



Appeal Decision

Site visit made on 27 July 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/T2215/W/22/3313076

**Land at Woodward Terrace, Rear of 11 Carlton Terrace, Horns Cross, Kent.
(Grid Ref Easting: 557403; Grid Ref Northing: 174232)**

- 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 Ashwood Investment and Development Limited against the decision of Dartford Borough Council.
 - The application Ref DA/22/01035/FUL, dated 30 August 2022, was refused by notice dated 24 October 2022.
 - The development proposed is erection of a detached accessible dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents.
3. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

Main Issues

4. The main issues are whether the appeal site would be acceptable for the development proposed in respect of:
 - The character and appearance of the area;
 - The living conditions of future residents of the site in respect of light, outlook and privacy;
 - The living conditions of neighbouring residents in respect of outlook;
 - Windfall sites and previously developed land;
 - Parking provision; and
 - Other considerations relevant to the planning balance.

Reasons

Character and Appearance

5. The appeal site is a plot of land to the rear of 11 Carlton Terrace, which is a substantial 3-storey building. Despite its relationship with No 11, the site is most closely visually associated with the residential cul-de-sac of Woodward Terrace. This cul-de-sac has a pleasant suburban character primarily defined by semi-detached 2-storey dwellings set behind front gardens and facing onto the street.
6. The appeal proposal would be a flat-roofed single storey dwelling which would turn its back onto the street scene and would look into the appeal site. When viewed from the street of Woodward Terrace as well as from an adjacent footpath, the proposal would appear as a 2.2m high brick wall extending around the site, albeit with parking, storage and a small extent of landscaping to the front.
7. Despite the mix of dwellings in the wider area, the suburban form and character of Woodward Terrace is readily apparent, and the unorthodox layout of the appeal proposal would not reflect this character or be a sympathetic addition to it. Although the proposal would only be marginally higher than the existing fence or means of enclosure which could be erected under permitted development rights, the extent of wall would still be viewed as a stark and unsympathetic addition to the street scene.
8. Due to its inward looking nature, the proposal would not be readily apparent as a detached dwelling from street level. That said, the parking, access doors and storage to the front of the site, as well as associated comings and goings of residents, would indicate the residential nature of the development. This would emphasise the incongruous layout and arrangement of the proposal, to the detriment of the appearance of the appeal site and cul-de-sac.
9. The site contains a number of trees and bushes which contribute to the verdant character of this part of the cul-de-sac. There is an established tree to the front of the site which is prominent in views along the street scene at the head of the cul-de-sac and which makes a positive contribution to the amenity of the area. There are small trees, bushes and other greenery along the boundary of the site to the front of 26-32 Woodward Terrace, which screen the site and have a softening effect in views from outside the site. I am mindful that these trees and planting are not statutorily protected, but nevertheless their loss would add to the stark appearance of the proposal. Given the constraints of the development site, potential landscaping would do little to mitigate the harm to the street scene.
10. The appellant refers to housing developed on sites in the wider area located on garden land or backland plots. There are also a number of flat-roofed garage blocks in the area. However, these are located on sites which are not as prominent or are of a design which is more sympathetic to the streetscape. Whilst I acknowledge the varied pattern of development in the surrounding area, the examples referred to by the appellant do not lead me to a different conclusion in respect of the awkward character and appearance of the proposal within this particular street scene.

11. I conclude that due, to its location, design, arrangement and effect on trees and planting, the proposal would lead to significant harm to the character and appearance of the area. The proposal would therefore be contrary to the design, landscaping and character requirements of Policies DP2 and DP7 of the Dartford Development Policies Plan 2017 (DDPP).
12. The proposal would also be contrary to the design, landscaping and character requirements of Policies M1 and M11 of the Emerging Local Plan¹ (ELP), although given the stage of preparation of the ELP I give this very limited weight.

Living Conditions – Future Residents

13. The floor level of the dwelling and amenity areas would be set partially below the surrounding ground level, with the result that when viewed from inside the site the boundary walls would be approximately 3.2m high. Other than skylights, no windows would be provided which would look out of the site, with the outlook provided for residents being onto internal courtyards.
14. Given the size of the courtyards and the proximity of the high means of enclosure, this would result in an oppressive and unduly enclosed environment for future residents. This would be the case in respect of the outlook from windows as well as from within the courtyards.
15. The inward looking and tight-knit layout of the site would also limit the amount of daylight and sunlight for future residents. Although the proposal would include skylights, the appellant has provided no substantive technical evidence to demonstrate that the levels of natural light for future residents would be acceptable. Given the layout and constraints of the site, I am not persuaded by the appellant's contention that there is no doubt that the building would far exceed minimum standards in respect of light.
16. The proximity of nearby 2-storey dwellings would also enable an elevated view into the clear skylight. Although the angle of view into the proposed dwelling would be limited, this would still lead to a perceived loss of privacy for future residents.
17. The Council has referred to the arrangement of the external amenity space, but the plans indicate that this is of an appropriate size and although the shape is unusual it would not be of an unduly awkward layout. The dwelling would exceed the nationally described space standard as referred to by the appellant. However, these matters do not negate my conclusions in respect of outlook, light and privacy.
18. I conclude that the proposal would lead to significant harm to the living conditions of future residents due to inadequate outlook, light and privacy. The proposal would therefore be contrary to the amenity requirements of Policies DP5, DP7 and DP8 of the DDPP. The proposal would also be contrary to Policy M10 of the ELP with regards to providing high quality amenity space, although given the stage of preparation of the ELP I give this very limited weight.

¹ Dartford Local Plan Pre-Submission (publication) Document 2021

Living Conditions – Neighbouring Residents

19. There are a number of dwellings which look onto the site. The front elevations of 26-32 Woodward Terrace in particular would be in close proximity to the side wall of the dwelling.
20. The outlook from the front of Nos 26-32 is currently of bushes and trees extending along an access path, which give a relatively soft and sylvan outlook from the adjacent dwellings. The proposal would replace this extent of planting with a brick wall of a stark and enclosing character, with significant harm to the outlook of the residents of Nos 26-32.
21. The proposed wall of the dwelling would be marginally higher than a wall or other means of enclosure which could be constructed under permitted development rights. However, due to the proximity of the site to the affected dwellings, even marginal differences could have a material impact on outlook.
22. The trees and bushes are not statutorily protected, but I have assessed the proposal based on the circumstances I observed on my visit and I consider that the removal of the boundary planting would be detrimental to the outlook from nearby dwellings.
23. The Council refers to views of the proposed green roof of the dwelling from nearby properties and uncertainty in respect of future maintenance. However, it is not inevitable that the green roof would not be suitably maintained. Views of the green roof do not therefore represent sufficient reason for withholding planning permission.
24. Notwithstanding my conclusions in respect of the green roof, I conclude that the proposal would lead to significant harm to the outlook from Nos 26-32 due to its height, proximity and loss of landscaping. The proposal would therefore be contrary to the amenity and landscape requirements of Policies DP5 and DP7 of the DDPP and M2 and M11 of the ELP. However, for the reasons stated previously, I give the policies of the ELP no more than limited weight.

Windfall Sites and Previously Developed Land

25. It is common ground between the parties that the appeal site is not classed as Previously Developed Land (PDL). As a non-allocated site it is also classed as a 'windfall' proposal.
26. Policy CS10-4 of the Core Strategy 2011 sets out criteria for the assessment of windfall sites. Criteria (b) is a planning balance as to whether benefits of development outweigh disbenefits. I will return to this later.
27. Criteria (c) and (d) of Policy CS10-4 relate to infrastructure capacity, and given the scale of the appeal proposal it would not conflict with these criteria.
28. Criteria (a) of Policy CS10-4 relates to the sustainability of the site for housing development, and the Council refers to its Housing Windfall SPD².
29. The Core Strategy also sets a target of 80% of development to be sited on PDL. However, neither the Housing Windfall SPD or the Core Strategy specifically preclude development on a site which is not PDL.

² Housing Windfall Supplementary Planning Document 2014.

30. Appendix 1 of the Housing Windfall SPD sets out a number of criteria for assessing sustainability of windfall sites. Whether a site is PDL is only one factor in assessing sustainability, albeit one that is weighted highly in the overall assessment. The Housing Windfall SPD also includes other matters such as accessibility, community and climate change considerations.
31. Residents of the site would have convenient access by sustainable means to a range of services. The provision of accessible housing would be of benefit to a balanced and integrated community, although given the scale of the proposal this would only be to a limited degree. Also given the scale of the proposal and potential mitigation measures as part of new-built development it would have a neutral impact in respect of climate change.
32. More specifically, it has not been demonstrated that the development of this site would prejudice the Core Strategy's aim of 80% of development on PDL. Further with regard to PDL, the specific consideration of this issue as part of Policies DP6 of the DDPP and M9 of the ELP is only triggered for windfall developments of 5 or more dwellings; which would not be the case for the appeal proposal.
33. Within the terms of development plan policy and supporting documents, the fact that a site is not PDL does not mean that it is inherently unsustainable for windfall development of the scale proposed. For the reasons given above, I conclude that the appeal site would be sustainable for housing development within the terms of Policy CS10-4(a) of the Core Strategy, including with regard to the advice of the Housing Windfall SPD. Based on the evidence before me, the proposal would also not conflict with Policy CS10-4(c and d) or CS10-5 regarding infrastructure.
34. I will return to Policy 10-4(b) as part of my consideration of the planning balance.

Parking Provision

35. The appeal proposal would include 2 off-street parking spaces, and the Council's officer report states that this would comply with the Parking Standards Supplementary Planning Document 2012 (the Parking SPD).
36. The Council also refers to limited on-street parking in this area. The proposal would result in the loss of 2 on-street parking spaces to the front of the site, and the Council indicates that this would be of disbenefit to existing residents of the cul-de-sac. At the time of my visit, a number of vehicles were parked in the turning head as well as straddling the footway. The latter included the on-street spaces that would be lost as part of the proposal.
37. However, the great majority, if not all, of the dwellings on this cul-de-sac have dedicated off-street parking provision. The proposal would therefore not lead to material harm to the availability of off-street parking for existing residents.
38. I have had regard to the appellant's parking surveys which show that the area is not experiencing parking stress. The Council refers to issues arising from vehicles parked partially on the footway, but this awkward parking arrangement applies to the on-street spaces that would be lost as part of the proposal. Although on-street parking may be displaced from the front of the site, there is no substantive evidence that this would lead to a situation any

worse than the nature and extent of on-street parking provision existing at the current time.

39. I conclude that the proposal would not lead to unacceptable harm to parking provision in the area. The proposal would therefore not be contrary to the transport and on-street parking considerations of Policies DP3 and DP4 of the DDPP. The proposal would also not conflict with the advice of the Parking SPD.

Other Considerations

40. The proposal would add to the supply and mix of housing in the area and residents would have convenient access to a range of services, and it would bring an underused site back into a productive use. However, given the Council's housing land supply position, the benefits arising from a single dwelling in this accessible location would be very limited.
41. The proposal would deliver a dwelling that complies with M4(3) accessibility requirements, and I have had regard to the Housing Needs Assessment³ which indicates that an uplift is required in the supply of this form of housing, as well as Policy M8 of the ELP which refers to provision on larger sites. The proposal would provide wheelchair accessible housing that is of a higher standard than is usually required by the Council on sites such as this. However, even if I was to conclude that there is no certainty as to whether sufficient homes of this nature will be provided in the future, the benefits arising from a single accessible dwelling to a balanced and integrated community would be of a limited scale.

Planning Balance and Conclusion

42. I have concluded that the proposal would not harm parking provision in the area. Although the site is not PDL, this does not mean that it is unsustainable for housing development or that a development of this scale would conflict with the Council's policies regarding PDL and windfall sites.
43. However, I have concluded that the appeal proposal would lead to significant harm to character and appearance as well as to the living conditions of existing and future residents.
44. I have had regard to the benefits arising from the proposal. However, considered individually and cumulatively, these carry no more than limited weight in favour of the appeal.
45. Drawing the above together, the limited benefits of the proposal would not outweigh the significant disbenefits. The proposal would therefore be contrary to Policy CS10-4(b) of the Core Strategy with regards to the consideration of housing windfall sites. As referred to in my consideration of the main issues, the proposal would also conflict with development plan policies where harm has been identified.
46. The proposal would also conflict with Policy M9 of the ELP in respect of the balanced consideration of residential development, although given the stage of the preparation of this document this carries limited weight in my consideration of this appeal. I find no conflict with Policy CS1 of the Core Strategy as this does not refer to developments of the form proposed. However, these matters

³ Dartford and Ebbsfleet Housing Needs Assessment 2019

do not negate my concerns in respect of other conflicts with adopted development plan policy.

47. I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out relevant protected characteristics, including disability. Whilst I am mindful of the need for accessible housing of the form proposed, it has not been demonstrated that this cannot be met by a more acceptable scheme elsewhere. The PSED considerations do not outweigh the significant harm that I have identified, and following careful consideration of these particular matters I am satisfied that the impact of dismissing this appeal would be proportionate and justified.
48. The proposal would conflict with the policies of the development plan when read as a whole, and there are no material considerations of such weight that indicate that this decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

David Cross

INSPECTOR