
Appeal Decision

Site visit made on 24 July 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2019

Appeal Ref: APP/T2215/W/19/3220511

The Mount Cottage, Barn End Lane, Wilmington DA2 7EY

- 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 Harnaik Kullar against the decision of Dartford Borough Council.
 - The application Ref DA/18/00775/FUL, dated 1 June 2018, was refused by notice dated 31 October 2018.
 - The development proposed is 2No detached new build 3 bed houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in this case are:
 - i) The effect of the proposal on the living conditions of the occupiers of properties on Mayors Lane, with particular regard to overlooking,
 - ii) The effect of the proposal on the character and appearance of the area, including the setting of the Grade II listed building, The Mount, and
 - iii) Whether the site is a suitable location for a dwelling with regard to development plan policies.

Reasons

Living conditions

3. The rear elevations of the proposed properties would face existing dwellings located along Mayors Lane. The Council highlight that there would be a maximum of 8 metres (m) between the rear elevation of the southernmost property and the boundary with the properties along Mayors Lane. Moreover, this distance would reduce to approximately 5.5m at the northernmost property. Whilst there is some mutual overlooking between the dwellings on Mayors Lane, the proposed scheme would introduce additional overlooking of rear garden areas at close quarters. This would result in the occupiers of these existing properties being very much aware of the potential for being overlooked to such an extent as to have a significant adverse effect.
4. Whilst I note the suggestion that the first-floor windows could be obscurely glazed, this would eliminate the outlook from what would be the largest bedrooms in the

properties. As such, this would diminish the living conditions of the occupiers of the proposed properties and would not be acceptable.

5. Accordingly, the scheme would have a detrimental effect on the living conditions of the occupiers of properties on Mayors Lane through an unacceptable degree of overlooking. Thus, the scheme would conflict with Policy DP5 of the Dartford Development Policies Plan (2017) (the Policies Plan). This policy seeks to ensure that development does not result in unacceptable material impacts on neighbouring uses, with particular regard to, amongst other things, overlooking.

Character and appearance

6. The site lies adjacent to a Grade II listed building, The Mount. This building dates from the late 18th Century and is constructed from brown brick with red brick arches over windows, with a tiled roof. There are a number of more modern additions to the building which to some extent diminish its significance. Nevertheless, it remains an attractive and imposing building. The appeal site lies to the front of The Mount and currently provides a heavily vegetated visual element that is viewed when approaching the listed building. The site is also notable for the substantial tree within it. The site therefore positively contributes to the buildings setting. The vegetated area lies between the listed building and the property of Mount Cottage, which as a consequence sits apart from The Mount.
7. The proposed scheme would result in the removal of most, if not all, of the vegetated area in order to accommodate dwellings and associated parking. This would do away with a significant positive element of the buildings setting. The scheme would also see built development being located closer within this site to The Mount, than currently exists. The scheme would, in my view, result in a cramped appearance. This would further impinge on the spacious and verdant setting of the building at this location. The removal of the tree and surrounding planting would also result in a detrimental impact on the currently leafy appearance of the site.
8. I note comments that landscaping could be controlled by planning condition and that trees could be replanted and regrown at the site. However, landscaping would take time to establish itself and it would take a significant period to regrow a tree to the height and stature of the existing tree to which I have referred. As such, this does little to assuage my concerns.
9. Consequently, the scheme would have a substantial adverse effect on the character and appearance of the area, including the setting of the Grade II listed building, The Mount. Thus, the scheme would conflict with Policies DP12 and DP13 of the Policies Plan. Together, these policies seek to ensure development contributes to the conservation and enjoyment of the Boroughs historic environment and that designated heritage assets are conserved.

Whether the site is a suitable location for a dwelling with regard to development plan policies

10. The site is not part of any site allocated within the development plan for residential purposes and as such comprises a windfall site, for which Policy CS10 of the Dartford Core Strategy (2011) is relevant. This policy requires that such sites should be considered, amongst other things, in terms of the sustainability of the site for housing development and whether the benefits of the development outweigh the disbenefits, this is to ensure compliance with the strategy as set out in Policy CS1. I note that the scheme would not comprise previously developed land, as defined by the National Planning Policy Framework, being a residential garden in a built-up area. Therefore, for the purposes of the development plan

policies, the site would not be a brownfield site, but greenfield. Policy DP6 of the Policies Plan requires that the development of such land should only take place if highly sustainably located, guidance on which is set out within the Housing Windfall Supplementary Planning Document (2014) (the SPD).

11. The Council highlight that the site is approximately 1 mile from schools, approximately 1.5 miles from the nearest GP surgery that accepts new patients and approximately 1.8 miles from the nearest NHS dentist. The appellant highlights that the site is located close to a bus stop, however there is no information regarding the frequency of any bus service. It is also contended that the site is reachable for other modes of transport, such as cycling, however this is unlikely to be an attractive or realistic option for accessing all services and undertaking some day-to-day activities; shopping for example.
12. As such I find that the scheme would not be well located in terms of access to services and that it would be highly likely that residents would rely on the use of the private car. This would be a disbenefit of the scheme.
13. I acknowledge that there would be benefits in terms of the provision of new housing, however this would be limited given the scheme is for only two dwellings. There would also be some economic benefits, but these would also be limited.
14. As such, I find that the benefits of the scheme do not outweigh the significant disbenefits in terms of the harm to the living conditions of nearby residents, the harm to the character and appearance of the area, including the setting of the listed building and the lack of access to services by public transport. Consequently, the scheme would conflict with Policy DP6 of the Policies Plan and Policies CS1 and CS10 of the Core Strategy. The scheme would also conflict with the SPD.

Other Matters

15. I note there is reference to the scheme constituting an effective use of land and making a contribution towards the supply of housing. However, these matters are not sufficient to outweigh the harm I have identified above.
16. I have had regard to the examples provided by the appellant of other developments that have been granted planning permission. However, I consider that the circumstances of both those cases were materially different to the scheme before me, in terms of the locations and contexts. I have therefore considered the appeal scheme on its own merits.

Conclusion

17. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR