regard to all the submissions made on these matters, in writing and at the

⁸ The largest of the original gardens, at no. 68 Joydens Wood Road, being some 83m long according to the Council's measurement, and more than 20m wide

⁹ The Council maintains these walking distances should be measured from a central point in the proposed development but the appellant has measured them from the site frontage, resulting in differences of around 50m

¹⁰ These two terms come from the commonly used guidance of the Institution of Highways and Transportation

¹¹ Public Transport Accessibility Levels

¹² Because this method uses data relating to the morning peak hour only, and does not consider the range of destinations served

hearing, including the Council's comparison of bus service frequencies now and in 2012 which indicates some small improvements.

21. Even so, and although the B12 service exceeds the threshold of 2 buses an hour in the daytime to qualify as a frequent service, it is a circular route serving limited destinations. Services to Dartford town centre and railway station remain infrequent, and journeys to Bexleyheath station for onward travel would involve walking at each end of the bus journey and careful timing, which is unlikely to encourage a modal shift. Overall therefore I have found no sufficiently compelling grounds to take a different view from the Inspector in the 2012 appeal on such matters. I share his conclusions to the effect that the appeal site is not particularly accessible and thus, for occupiers of the proposed housing, travel choices would be limited for many trips and reliance on cars would be relatively high. This is another important matter which weighs against the appeal scheme.
22. In reaching these conclusions I have taken account of the appellant's case relating to a nearby site on Birchwood Road and also to other appeal decisions, most notably a 2015 decision (the Hedge Place Road decision¹³) for a windfall site on the north side of the A2. However, as is often the case, the particular combination of circumstances in each of those cases differs from that in the current appeal. The Birchwood Road permission for example predates both the SPD and the eDPP. In the Hedge Place Road decision it is readily apparent that, although distances to bus stops in that case exceeded 400m, the nature and frequency of services available was significantly greater than in this case, such that the site was not discounted on accessibility grounds.

Windfall sites: balanced and integrated communities; combating climate change

23. These are the two remaining categories in the SPD Criteria, but neither the Council nor appellant suggests either is particularly relevant to the case for or against the appeal scheme. Insofar as the appeal scheme would not make any especially notable contributions in these respects, there is no weight to be added in favour of the scheme under either heading.

Other considerations

24. The appellant draws support from the Inspector's findings in the Hedge Place Road decision relating to housing land supply and actual delivery of housing. The Inspector noted the evidence before him indicated that, notwithstanding allocated sites and sites with planning permission, management action was necessary to increase actual delivery rates to meet relevant targets. He also noted advice in CS paragraph 3.21 that "an element of supply from windfall sites can enable early delivery of housing and increase flexibility". However as that windfall scheme was much larger¹⁴, the benefit in terms of boosting the supply of housing was also more significant. Moreover that site is in a priority area for development to the north of the A2 in a location where, in terms of accessibility, there is greater scope to achieve modal shift than would be the case at this appeal site.
25. Several other matters have been raised by local residents, such as those relating to highway safety and loss of trees and wildlife habitat for example, on

¹³ Appeal ref: APP/T2215/A/13/2195591, decision dated 14 August 2015 (before publication of the pre-submission version of the eDPP)

¹⁴ Proposing 56 dwellings, compared with a net increase of 6 in this case

what appear to be very similar grounds to those raised in 2012. However there is little of substance to indicate circumstances relevant to those matters have changed to any significant degree since the 2012 appeal decision. I therefore find no compelling grounds to give any greater weight to any of these matters than did the Inspector in 2012.

Benefits of the scheme

26. A net increase of six new family dwellings would add to the choice and stock of housing in the appeal site locality. In the absence of any significant constraints to development there is little reason to doubt that the development could be carried out in the near future. Thus the dwellings could also be considered to contribute, in a very modest way, to the targets for delivering housing in the Borough as a whole. The scheme would have similarly modest social and economic benefits in these respects.

Sustainability of the site for housing development

27. Summarising from the matters already considered, having regard to the SPD Criteria, the appeal scheme would involve developing a predominantly greenfield site in a location which scores poorly in terms of its accessibility to services and public transport. I therefore conclude the appeal site is not in a sufficiently sustainable location for additional housing development, which also weighs against the scheme.

Conclusions

28. In relation to a windfall site such as this Policy CS10 requires that the scheme's benefits be weighed against its disbenefits. In the particular circumstances of this case I find that the very modest benefits noted above would not be sufficient to outweigh the disbenefits in terms of developing a greenfield site in a relatively unsustainable location, in a manner which would result in some harm to the area's character and appearance due to an over-intensive layout. Creating additional dwellings in this location would therefore conflict with CS Policy CS10 and with the overall strategy of the adopted development plan, with its strong focus on re-using previously developed land (which is broadly consistent with the *Framework*). I find that to be the case even though this scheme in isolation would have little impact on the CS target that 80% of residential development should take place on previously developed land.
29. The scheme would also conflict with eDPP Policies DP6 and DP7, to which I give considerable weight. Moreover despite adding to the choice and supply of housing it would not sit comfortably with those core planning principles in the *Framework* which encourage taking account of the character of different areas, the effective use of previously developed land and the active management of patterns of growth to make the fullest possible use of sustainable transport modes. Overall therefore I conclude the appeal scheme would conflict with the development plan and with the *Framework* and thus the appeal must fail.

Jane Miles

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Collins BA (Hons) MBA MRTPI	DHA Planning
Simon Moon MSc BEng (Hons) CMILT CIHT	DHA Planning
Kevin Clark	Skillcrown Homes

FOR THE LOCAL PLANNING AUTHORITY:

Paul Nicholls BA (Hons) DipTP	Principal Planning Officer Dartford Borough Council
Michael Clarkson BA (Hons) MA Mplan MRTPI	Senior Policy Planner Dartford Borough Council

INTERESTED PERSONS:

Ketan Bakrania	Local resident
Marilyn Peters	Local councillor

DOCUMENT SUBMITTED AT THE HEARING:

1. Timetable for West Kent Buses, Service 1