
Appeal Decision

Site visit made on 15 April 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 23 April 2024

Appeal Ref: APP/T2215/W/23/3324980

21 Vimy Drive, Dartford DA1 5FJ

- 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 Jerry Ogunbiyi against the decision of Dartford Borough Council.
 - The application Ref DA/23/00489/FUL, dated 17 April 2023 was refused by notice dated 21 June 2023.
 - The development proposed is described as the 'Change of use of amenity land to residential garden and erection of fencing to the front/side of the property and erection of a porch.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note discussion in the Council's Statement of Case (SoC) that they are in the process of adopting a new Dartford Local Plan (NDLP). The NDLP has been examined, and the Inspector has found the plan sound subject to modifications. In my application of paragraph 48 of the National Planning Policy Framework (the Framework), whilst the NDLP is not part of the adopted development plan, it is at an advanced stage in the adoption process, and according to the Council there have been no modifications made to the NDLP policies which they rely on as part of this appeal. In my opinion the emerging policies would appear to be consistent with the Framework and are only awaiting adoption by the Council subject to these modifications. The Appellant has had the opportunity to comment on the policies of the NDLP. Based upon this, I will afford the NDLP policies in question in this appeal full weight in this appeal decision.
3. I have taken the description of the development from the Council's Decision Notice as this more accurately details the elements requiring planning permission. As such I have made my determination on this basis.

Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the existing dwelling and the greater locality.

Reasons

5. In determining applications involving character and appearance, DDP Policies 2 and 7, and NDLP Policy M1 list a number of design principles to consider such as responding to reinforcing and enhancing positive aspects, have regard to context, character and sense of place, height, massing, legibility, identity,

public realm and landscape, amongst others. Additionally, NDLP Policy M11 is specific to extensions and new dwellings and seeks that development achieve a satisfactory quality of development that does not erode the local character of the locality.

6. The appeal site is part of a larger housing development which appears to have been constructed relatively recently and consists of a number of cul-de-sacs leading off Brunel Way. The development maintains a consistent design and materials palette with groups of three storey terraced dwellings, parking courts, with small areas of amenity greenspace and street trees together with views to vegetation in rear gardens which assist in softening the development. There is an emphasis of spaces in and around dwellings with small strips of land between the dwellings and the footpath, some of which are planted, no boundary walls, and porches consisting of a roof supported from above with clear site lines in and around the housing development. These elements, amongst others make up the local character and distinctiveness of this locality.
7. The appeal site is one of the characteristic groups of terraced dwellings, being located to the end of the terrace and containing a small strip of garden land running along the western and southern facades of the property, with the main entrance and parallel parking space to the southern façade of the dwelling. The appeal site maintains the characteristic spaces in and around the property and maintains the same building line and continuation of small landscaping strip which runs around the group of terraced properties emphasising the spaces and positive attributes that contribute to the character and appearance of the area.
8. Beginning with the proposed fence, the fence according to the plans would be 81.2 centimetres tall and would be a railing fence that would enclose the small landscape strips to the south façade and prevent persons from walking along the private path to the west and over the Appellant's parking area. According to the Appellant this would be to prevent dog fouling, litter and cigarettes being dropped, and also to prevent children from peering into the kitchen window. Given the low height and openness of the fence I am not convinced that the proposed fence would remove all of these issues; children would still be able to peer into the window from the footpath, and people could still throw litter and cigarette butts over the fence.
9. Given the context, character and appearance of the planned estate, the railing fence would look awkward and have a defensive appearance when compared with the open nature and importance of spaces in and around the dwellings. The proposal would add unnecessary clutter to this planned development and would not be in-keeping with the local distinctiveness and character of the locality.
10. I appreciate comments and examples of dwellings in the surrounding locality where there have been approved applications¹ where the appellant feels that there is a precedence in these applications when compared to the proposed scheme under consideration. One of the examples changes the use of amenity land for a parking area and tall fence, and there are photographs of picket fencing and other types of fencing enclosing larger front and side gardens. Whilst this may be the case, each application should be determined on its merits, the examples given illustrate that these may have been appropriate for

¹ For Example, Council Ref: 22/00764/FUL; 23/00489/FUL.

this location, however it is not to say that just because something has been approved in one location, that it would be suitable for the appeal site. When judging the characteristics and context of the appeal site, the current situation is that it is open and shares very similar characteristics with the group of dwellings as part of this terrace of dwellings. Taking this into account, the presence of fences on other properties does not demonstrate that similar applications would be appropriate on the appeal site. As such I give these examples limited weight in demonstrating the appropriateness of the proposed fence.

11. Turning to the proposed porch, this would be located at the front entrance to the southern façade of the property in front of the car parking area. The porch would have similar considerations to the previous discussion around maintaining elements such as spaciousness in and around properties. The porch would be unlike anything in the immediate vicinity and would project forward of the existing landscaping strip, adding unnecessary clutter and would not reflect the positive character and local distinctiveness of the area.
12. I appreciate examples of front porches, conservatories and extensions that have been erected in the greater locality over the past few years, however it is unclear that the considerations behind these schemes reflect the same circumstances, context and distinctiveness of the appeal site. The presence of conservatories or extensions to dwellings in the greater locality does not justify the appropriateness of the porch in this particular location. In this particular context, a porch such as proposed would not be in keeping with its surroundings in terms of its massing and visual bulk, which affects the local distinctiveness and positive qualities of the locality.
13. I also note discussion on permitted development rights which have been removed as part of the granting of the greater development and which prevents the Appellant from erecting these elements, as they would normally be able to undertake such development without the need to apply for consent. Whilst this may be the case, it was considered by the Council to remove such rights to enable the proper planning of the area. As such permitted development is not relevant to the considerations around this scheme which does not have such rights.
14. In conclusion of this matter, the proposed porch and railings are not seen as a positive architectural response that would be an appropriate addition to the existing street scene. The proposed development would result in the loss of positive characteristics and would be clearly disproportionate and the additional visual bulk and massing would be unlike other dwellings constructed within the immediate vicinity. Consequently, the proposal would be harmful to the character and appearance and local distinctiveness of the locality and be contrary to Policies DP2 and DP7 of the DDP and Policies M1 and M11 of NDLP.

Conclusion

15. I conclude that the appeal is dismissed.

J Somers

INSPECTOR