



Appeal Decision

Site visit made on 21 July 2022

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH August 2022

Appeal Ref: APP/T2215/W/22/3291448

Land Adjacent to 2 Myrtle Road, Dartford, DA1 1LB

- 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 2D8 Ltd against the decision of Dartford Borough Council.
 - The application Ref DA/21/01544/FUL, dated 30 September 2021, was refused by notice dated 24 November 2021.
 - The development proposed is the replacement of the existing detached dwelling house with the erection a pair of two storey 2-bedroom semi-detached houses together with associated off-street car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing detached dwelling house with the erection of a pair of two storey 2-bedroom semi-detached houses together with associated off-street car parking spaces at Land Adjacent to 2 Myrtle Road, Dartford, DA1 1LB in accordance with the terms of the application, DA/21/01544/FUL, dated 30 September 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues of this appeal are:
 - the character and appearance of the local area;
 - the living conditions of the residential occupiers of neighbouring properties and that of the potential occupiers of the proposed dwellings, with reference to privacy and quality of amenity space.

Reasons

Character and Appearance

3. The appeal site is located to the rear of 281 Lowfield Street (No.281), a two storey semi-detached house on the corner of the junction with Myrtle Road. The site previously formed the rearmost part of the rear garden to the appeal property. The appeal site has been the subject of refused applications for the erection of larger semi-detached dwellings on the site than that now proposed, the latter of which was also dismissed on appeal. I have been provided with only very limited information on these previous refusals and

appeal, however, these would have been considered on their own merits, and I have done likewise in my consideration of this appeal.

4. Following approval of a 3 bedroom 2 storey detached house on the site and the discharge of attached conditions, work appears to have commenced to implement this approval.
5. The proposal is for a pair of two storey 2 bedroom semi-detached houses, smaller than those previously refused permission by the Council, which would replace the single detached dwelling currently under construction. As the proposal would replace this development, I am satisfied that it would be on previously developed land and would, therefore, not conflict with Policy DP7 of the Dartford Development Policies Plan (2017), which, amongst other matters, seeks to protect Garden Land from inappropriate development.
6. In their scale, design and hipped roof form, the proposed semi-detached pair of dwellings would reflect the design of the other semi-detached pairs of dwellings on Myrtle Road, which form part of a planned estate. The positioning of the proposed semi-detached pair of dwellings on the appeal site would also mirror the spatial arrangement, including building line of these properties.
7. Whilst the proposal would narrow the gap on the street frontage between the existing houses on Myrtle Road and No.281, it would also provide a harmonious street frontage, rather than the existing large gap, which appears to be unreflective of the immediate local character. As such, the proposal would sit in harmony with the established character of this street and would not detract from character of the wider local area.
8. The rear gardens of the proposed dwellings would be slightly smaller than the neighbouring semi-detached houses. However, when considered in combination with the proposed side spaces and front gardens, the overall spatial arrangement would result in the proposed pair of dwellings sitting comfortably on their plot without resulting in a cramped appearance.

Living Conditions

9. As set out above, the I am satisfied that the proposal relates to previously developed land and that it would not result in any further loss of garden space for No.281.
10. The rear of the proposed dwellings would be at a distance from the side boundary with 279 Myrtle Road (No.279) ranging from approximately 5.8 to 8 metres, which would allow for some overlooking of the garden of No.279. However, the arrangement of the proposal in relation to this boundary would result in an oblique angle of view.
11. These oblique views would generally be garden views, with no reciprocal direct overlooking of rear habitable rooms between the proposed dwellings and No.279. This degree of overlooking would not be materially different to the overlooking of gardens by neighbouring properties evident throughout the local area and would not be to a degree that would reasonably be experienced as intrusive, resulting in a loss of privacy. For these reasons, the degree of overlooking generated by the proposal would be no greater than that to be expected in a developed residential area of this type.

12. The rear gardens of the proposal are north facing, which, given their shallow depth, would result in them having only partial direct sunlight during the morning and evening for short periods and only potentially for a small section of garden. Whilst this would result in a generally overshadowed garden, particularly during the autumn and winter months, the corollary of this would be that the northern orientation would result in a shady cool garden in the height of summer.
13. Of the two proposed semi-detached properties, the one nearest to No.281 has the smallest garden, which is also slightly visually compromised by the angle of its rear boundary with the garden of No.279. However, the garden space would, along with the presence of the side space and front garden, still be sufficient in area to provide a reasonable degree of amenity for a small household of the type intended as occupiers.
14. For these reasons, the proposal would not result in any significant harm to the living conditions of occupiers of this neighbouring property, or to that of the potential occupiers of the proposed dwellings.

Other Matters

15. Both parties have raised the issue of 'windfall' housing development and the Council failing to meet its housing delivery targets. However, as I find that the proposal accords wholly with the Development Plan, I have no need to carry out a planning balance as referenced in Paragraph 11 of the National Planning Policy Framework (2021) (the Framework).

Conditions

16. I have had regard to the conditions suggested by the Council in the event of the appeal being allowed and I have consulted with both parties to this appeal on draft conditions. The Council have expressed a wish for a condition that would remove permitted development rights as set out in the GPDO. As the proposed dwellings would be of a type and in circumstances replicating those of many existing dwellings that benefit from this right, I do not find that there are exceptional reasons that would require the restriction of these rights.
17. I do not find that there is a need for a condition requiring submission and approval of details of materials that would duplicate that provided on the plans submitted with the application. I further find that the proposed condition relating to water usage by occupants would be unenforceable and would fail the test for conditions set out in the Framework. The proposed condition relating to electric vehicle charging replicates building control requirements and would similarly fail the test set out in the Framework.
18. To ensure that the proposed development contributes to the accommodation requirements of potential occupiers with restricted mobility, I have attached a condition requiring that compliance with Part M4(2) Accessible and Adaptable dwellings and National Space Standard/Building Regulations Optional Requirement.
19. To safeguard the character and appearance of the area I have imposed a condition relating to landscaping. To protect the living conditions of neighbouring and future occupiers I have imposed a condition requiring

obscure glazing of certain windows. In the interests of the effective operation of the public highway, I have imposed a condition requiring the provision of the proposed off-street parking spaces.

20. To provide certainty I have added a condition to ensure that the development is carried out in accordance with the approved plans along with the standard condition relating to the timing of implementation.

Conclusion

21. The appeal is allowed.

Victor Callister

INSPECTOR

Schedule of Conditions

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: 203B, 204A, 206A, 207A, and 301A.
3. Prior to occupation of the dwellings hereby permitted, a landscaping scheme including both hard and soft landscaping and all boundary enclosures, shall be submitted to and approved by the Local Planning Authority and shall be implemented prior to first occupation (unless this falls outside of the planting season in which case it shall be implemented at the first opportunity during the following planting season, between October and March inclusive). Such landscaping shall thereafter be maintained for a period of five years. Any trees, shrubs or grassed areas which die, are removed or become seriously damaged or diseased within this period shall be replaced within the next planting season with plants of similar species and size to that approved.
4. The dwellings hereby permitted shall not be occupied until the parking for the occupants of the development be fully implemented and made available for use and shall thereafter be retained for use at all times.
5. The dwellings hereby permitted shall not be occupied until evidence has been submitted and approved by the Local Planning Authority confirming that the development complies with Part M4(2) Accessible and Adaptable dwellings and National Space Standard/Building Regulations Optional Requirement.
6. The ground and first floor bathroom windows in the front elevations of the dwellings hereby permitted shall at all times/be glazed with obscured glass and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened.

END OF SCHEDULE