

Appeal Decision

Site visit made on 1 March 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/T2215/W/21/3273905

1 Mead Road, Dartford DA1 2RH

- 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 Sarbjit Singh Dhillon against the decision of Dartford Borough Council.
 - The application Ref DA/20/00246/COU, dated 24 February 2020, was refused by notice dated 16 February 2021.
 - The development proposed is Change of use of lower ground floor from retail to residential flat (retrospective application).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice, as it more accurately reflects the development than that included on the planning application form. The appellant has agreed to this description.
3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties have had an opportunity to comment on it and I have had regard to it in considering this appeal.
4. The development has already been carried out and therefore the appellant is seeking planning permission retrospectively.
5. The Council's appeal statement refers in brief to several draft policies in the emerging Dartford Local Plan¹. However, the Council has not explained whether (and if so, how) the development conflicts with these policies. I have not identified any conflict with them. Furthermore, the emerging Local Plan is at an early stage and as such the weight to be afforded to it is limited in any event.

Main Issues

6. The main issues are as follow:
 - Whether the development provides a satisfactory standard of accommodation, with particular regard to natural light, outlook, pedestrian access, noise and disturbance.

¹ Dartford Local Plan to 2037 (pre-submission (publication) document) September 2021.

- Whether the development is acceptable with regard to the Council's approach to new housing development on windfall sites.

Reasons

Standard of Accommodation

7. The appeal site comprises the lower ground floor of 1 Mead Road. There is a parking space located to the front of the unit. During my site visit I noted that the development has already been implemented, with the lower ground floor converted to a residential flat. As such, the observations which I made during my site visit are particularly useful in establishing whether the development provides a suitable standard of accommodation for occupiers.
8. Most of the rooms have poor access to daylight and sunlight. This is because there are very few windows within the flat. Indeed, there are no windows at all in the living area to the rear of the flat. Given the elongated layout of the unit, natural light does not easily penetrate through from the front of the property to the living and kitchen areas and these areas are therefore particularly dark.
9. The room annotated as a 'dining room' on the submitted plans only has one small high-level window and this room therefore has poor access to daylight and sunlight. The room to the front of the property is single aspect and the window looks out towards the parking space. Despite this, this room does have a reasonable level of access to natural light and the outlook from it would not be significantly obstructed by parked vehicles. In addition, the proximity of this parking space does not unduly restrict pedestrian access to the property, given that they would not necessarily need to obstruct the entrance in order to park clear of the highway. Furthermore, vehicles using this space would not result in noise or disturbance beyond that which would be typical of an urban residential area.
10. Whilst the flat has an elongated layout, both main parties agree that it meets the Government's Technical Standards². Furthermore, whilst the flat is relatively narrow, there is sufficient ease of movement between the rooms within the flat. Despite this, overall, there would be unacceptable harm resulting from the very poor access to daylight and sunlight within the flat. As such, the development does not provide a satisfactory standard of living accommodation for future occupiers. It therefore conflicts with Dartford Development Policies Plan³ (DDPP) Policies DP7, DP8 and Core Strategy⁴ Policy CS17, which require in part that new residential development provides high quality living accommodation which is fit for purpose and includes 'provision of daylight and sunlight'.
11. DDPP Policy DP5 is not relevant to this main issue as it relates to impacts on 'neighbouring uses'.

Windfall Development

12. Core Strategy Policy CS10, amongst other things, sets out relevant considerations in respect of 'Windfall Sites'. It effectively defines planning applications on Windfall Sites as 'Planning applications for sites not identified as

² Technical Housing Standards – nationally described space standard document (Technical Standards), published in March 2015

³ Dartford Development Policies Plan – Adopted July 2017

⁴ Dartford Core Strategy – Adopted September 2011

deliverable or developable in the SHLAA'. There is no evidence before me to indicate that the site has been identified in the SHLAA and as such, it constitutes a windfall site for the purposes of Policy CS10. Policy CS10 lists various criteria for the consideration of Windfall Sites. The Council alleges that the development conflicts with criterion (b) which requires that the benefits of the development outweigh the disbenefits (the disbenefits being the provision of substandard living accommodation for future occupiers as discussed in relation to the first main issue). The Council has adopted a Housing Windfall SPD⁵ (the SPD) which provides details on matters to be considered in weighing the benefits and disbenefits.

13. I afford substantial weight to the disbenefits associated with the development as identified in relation to the first main issue of this appeal. This is because they pertain to the poor quality of accommodation provided and the associated impact on the living conditions of occupants of the development. I note that neither the support in the development plan, nor in the Framework, for new housing is at the expense of ensuring that all development is acceptable in terms of living conditions.
14. There are some benefits associated with the development. The development contributes one dwelling towards the housing stock. It therefore has economic and social benefits. However, given the small scale of the development, these benefits are of limited weight.
15. The site utilises previously developed land, an aim consistent with the emphasis of the SPD. I also accept that the scheme would represent a viable use of an existing property.
16. That the site has good access to services and facilities is not a benefit of the scheme itself. Indeed, it is the aim of the SPD to ensure that all windfall sites are guided to such locations. As such, this is a factor which carries neutral weight. Similarly, the absence of harm in relation to other considerations, such as neighbouring living conditions and character and appearance, is a neutral factor as opposed to a benefit of the development.
17. Overall, the limited benefits associated with the provision of one dwelling on a brownfield site do not outweigh the substantial harm caused by the poor standard of accommodation which would be provided to future occupiers. As such, the development does not comply with Policy CS10. There is also a conflict with the SPD insofar as it elaborates on the requirements of Policy CS10.

Other Matters

18. The appellant refers to the various benefits of the development in relation to the provisions of the Framework. However, I have already set out these benefits and the weight to be afforded to them. No other matter alters my central finding that the development would be unacceptable and in conflict with Framework Paragraph 130, which requires in part that new development includes a high standard of amenity for existing and future users.
19. The appellant has also referred to other decisions within the Borough. However, the precise site-specific circumstances of these cases are not before me. As such, they do not justify the harm that the development causes.

⁵ Housing Windfall SPD (Adopted Edition) October 2014

Conclusion

20. The development conflicts with the development plan taken as a whole. There are no other material considerations (of sufficient weight) which indicate that a decision should be made other than in accordance with the development plan. As such, the appeal is dismissed.

Luke Simpson

INSPECTOR