



Appeal Decision

Site visit made on 26 July 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2022

Appeal Ref: APP/T2215/W/21/3284267

Land to the rear of 59 Norfield Road, Wilmington, Dartford DA2 7NY

- 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 & Mrs Hobbs against the decision of Dartford Borough Council.
 - The application Ref 21/00159/FUL, dated 2 February 2021, was refused by notice dated 24 June 2021.
 - The development proposed is the erection of 1 No. detached property and associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area; b) the ancient woodland; and c) living conditions of neighbours and future occupiers of the development.

Reasons

Policy Background

3. The Council has clarified that, in policy terms, the development of this site for housing is not unacceptable in principle. However, the development of an unallocated site represents a residential windfall site which needs to be considered under Policy CS10(4) of the Dartford Core Strategy 2011 (the 'Core Strategy') and the guidance contained in the Council's Housing Windfall Supplementary Planning Document 2014 (the 'SPD'). Criterion (a) of the policy relates to the sustainability of the site whilst (b) concerns the balance of benefits and disbenefits. Criteria (c) and (d) relate to the capacity of infrastructure and services to provide for the additional occupiers.
4. In this case, the site's sustainability relates principally to the redevelopment of residential garden land and the proximity of day-to-day services and facilities.
5. Based on the information before me, in policy terms it seems that were all else acceptable, criteria (c) and (d) would not weigh against the scheme. Accordingly, it remains for this appeal to consider the merits of the scheme and thus reach a conclusion on whether or not the proposal meets criteria (a) and (b) of Policy CS10(4).

Character and Appearance

6. Properties within the vicinity of the appeal site comprise a mix of one and two storey, detached and semi-detached dwellings. Although there is some variety in house styles, they are generally finished in brick with brown roof tiles. Houses are set back from their site frontages and generally appear to sit in reasonably sized plots, with gaps between properties. Overall, these factors give the area a spacious character to which the appeal site positively contributes.
7. From the evidence before me and my observations on site, the variety in property types is matched by a variety in plot sizes and length of gardens. However, even allowing for the spacious character of the area, No.59 Norfield Road, and its five neighbours to the south, benefit from particularly long gardens in comparison to other properties in the area.
8. The proposal would result in the host dwelling and new house each having gardens which would be noticeably smaller than the existing garden serving No.59. As such, they would be akin to the size of other gardens which already exist in the area. Given that there are only 6 or so properties with long gardens that back onto the woodland to the west, it seems to me that the proposal would diminish the diversity or stock of housing with larger gardens in the area.
9. The access to the new dwelling would be situated to the side of the host dwelling and its retained garden. The new dwelling itself would be positioned to the rear of the host dwelling. This arrangement would mean that the new house would not appear as a continuation of the neighbouring dwellings at Nos. 61 and 63 Norfield Road. Instead, it would be noticeably out of step with the prevailing pattern of development and the alignment of other properties on this part of Norfield Road.
10. Thus, even allowing for its lower land level, the proposed dwelling and its somewhat contrived access layout would appear squeezed in, with the development generally appearing out of keeping with the prevailing street scene and character of the area. Furthermore, it would visually reinforce the loss of the larger garden.
11. Overall, I find that the proposal would cause harm to the character and appearance of the area. It would therefore fail to accord with Policies CS1 and CS10 of the Dartford Core Strategy, Policies DP2, DP6, DP7 and DP8 of the Dartford Development Policies Plan 2017 (DDPP), and the Housing Windfall Supplementary Planning Document October 2014. Collectively these seek to secure, amongst other things, appropriately located new development of acceptable scale and appearance.

Ancient Woodland

12. The rear of the appeal site would be adjacent to Joyden's Wood, an Ancient Woodland (AW). Natural England's Standing Advice is that development should not occur within 15m of an AW. The proposal would be contrary to this advice.
13. There is an unmade track which runs adjacent to the end of the appeal site and appears to be within the designated area of the AW. Whilst this track ensures that the main body of the AW is not directly abutting the appeal site, the

- proposal is nonetheless still within the 15m buffer recommended by Natural England.
14. Despite the existence of the track, there is one birch tree directly on the rear boundary of the appeal site. I note from the arboricultural evidence that it is possible that the roots of the birch tree may have encroached onto the site and that there could be a risk to them during any construction works. However, given the canopy of the tree, it seems to me that appropriately worded conditions could ensure that any potential harm is sufficiently mitigated to protect the long-term health and retention of the tree.
 15. Nonetheless, this would not overcome the proximity of a new three bed house to the AW. As family sized accommodation, it would be reasonable to expect the dwelling and rear garden to be well used. With this usage would inevitably come noise and other disturbance to the AW. Although the site is already domestic garden, the proposed increased intensity of use in such close proximity to the AW when compared to the existing situation, is likely to be harmful.
 16. This is because generally an AW will be undisturbed by development and beyond some limited management will have been subject to very little interaction with humans. It is as a result of this, that they develop their diverse range and mix of plants, fungi, insects and other species and thus become an irreplaceable resource. Thus, factors such as noise and other disturbance, particularly in the form of artificial light, can be harmful.
 17. I have considered whether a condition controlling the use of lighting would be appropriate in this instance. Given the proximity of the dwelling to the AW, it seems to me that a condition restricting the use of lighting in the building and its curtilage would be required. Given the nature of the use proposed a restriction on the use of lighting and its emission from the building would be unreasonable. Furthermore, such restrictions would not be possible to enforce. Such measures would not therefore adequately mitigate against damage to the AW.
 18. The National Planning Policy Framework, at Paragraph 180, attaches great importance to the protection of such a resource. Indeed, the Framework is clear that development resulting in the loss or deterioration of irreplaceable habitats such as AW should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
 19. Thus, I find that the proposal would have a damaging effect on this resource. There are no exceptional reasons for approving the scheme. Accordingly, the harm caused to the AW would be contrary to Policy CS10 of the Core Strategy and Policies DP5, DP6 and DP7 of the DDPP which, amongst other things, seek to promote sustainable development that does not cause harm to the local environment or green infrastructure which cannot be mitigated.

Living Conditions

20. The windows on the front elevation of the proposed dwelling would face towards the retained rear garden of No.59. The design of the dwelling, land levels and any boundary treatments would ensure that the ground floor windows did not offer harmful views of No.59, its garden or those of other neighbours.

21. The upper floor roof lights on the front elevation would serve a landing and third bedroom. There would be some views of neighbouring gardens from these windows, most notably those of Nos. 59 and 57 Norfield Road. Given the size, position and angle of these windows, views of these neighbouring gardens would be limited. There is already some degree of mutual overlooking of rear gardens, and it seems to me that any further impact from these additional rooflights would be marginal.
22. The outlook and immediate environment for the neighbour at No. 61 Norfield Road would change as a result of the proposal. However, the building's design and position avoids any direct overlooking or loss of privacy to this neighbour.
23. The main parties are broadly in agreement that the rear garden serving the new dwelling would be some 10m at its deepest. Given the site's orientation, the western end of the garden might be subject to some shadowing later on in the day caused by the rear boundary wall and adjacent birch tree. However, the AW beyond, whilst providing a dense background, is set back a sufficient distance that it would be unlikely to cause significant overshadowing of the rear garden.
24. The appellant indicates that the proposal would meet the requirements of the Nationally Described Space Standards (NDSS) in terms of the total floor area for the house and for each individual bedroom. Furthermore, the submitted drawings indicate that the head heights for the bedrooms would meet the NDSS. The Council does not directly disagree with this. Bedroom 3 would however be served by two rooflights, which would limit the outlook from this room. The room would be likely to achieve reasonable levels of light and generally be usable. Whilst the limited outlook would be less than ideal for a newly constructed dwelling, it would not on its own render the level of accommodation provided to future occupiers unacceptable.
25. Overall, I find that the proposal would not unacceptably harm the living conditions of neighbours and future occupiers of the development. Accordingly, it would accord with Policies DP5, DP7 and DP8 of the DDPP insofar as they relate to protecting the living conditions of neighbours and future occupants of new developments.

Other Matters

26. I have been referred to the previous development at No.47 Norfield Road. It appears to me that this previous development has already reduced the diversity of gardens in the area, making the loss of further larger gardens of greater concern. Furthermore, the position of that new dwelling appears as a continuation of the prevailing pattern of development rather than a disruption to it. These are important factors which distinguish it from the current appeal proposal. Accordingly, the weight I attribute to this previous development is limited.
27. The proposed access is said to be safe and that vehicular movements would be minimal. The appellant points to the absence of objection on highways grounds in support of these points. Also, in relation to the access, it is suggested that a condition could address the final appearance of the boundary with No.61 Norfield Road. However, all these matters would be a requirement of any development and are therefore to be expected. Furthermore, they would not

diminish the harm I have identified. Accordingly, they are neutral factors in my decision.

28. The proposal has been considered on its own merits and based on the evidence available. It therefore does not automatically follow that the same circumstances would apply to other sites and other proposals.

Planning Balance

29. The appeal site would provide an additional dwelling that would accord with the Framework's support for windfall sites. However, the site would make only a small contribution towards housing supply, which the Council indicates is already in excess of 5 years. There would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. Overall, and for these reasons, I would attach only a limited amount of weight to them.
30. Given my findings in relation to the reduction in the diversity of the stocks of houses and the effect on the pattern of development, I consider that the proposal would result in inappropriate development of residential garden land. Accordingly, in this respect the proposal would fail to meet criterion (a) of Policy CS10(4) in terms of the sustainability of the site.
31. The Council has suggested that the location of the site relative to everyday services and facilities would indicate future occupiers would be dependent on car usage. There are undoubtedly some facilities within reasonable proximity of the site, which would mitigate some car usage. I have also been made aware of a development for a new dwelling which is said by the appellant to have had fewer facilities within a greater walking distance of the site.
32. However, even if I were to agree with the appellant and conclude the site's location met criterion (a) of Policy CS10(4) in terms of the sustainability of the site, the weight I could attribute to this factor, either on its own or in combination with the other benefits, would not outweigh the harm to the character and appearance of the area or the Ancient Woodland. This is because the harms I have identified would be long lasting and worthy of significant weight.
33. As a result, I must conclude that the benefits do not outweigh the disbenefits. Therefore, criteria (b) of Policy CS10(4) of the Core Strategy is not met.

Conclusion

34. The proposal would harm the character and appearance of the area and the Ancient Woodland and would conflict with the development plan taken as a whole. The fact that I have found in the appellant's favour with regard to any effects on living conditions does not outweigh the totality of the harm I have identified and does not alter my conclusions. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.
35. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR